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# THE FAMILY LAWYER

Official publication of the  
Atlanta Bar Association's  
Family Law Section

February 2006  
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#### Quote of the Month

"We must believe in luck. For how else can we explain the success of those we don't like?"

- Jean Cocteau

## MAY I INTRODUCE THE NEW FULTON COUNTY FAMILY COURT JUDICIAL OFFICERS

By Eileen Thomas, *Eileen Thomas LLC*

Gary M. Alembik is a graduate from Walter F. George School of Law, Mercer University, and has been in private practice specializing in the area of domestic relations for over 17 years. Mr. Alembik currently operates the law firm of Alembik & Alembik. Mr. Alembik has extensive training in civil and domestic mediation. Mr. Alembik

practices in the areas of Divorce Law; Family Law and Child Custody Law. Mr. Alembik is a native of Atlanta

Alison K. Arce is a graduate from the University of Richmond School Of Law, and has been practicing law in Atlanta since 1997. She began her legal career as an associate with a

small Buckhead firm in 1997 focusing on transportation legal issues and providing representation to many of the bus, trucking, and courier companies located in the State of Georgia. Ms. Arce became increasingly involved with family law issues over the next several years.

In early 2002, after tak-

ing a year away from domestic law to see if she wanted to focus on general civil litigation instead of family law (to which she answered a firm "no" at the end of the year!) she commenced a solo practice and concentrated solely in the area of family law. On April 1, 2002 (yes, April Fool's **SEE OFFICERS, page 2**

## RECENT DECISIONS

By Melody Z. Richardson, *Pachman Richardson, LLC*

The Supreme Court of Georgia upheld the trial court's decision to strike the husband's answer and counterclaim and bar the husband's attorney from presenting evidence at the final hearing as a sanction. **Bayless v. Bayless**, \_\_\_ Ga. \_\_\_ (Jan. 17, 2006 S05F1953)(2006 WL 87941). The husband appealed from the final judgment and decree of divorce and subsequent denial of his motion for new trial on the grounds that the trial court had no authority to deny him the right to present his case without appearing in person, or to grant a default judgment. The Supreme Court acknowledged that the entry of a default judgment is forbidden in divorce cases, but that the trial court did not grant a default judgment in favor of the wife. Rather **Judge Shoob** tried the case and allowed the husband, through counsel, to challenge the evidence presented by wife. Under the circumstances of that case, which included the husband's failure to appear for a rule nisi hearing, husband's failure to appear for the final hearing, husband's failure to comply with an order compelling discovery, and husband's failure to personally appear for court ordered mediation, the trial court had the authority to deny husband's motion for continuance at the time of the specially set final hearing and to prevent the husband from presenting evidence. Thus, although the Uniform Rules of Superior Court do not require that a party appear in court or authorize the trial court to impose sanctions for a party's failure to do so, the trial court may impose harsh sanctions based

on the court's inherent power to compel obedience to its' orders and to control the conduct of everyone connected with a judicial proceeding pending before the court. The wife was represented by **Pete Chambers and Jill Zierer** at both the trial and on appeal, and **Martin Huddleston** represented the husband.

In **Porter-Martin v. Martin**, \_\_\_ Ga. \_\_\_ (Jan. 17, 2006 S05A2090)(2006 WL 87627), the Supreme Court of Georgia held that the trial court lacked authority to grant the former husband's motion to correct his divorce decree by revising a conclusive finding of fact in the decree as to the former husband's income, while leaving the rest of the decree untouched. The former husband filed a motion pursuant to O.C.G.A. § 9-11-60(d), over two years after the entry of the final judgment and decree of divorce. The Supreme Court held that the code section upon which the former husband filed his motion did not allow a substantive correction without also setting aside the judgment. The parties were divorced on January 30, 2003, and it was undisputed that the former husband received a copy of the final judgment and raised no objection to the amount of income listed in the judgment at that time. As the record indicated that the error complained of was neither a clerical mistake nor an error arising from oversight or omission, the income could not be changed without setting aside the entire judgment, which the trial court did not do. The judgment was therefore reversed.

**OFFICERS, continued from page 1**

Day. That was intentional), Alison K. Arce, P.C. was established.

Since the inception of the firm, she has also worked as a Guardian ad Litem, and spent a year serving on the State Bar of Georgia Speaker's Bureau. Ms. Arce is excited and honored to serve as a Judicial Officer, and looks forward to seeing everyone at the courthouse!

**Sally Cobb Cannon** practices family law. She served as staff attorney to the Honorable T. Jackson Bedford, Jr. for four years, including his term from 1999 to 2001 in the Fulton County Family Division. She is a registered mediator, and she often serves as a guardian *ad litem*. Very recently, Ms. Cannon has completed training in collaborative family law. In addition to her family practice, she serves as *pro bono* counsel to the participants in the DeKalb Diversion Court, a mental health court. Ms. Cannon is honored to have been selected to serve as a Judicial Officer for the Fulton Family Division.

**Karlise Y. Grier** is an attorney in private practice in Atlanta, Georgia, concentrating in the areas of adoptions, family law and administrative law. Ms. Grier received her Bachelor of Arts degree in Computer Science from Dartmouth College in 1986, and her law degree from the Emory University School of Law in 1992.

Ms. Grier began her legal career as a commercial litigation associate at Kilpatrick & Cody (now known as Kilpatrick Stockton LLP). After leaving Kilpatrick & Cody, Ms. Grier served as an Assistant Solicitor General for the State Court of Fulton County, where she prosecuted individuals for misdemeanor criminal offenses, including family violence cases. Thereafter, she became Of Counsel to the law firm of William R. Jenkins & Associates, where she represented the Fulton County Department of Family and Children Services in the Juvenile Court of Fulton County, in deprivation and termination of parental rights proceedings. The cases she litigated often involved issues of child abuse and neglect, including medical neglect, sexual molestation, and permanent physical injuries.

Ms. Grier opened her law firm in February 2000. Although her practice is varied, Ms. Grier especially enjoys her work in adoption finalizations because she knows the large numbers of Georgia children who need safe and permanent homes. In addition to her private practice, Ms. Grier also speaks to groups, regarding family law and adoption issues. Most recently she was a presenter at Prevent Child Abuse Georgia's Annual Symposium. Ms. Grier has also addressed pre-adoptive parents on legal issues that arise in "legal-risk" or "adopt-foster" placements.

**Jane Barwick** is the fifth new Judicial Officer, and a brief biography will be forthcoming when available.

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

**GAL:**

Laura Sauriol  
Debbie Gold  
Bobby Burnett  
Sterling Eaves  
Katrina Shoemaker  
Hadley Arble  
Kelly Schiffer  
Victoria Kealy  
Ashley Miller  
Carmen Rojas Rafter  
Kelly Baker  
Rebecca Olson Gupta

**Divorce:**

Elyse Aussenberg  
Josie Siemon  
Sam Siemon

**THANK YOU**

Please contact Dan Bloom at AVL  
if you can help next month.

**WHAT'S COMING UP...**

February 9 - Family Law Section Breakfast - Judge Gail S. Tusan, Fulton County Superior Court, Family Division

March 9 - Family Law Section Breakfast - Dr. Nancy McGarrah, Ph.D.

April 13 - Family Law Section Breakfast - Speaker to be determined

May 11 - Family Law Section Breakfast - Speaker to be determined

**CONGRATULATIONS**

**Andrew R. Pachman** and **Melody Z. Richardson** are pleased to announce the formation of **Pachman Richardson, LLC**, effective February 1, 2006. **Alyson Finklestein**, formerly of Weinstock and Scavo, has joined the firm as an associate. The firm is located at Suite 2840, 75 Fourteenth Street, Atlanta.

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## COLLABORATIVE CORNER

By Susan A. Hurst

### Spreading Peace

At the International Academy of Collaborative Professional's forum in October we were fortunate to have several clients who had been through the process speak to the attendees about their experience. These courageous souls were interviewed by Collaborative Professionals and by the media about their choice to use CP. At the conclusion of the session there was hardly a dry eye in the room.

Many litigators seem wary of CP at present because although they know it may provide the most peaceful and respectful way to end a marriage, they are afraid that it's not what clients want. These litigators believe that clients seek aggression, warriors and defenders, and that encouraging peacemaking will lose them business. *Au Contraire*.

When asked why they chose to participate in the session (on a Sunday afternoon no less), the client participants at the forum spoke about their desire to give back to the CP community because of the positive outcome in their lives. They referred a need to spread the word that CP truly gave them great satisfaction during a very painful period of their lives. They felt the tug of a moral call, a call to speak publicly about their experience, in hope that other families would take the opportunity to form divorced families rather than warring tribes.

One of the women participants was a homemaker from a long-term marriage in need of alimony and support at the end of her marriage. She rejected the traditional litigation approach in favor of CP because she felt that a litigator would present her as a victim in order to obtain the support she needed. As a role model for her daughters, she thought it imperative that they saw her choice of homemaker as a vocation as a laudable one. She wanted to show to her children that marriage should not be avoided merely because it may end in divorce.

A second couple participated in CP for their modification of custody, having been unsatisfied with the result from their litigated divorce. They learned in CP that the litigated divorce resulted in misunderstandings about the power each had going forward. Now they meet regularly to discuss the needs of their child and parenting time flows smoothly for their child. Similarly, another couple had created a divorced family, founded on trust and respect, out of the CP process. A financial professional helped them to meet their goals for their children and for their own lifestyles; they, too, met regularly to discuss the children's needs.

These clients spoke to us, family lawyers. They took their time and took emotional risks to come forward and speak about the benefits of CP. They uniformly concluded that the team approach (using not only lawyers but also financial professionals, divorce coaches and child specialists) was invaluable and suggested that the team be used immediately at the outset. They spread the word asking us to do the same.

Perhaps I should end this article here, since these testimonials are more powerful than any editorial. Still, I can't resist adding that of all the ways I've seen to end a marriage, CP is the only way I've ever seen that can actually *improve* a parties' relationship. Isn't that worth the risk of trying something new?

Atlanta Bar Association  
The Family Lawyer 752-06-008  
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229 Peachtree Street NE  
Atlanta, GA 30303-1601

**Family Law Section Breakfast**  
**Speaker: Judge Gail S. Tusan**  
*Superior Court of Fulton County, Family Division*

Thursday, February 9, 2006 at 7:30am  
*The Buckhead Club, 3343 Peachtree Road*  
\$15 pre-registered; \$18 at door

Name \_\_\_\_\_

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