

# AN INTRODUCTION TO THE LEGAL SYSTEM



## FOR NON-LAWYERS

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## PURPOSE OF THIS INTRODUCTION

The purpose of this Introduction is provide a general overview of the legal process to potential litigants and to make them aware of a number of things they need to consider as they become involved in a complex legal system. Parties who do not protect themselves by seeking counsel or familiarizing themselves with the rules of evidence and procedure that govern the courts proceed at their own peril and are advised to consider very seriously hiring legal counsel to assist them before doing so.

## THE LAW LIBRARY

The law library is a resource available to all citizens and includes a full complement of statutes, case law, forms, specialized treatises and practice guides. The law library provides access to the latest amendments to statutes and court rules through electronic means as well as the most recent court decisions that apply specific points of law. In addition to providing patrons with access to the law, the law library includes a number of information packets for common types of matters that litigants may expect to encounter. While law library staff personnel are not allowed to provide legal advice, they are able to help patrons find the things they will need to help themselves should they elect to represent themselves rather than hiring an attorney.

## LEGAL ADVICE

Parties with legal issues often attempt to approach the staff of law libraries, clerks of court, solicitors, district attorneys or even judges to seek legal advice. Although the law librarian is authorized to direct litigants to certain resources like federal and state codes and statutes, federal and state case law and decisions and legal treatises and other scholarly materials that provide a general explanation of the law, none of the foregoing people are permitted to provide legal advice. As such, it is up to litigants either to seek the advice of an attorney-at-law or to undertake to represent themselves. Parties choosing to represent themselves are obligated to understand the rules of procedure applicable

to the court in which they are appearing and they also need to understand the rules of evidence. The failure to appreciate the significance of the rules that apply to a particular matter can have serious unintended consequences and there are a number of traps for the unwary that exist in the law. Accordingly, it is always best to seek the advice of competent and experienced legal counsel when proceeding with matters involving the law.

## GENERAL OVERVIEW

Since the legal process can be complicated and quite difficult to navigate for a person without formal training, many parties seek the advice and counsel of attorneys-at-law to assist them with legal matters. Attorneys undergo three years of intensive legal training and must pass a specific bar examination in order to be licensed to practice law in a particular State. Even after three years of legal training, many young attorneys who are fresh out of law school find that it takes considerable time to understand the intricacies they will encounter. Persons who are not trained in the practice of law often can find the complexities of the legal system overwhelming and they are cautioned to seek the advice of qualified attorneys when they find themselves involved in legal matters.

Only attorneys licensed to practice law are able to appear before the courts of this State to represent parties with legal needs, although the laws of this State do allow most people to represent themselves under most circumstances. Litigants who choose to represent themselves in legal matters are said to be proceeding pro se, and the failure to understand the rules and procedures involved in the litigation process can have serious consequences. There is an old adage that a lawyer who represents himself has a fool for a client, and this is something that parties choosing to represent themselves should consider seriously as they determine what is in their best interests when they become involved in the legal process.

1. Applicable Law. As anyone who lives in this country is aware, there is an elaborate system of federal, state and local laws that govern the rights of members of our society. The highest law in

the land is the United States Constitution, which creates the executive, legislative and judicial branches and the separation of their powers. The fifty states have their own constitutions and lesser laws which apply in conjunction with the federal laws, and local jurisdictions have ordinances and other regulations that govern the everyday conduct of the citizens of this State.

2. Court Decisions. In addition to constitutional, statutory and administrative laws, the body of law applicable to legal matters includes decisions by the courts that apply the law to particular sets of facts and circumstances. In making decisions, courts are bound by legal precedent and cases decided by the courts that interpret and apply the laws and other court decisions determine the outcome of legal matters. Understanding the significance and applicability of various court decisions is a complicated matter that often requires the expertise and experience of a practicing attorney.

3. State and Federal Systems. There are federal courts which apply and enforce the laws of the United States, and there are state courts which apply and enforce the laws of the State of Georgia. Federal district courts are courts of original jurisdiction in the federal system.

4. Courts of this State. There are a number of different courts in the State of Georgia and each of them have jurisdiction over certain matters. This jurisdiction can be either concurrent or exclusive, and the limitations of the various courts may be tied to the dollar amount in controversy, the parties seeking relief and/or the type of relief being sought. In general, juvenile courts have jurisdiction involving children aged 17 or younger, probate courts have jurisdiction over estate and guardianship issues, magistrate courts have jurisdiction over amounts in controversy of \$15,000.00 or less, state courts have jurisdiction over misdemeanors and matters other than those reserved exclusively for the superior court, and the superior court has jurisdiction over most matters, including exclusive jurisdiction over certain types of matters, including felonies (other than for juveniles), in cases respecting title to land, in divorce cases, and in those cases seeking equitable relief. Within the

limits of cities, there may be municipal courts, traffic courts or recorder's courts and each of these courts has jurisdiction over specific limited matters. In addition to courts, there are administrative bodies and tribunals that have the power to decide certain matters.

5. Appellate Courts. Appellate courts have jurisdiction over appeals from decisions of the lower courts. There are specific rules regarding appellate procedures, including the jurisdiction of the various courts. Georgia has a Court of Appeals and a Supreme Court. The United States has Circuit Courts of Appeal and a Supreme Court. The Georgia Supreme Court is the highest authority for matters involving the laws of the State of Georgia and the United States Supreme Court is the highest court for matters involving the laws of the United States and certain conflicts between the several states.

6. Types of Relief Available. The types of relief that are available in the courts of Georgia are remedies at law, which involve the award of monetary damages, or remedies in equity, which involve other action of the court, such as injunctions or declaratory relief. An injunction is an order by a court that prohibits the doing of something and declaratory relief involves a court making certain determinations regarding the law when the matter is unclear.

7. Litigation. Litigation is a formal process through which grievances between parties are resolved in the courts based on a specific set of rules. These grievances can be based on the criminal laws of the state or the civil laws of the State. There are rules of civil and criminal procedure that apply to the conduct of the parties before the courts and there are rules of evidence which determine what information may be presented in court to the trier of fact.

8. Legal Advice. None of the personnel who work in the legal system may give legal advice and parties seeking legal advice must enlist the help of attorneys-at-law, who have specialized expertise and experience. While court personnel will strive to be as helpful as possible, they may not get involved in legal matters on behalf of litigants and must always err on the side of not providing legal advice.



9. Identity of Parties. In civil matters, the complaining party is referred to as the plaintiff or the petitioner and the responding party is referred to as the defendant or the respondent. Under appropriate circumstances, parties besides the plaintiff and the defendant may be brought into an action and there are complex rules of civil procedure that govern who may be made parties to an action and under what circumstances. In criminal matters, the accuser is the State and the accused is the defendant. In all matters, the plaintiff or the accuser has to carry the burden of proof in order to prevail.

10. Legal Persons. In addition to natural persons, corporations, limited liability companies and other entities are considered legal persons who are separate and distinct from their owners. The Georgia Courts have determined that legal persons are required to be represented by attorneys-at-law under most circumstances.

11. Trier of Fact. Litigation may proceed before a judge sitting alone as the trier of fact or a jury of six to twelve persons, depending on the applicable procedural rules. Defendants accused of crimes have an absolute right to a trial by a jury of their peers unless they waive that right. Some civil matters are for the determination by a judge alone while others may be tried before either a judge or jury. Matters of law are determined by a judge and matters of fact are determined by a jury or a judge sitting as the trier of fact.

12. Uncertainty of Litigation. Litigation is uncertain and even the best set of facts may not be seen by the judge or a jury in the same way as it is seen by the parties or their attorneys. Even if a party obtains a judgment against the opposing party for everything the party seeks, there may be difficulties involved in collecting the judgment, as the other party either may have no assets or could file for protection from creditors under bankruptcy or similar laws.

13. Knowing and Following the Rules. In addition to statutes which govern civil and criminal procedure, legal procedures are

governed by specific rules of evidence which determine the type of information and testimony that may be presented to the court. These rules are complicated and often difficult to understand and the failure to appreciate and follow them can cause parties to lose certain rights or advantages that they might otherwise enjoy. In some instances, the failure to apply and follow the rules can have grave consequences, such as being unable to advance certain arguments or losing certain rights. It is important for all litigants to know and apply the rules applicable to a particular set of facts and circumstances to be presented in court and attorneys have years of special training and experience in applying these rules. Parties who are not familiar with the rules of procedure and rules of evidence will find themselves at a distinct disadvantage in legal proceedings.

14. Public Nature of Proceedings. Most legal proceedings are by their very nature open to the public and it is recommended that all parties insisting on representing themselves observe some legal proceedings prior to appearing before the court. Being familiar with the legal process and the ways that attorneys and judges interact is critical for someone desiring to appear before the court and be heard.

15. Ex Parte Communications. Communications with the court outside of the presence of the other parties involved in litigation is prohibited except in rare circumstances. Parties communicate with the court through pleadings and other written communications and all parties are entitled to notice and right to be heard with respect to the subject matter presented.

16. Clerk of Court. The clerk of court is the custodian of all legal records maintained by each of the courts and parties are required to file pleadings with the clerk and send copies of those pleading to the other parties involved. The files that are maintained by the clerk of court are public records that may be accessed upon request.

17. Calendar Calls. Courts maintain hearing and trial calendars for proceedings that take place before them and provide written notices of those proceedings to parties who are required to

appear. Parties may be directed to appear before the court and announce the status of their cases, including whether they are ready to proceed or whether they need more time, which may be given by the court in the exercise of its discretion. Failure of parties to appear at a civil calendar call may result in actions being taken against them, such as dismissal of their cases or the striking of their pleadings. Failure of criminal defendants to appear at a criminal calendar call can result in the issuance of a bench warrant and a subsequent arrest for failure to appear.

18. Hearings. Hearings are appearances before a court in which parties are allowed to present arguments and evidence supporting their positions. Hearings may be requested by the parties or required by the court and notice of hearings must be provided to all parties. There are specific rules which govern the presentation of evidence and arguments at hearings which depend upon the nature of the matter being addressed by the court.

19. Compelling Attendance by Subpoenas. A subpoena is a legal document that may be served on a witness in a matter that requires that witness to appear before the court at a specified time. Failure to subpoena necessary witnesses can cause a parties to lose the right to have those witnesses testify before the court. The failure of subpoenaed witness to appear is cause for continuance of a hearing.

20. Courtroom Decorum. Parties appearing before the court must proceed in a manner that is courteous, professional, respectful and deferential. Legal proceedings are serious business and everyone involved in the process must act with proper decorum. Failure to act in an appropriate fashion may limit a party's ability to be heard by the court and in extreme circumstances, may subject a party to contempt of court.

21. Contempt of Court. Failure to follow a court order or to observe rules of procedure and decorum may subject a party to contempt of court, which may be punished by fines or imprisonment under appropriate circumstances. Parties must always keep in mind

that the judge is the law for purposes of legal proceedings and it is important to give appropriate deference to the court's decisions.

## JURISDICTION AND VENUE

Jurisdiction and venue are determined based on subject matter or the court's power over persons or property based on established rules of law. Defendants in civil matters generally are required to be sued in their counties of residence and defendants in criminal matters are subject to the jurisdiction of the governmental entity whose laws they are accused of violating. In order for a court to have power over particular parties, jurisdiction and venue must be proper.

## BURDENS OF PROOF

The burdens of proof in civil and criminal matters are different. Violations of criminal law must be proven beyond a reasonable doubt, which does not mean beyond all doubt, but beyond such doubt as a reasonable person might have based upon the evidence presented. The burden of proof in civil matters generally is by a preponderance of the evidence, which means that it is more likely than not that one side should be believed based upon the evidence presented. In some circumstances, the burden of proof in civil matters can be higher, such as a requirement that the matter be proven by clear and convincing evidence.

## THE CRIMINAL PROCESS

The criminal process involves action by the State against one or more individuals accused of committing a crime and involves the loss of liberty. The State is the prosecutor and the accused is the defendant. There are special rules of procedure and evidence that govern criminal proceedings and licensed attorneys are the persons in the best position to assist with these types of matters.

1. Constitutional Rights. The first ten amendments to the United States Constitution contain a number of protections and guaranteed rights for citizens, including the right to be free from unreasonable searches and seizures, the right to a trial by jury, the right to confront one's accusers, the right to cross-examine witnesses, the right to remain silent, and the presumption of innocence until one's guilt is proven beyond a reasonable doubt.

2. Probable Cause. In order for a police officer to arrest someone, the officer must have sufficient reason based upon known facts to believe a crime has been committed or that certain property is connected with a crime. This is known as "probable cause" and such cause also is required to search a vehicle or home.

3. Warrants and Arrests. A warrant is issued by a judge and allows the State to undertake certain investigative activities. In order for a warrant to be issued, a judge must determine that probable cause exists. Police officers have the right to arrest persons whom they suspect of committing a crime in their presence. In some matters where it is unclear to a judge if a warrant should be issued or if a matter is criminal or civil, the court may order a warrant hearing in order to allow each of the parties involved to present facts that will allow it to make an appropriate determination.

4. Accusations and Indictments. An accusation is a formal charge of violations of the misdemeanor laws of this state. An indictment is a formal charge of violations of the felony laws of this state as determined by a grand jury after evidence has been presented to it by the State. Some criminal cases are disposed of by the accused and the State without the necessity of a grand jury indictment.

5. Arraignment. Arraignment is the formal process by which persons accused of committing crimes answer the charges made against them. The possible pleas to be made by defendants at arraignment are "guilty", "not guilty" or "no contest".

6. Pleas. A plea of "not guilty" entitles an accused to a trial by a jury. A plea of "guilty" or "no contest" is used when an accused does not wish to contest the charges and is ready to accept the punishment to be determined by the Court.

7. Diversion Programs and Conditional Discharges. Under certain circumstances, first-time offenders may be eligible for a diversion program or a conditional discharge of their offenses which allows them to be punished for their infractions but will not cause a permanent record of the offense as long as they complete the requirements of the particular programs or discharge requirements. Accused parties are encouraged to discuss and explore this possibility with the State.

8. Punishment. Punishment for criminal offenses is determined by a judge within certain standards provided by the law. In misdemeanor matters, punishments can range from a year in jail to a \$1,000.00 fine, or both. In felony cases, punishment can range from fines to imprisonment for life or, in extreme cases, a sentence of death.

9. Plea Bargaining. Plea bargaining is a process through which the State and the accused can determine an mutually acceptable punishment for a particular crime, with the accused being offered a certain punishment in exchange for a plea of "guilty" or "no contest". A plea bargain is presented to a judge, who may determine either to accept or reject it. While judges generally accept pleas negotiated by the parties, they are not required to do so.

10. First Offender Status and Expungement. Under certain circumstances, first-time offenders may be eligible to have the offenses for which they have been convicted to be expunged from their records if they meet certain eligibility requirements. Accused parties are encouraged to discuss and explore this possibility with the State.

## THE CIVIL PROCESS

The civil process is invoked when parties have a dispute regarding the application of the law to a particular factual situation. The complaining party is the plaintiff and the party against whom the complaint is brought is the defendant. Depending on the claim being made, other parties may be brought into the litigation through various procedural approaches. There are detailed rules of procedure and evidence that also apply in civil matters and the failure to follow them can have serious repercussions for the parties. As in the criminal process, licensed attorneys are the persons in the best position to assist litigants with these types of matters.

1. Summons and Complaint. The legal process begins with the filing of a summons and complaint and the service of that complaint on the opposing party. Service on a party is typically handled by the sheriff of the county in which the complaint is filed, although there are a number of ways to perfect legal service. The summons is issued by the clerk of court and provides a certain amount of time within which an answer or other responsive pleading is required to be filed.

2. Answer and Counterclaim. The formal response to a complaint is called an answer, and parties who are served with a complaint may elect to file a counterclaims, cross-claims or third-party claims against other parties. An answer is required to be filed within thirty days of the complaint being served and the failure to do so in a timely manner is called a default.

3. Default. The failure to answer or otherwise respond to a properly served complaint within 30 days of service is called a default and causes the party who has been served to lose the right to contest the matters in the complaint, which are then presumed to be true. A default may be opened as a matter of right within 45 days of service and thereafter may only be opened with the permission of the court. It is critical that parties respond to complaints and other pleadings in a timely manner or they risk losing their right to contest the matters raised in those pleadings.

4. Affirmative Defenses. The laws of civil procedure require certain defenses to be proven by Defendants and to be raised in their answers. The failure to raise these affirmative defenses will preclude defendants from being able to offer them at trial. The burden of proving affirmative defenses rests on the defendants who raise them.

5. Other Pleadings. In addition to the complaint, the answer, counterclaims, cross-claims and third party claims, there are various motions and requests that parties are either required or allowed to file during the litigation process. The type and content of motions and other pleadings depends on the particular facts of each case.

6. Discovery. Discovery is a process which the parties in a lawsuit engage in to determine what evidence each of them might present at trial. There are specific procedural rules governing discovery which are contained in the Georgia Civil Practice Act. The purpose of discovery is to allow the parties to understand the evidence that the other party might be presenting at trial. Discovery takes on a number of different forms: (i) interrogatories, which are written questions that must be answered; (ii) requests for admissions, which are matters that one party may ask another to admit as true; (iii) requests for production of documents and things, which requires parties to provide certain information and evidence that is under their respective control; and (iv) depositions, which provide an opportunity to require persons to answer questions under oath.

7. Compromise and Settlement. Compromise and settlement is a voluntary resolution of claims by parties to litigation and requires the cooperation of all of the parties involved in the dispute. Most litigation is settled by the parties in order to avoid the uncertainty and expense of further litigation and parties often find that an agreement they can reach among themselves to resolve their differences is better than having an result imposed upon them by a trial judge or jury. It is said that a good settlement is one that none of the parties finds truly satisfactory, especially since settlement requires all of the parties involved to give-up something that they want in order to reach a result that all of them can accept.



8. Motions. Parties wishing to limit the matters to be heard by the court or seeking specific determinations with respect to a particular issue may file a motion for relief. The opposing party has 30 days within which to respond to any motion unless that time is shortened by the court and parties may request oral argument on any motion by setting it down for a hearing.

9. Summary Judgment. Summary judgment is a procedure by which courts dispose of matters where there is no dispute as to any of the material facts and one of the parties is entitled to judgment as a matter of law. The purpose of summary judgment is to dispose of matters which are not entitled to be heard on their merits because the parties agree on the facts and courts apply the law to the undisputed facts to reach a decision.

## TRIALS

A trial is the formal process by which parties present their cases to a trier of fact, who may be a judge or a jury comprised of citizens from the community. As with other aspects of the law, trials have a number of complicated rules that parties must follow in order to present their cases for adjudication. Trials are generally open to the public and it is highly recommended that parties who intend to try their cases without the assistance of an attorney attend one or more trials to familiarize themselves with the process. While trial process and procedure is too complicated to discuss in great detail in this overview, the general parts of any trial, whether before a judge or jury, are as follows: (i) opening statements; (ii) presentation of evidence; (iii) closing arguments; and (iv) the rendering of a verdict. In trials before a jury comprised of citizens, two additional components apply, which are (i) voir dire; and (ii) jury selection. References in this Section to the "plaintiff" shall mean the complaining party in a civil matter and the State in a criminal matter and references to the "defendant" shall mean the responding party in a civil matter and the accused in a criminal matter.

1. Right to a Trial by a Jury. The right to a trial by a jury of one's peers is guaranteed by the U. S. Constitution and the Constitution of the State of Georgia unless waived knowingly and voluntarily. In situations where the right to trial is waived, the matter proceeds before a judge sitting as a trier of fact. While the typical jury consists of twelve jurors, some jurisdictions allow juries of a few as six citizens.

2. Voir Dire. Voir dire is a process by which the judge and the parties or their counsel may question panels of jurors in order to test and confirm their impartiality. Potential jurors are asked general questions and the parties may follow-up those general questions with specific questions to particular panel members.

3. Jury Selection. Jury selection is the process used by the litigants to determine the panel of jurors to hear a case. Once voir dire is completed and a panel of jurors has been qualified by the court and the parties, the litigants have an opportunity to strike for cause any jurors from the panel who appear to be biased. After that, the parties use peremptory strikes to eliminate prospective jurors from the panel until the parties arrive at the appropriate number of jurors and alternates who will hear the case.

4. Opening Statements. Opening statements are the opportunity of the parties or their counsel to tell the jury what they expect the evidence to show. While there are rules of procedure that govern the order of the presentation by the parties, the State, in criminal matters, and the plaintiff, in civil matters, generally go first and the defendant generally goes last.

5. Court Proceedings. The court proceedings are governed by the rules of evidence and the parties have the right to object and request certain rulings by the court during the proceedings. Some matters may be determined by the court outside of the presence of the jury. Parties are entitled to file motions before and during the trial, such as motions in limine, which limit what evidence may be presented to the jury, and motions for directed verdict, which request that the court

render a verdict based upon the evidence – or lack thereof – without allowing the matter to be determined by the jury. It is against this backdrop of procedural maneuvering that cases are present to the jury.

6. Presentation of Evidence. The plaintiff proceeds with the presentation of a case and has the burden of proof. During the presentation of the plaintiff's case, the defendant has the opportunity to cross-examine witnesses. The plaintiff also may call the defendant or other witnesses for purposes of cross-examination. After the plaintiff rests, the defendant has the opportunity to present evidence and the plaintiff may cross-examine witnesses. Both parties have the right to offer witnesses and evidence in rebuttal. After the defendant rests, the case is ready to be decided by the jury.

7. Closing Arguments. After the presentation of the evidence, the parties or their counsel are afforded the opportunity to tell the jury what they believe the evidence has shown. This is the final opportunity for the parties to be heard before the jury makes a determination based on the evidence.

8. Jury Charge. After closing arguments, the court charges the jury with the law to be applied by it to the evidence that has been presented. The jury charge is a statement of the law as determined by the court and the parties in proceedings outside the presence of the jury and provides the framework to be used by the jury in its decision-making process. The parties are able to suggest charges to be presented and the court makes the final determination of what the charge to the jury should be.

9. Jury Deliberations and Verdict. Once the jury has been charged with the law, it retires to the jury room to begin its deliberations. It is the province of the jury to determine what the evidence means based upon the law it is required to apply and the jury determines the outcome of the matter by unanimous agreement and renders its verdict. If the jury is unable to reach a verdict after receiving further instructions from the court, the jury is said to be a "hung jury" and the matter will be required to be retried.

## JUDGMENTS

Once the jury has reached a verdict, the court generally enters a judgment making the jury's verdict the order of the court. In some instances, the court may determine that one of the parties is entitled to a directed verdict and will not allow the jury to make a decision at all. In other situations, the court may determine that no reasonable jury could have reached the verdict that the jury renders and may enter a judgment in favor of one of the parties notwithstanding the verdict. There are specific and complex rules that govern the entry of judgments and the procedures for challenging those judgments and the failure to take necessary actions in a timely manner may prejudice the rights of the parties. Since a judgment is the determination by the court of substantial rights of the parties, it is important that parties understand the significance and the potential effects that various types of judgments have.

1. Equitable Relief. Courts have the power to prohibit parties from taking certain actions or to require them to do certain things. Judgments for injunctive relief are judgments by the court that generally prohibit the doing of something by one of the parties. Judgments for declaratory or other relief represent the court's determination of certain matters based on the evidence presented to it.

2. Judgments for Money Damages. Courts have the power to grant monetary relief to parties based on the evidence presented. These judgments require one party to pay money to the other as compensation for the harm suffered as determined from the evidence.

3. Judgments in Criminal Matters. In criminal matters, courts have the power to impose fines or to restrain personal freedom and liberties as punishment for crimes which the accused has been found to have committed. These judgments may include jail time, restitution and prohibitions on certain types of activities.

## APPEALS

Any party who is unhappy with the decision of a court has recourse to appeal the decision to a higher court by filing a notice of appeal. As with other areas of the law, the rules of appellate procedure are complicated and the failure to follow them precisely will result in the loss of substantial rights. Appeals from decisions of municipal courts, magistrate courts and probate courts are generally made to the state or superior courts and appeals of decisions from the state or superior courts are to the Georgia Court of Appeals or the Georgia Supreme Court. Appeals of decisions of the Georgia Court of Appeals may be made to the Georgia Supreme Court by filing a petition for certiorari and there are separate rules governing the appeals of decisions by the federal courts. Only the final decisions of a court of competent jurisdiction may be appealed as a matter of right, and there are other rules that govern appeals of non-final decisions.

## HIRING AN ATTORNEY

As should be apparent from a reading of this Introduction, the legal system is quite complex and can be very difficult to understand for persons who are not familiar with it. As any practicing attorney will tell you, there are numerous traps for the unwary and the case reporters are filled with decisions of the courts addressing mistakes made by attorneys with years of training and experience. While all citizens have the right to represent themselves in legal proceedings, it is recommended that they seek the advice of attorneys who have specialized training, skills and expertise that make them uniquely qualified to help parties navigate the sometimes treacherous waters of the law.

The State Bar of Georgia determines the fitness of attorneys to practice law and only duly licensed attorneys are authorized to appear before the courts of this state on behalf of parties. In order to check the good standing of any attorney you are considering hiring, you should go to <http://www.gabar.org> and search for the attorney in the member directory. Some attorneys have a public disciplinary history

on file with the State Bar of Georgia even though they continue to be licensed to practice law and it is recommended that you review any such history.

Hiring the right attorney to represent you in a legal matter is an important decision and there is nothing wrong with consulting with more than one attorney in making your determination of who is best suited to help you with a particular matter. There are listings of local attorneys and local bar association members which are accessible to the public and it is a good idea to ask about an attorney's reputation in the community before you engage the attorney to help you.

Entering an appearance on behalf of a party is the way that an attorney becomes involved in an action officially and attorneys charge for the services they render to clients. Some of them charge for services by the hour, others charge a flat rate and still others may charge a contingency fee that is not do unless the claim is successful. The type of fees charged will depend upon the type of representation or services to be rendered and attorneys often require a retainer before they are willing to undertake representation of a client. The arrangements between attorneys and their clients are a matter of contract as between them and in the event of any dispute, the State Bar of Georgia provides for fee arbitration.

## DISCLAIMER

This Introduction has provided a general overview of the legal system and process and is not intended to constitute legal advice. The complexity of the law and the nature of legal proceedings makes it impossible to cover all the possible considerations and it is up to the parties involved in the legal process to educate themselves with respect to the particulars involved in matters they have pending before the courts. This Introduction is provided by the law library for informational purposes only and it is up to the parties to fully inform themselves and protect their interests.

