DON'T DO THAT!

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WHAT LED TO disbarment* over the past few years?

getting convicted of felonies (forgery, pointing firearm, possession of cocaine, drug distribution, influencing a witness, bank fraud $2.1 mil, mail fraud $1.25 mil, financial transaction card fraud, selling unregistered securities)

not disbursing settlement funds / failure to manage trust funds 8

falsifying a written agreement for the payment of legal fees

providing false information during investigation of a grievance (that alleged Galette assisted a third party in filing a false petition for a TPO against the grievant and in falsely acknowledging service of that petition—actions that ultimately led to the arrest and jailing of the grievant). *Matter of Galette*, 302 Ga. 5, 6 (2017)

excessively invoicing clients

stealing court fines and fees by prosecutor (!)

neglecting a client's case

committing mail fraud / aggravated identity theft (keeping $1.25 million in settlement proceeds for self) identity *In re Smith*, 298 Ga. 137, 137 (2015)

bribing others (City of Atlanta official)

acting as paymaster / money laundering

collecting debts fraudulently

* voluntary surrender of bar license is "tantamount to disbarment"

DON'T DO THAT!

When you go to the local jail or state prison to visit with your client, find out what the policy is about electronics. Some prisons allow you to bring in your phone, tablet, laptop. Some will not allow any electronic device.

DON'T give your incarcerated client a phone to use!

Convicted in Superior Court of Mitchell County on one count of criminal attempt to furnish prohibited items to inmates. O.C.G.A. § 42-5-18; he voluntarily surrendered license pending appeal.

(a) (1)[defines "Inmate"]
(2) defines ["Place of incarceration"]
(3) defines ["Telecommunications device"]
(b) It shall be unlawful for any person to obtain for, to procure for, or to give to an inmate a gun, pistol, or any other weapon; any intoxicating liquor; amphetamines, biphetamines, or any other hallucinogenic drugs or other drugs, regardless of the amount; any telecommunications device; or any other article or item without the authorization of the warden or superintendent or his or her designee.

(b.1) It shall be unlawful for any person to obtain for, to procure for, or to give to an inmate tobacco or any product containing tobacco without the authorization of the warden or superintendent or his or her designee.

(c) It shall be unlawful for an inmate to possess a gun, pistol, or any other weapon; any intoxicating liquor; tobacco or any product containing tobacco; amphetamines, biphetamines, or any other hallucinogenic drugs or other drugs, regardless of the amount; a telecommunications device; or any other item without the authorization of the warden or superintendent or his or her designee.O.C.G.A. § 42-5-18

Matter of Otuonye, 302 Ga. 374 (2017)

Tell your clients that you will not take a call from them via 3-way call or cell phone from inside the jail/prison. Tell your clients it is illegal to possess a phone inside the jail/prison.

Make your client sign a contract BEFORE you begin work.

DON'T sign your client's name to the back of your business card that purports to be the contract!

Anderson v. State, 335 Ga. App. 78, 79 (2015): Following a jury trial, Anderson was found guilty of first degree forgery and sentenced to four years, with six months to be served in confinement. Following our review, we affirm.

> [Teresa] Watson hired Anderson to represent her in a libel action. Anderson prepared a retainer agreement, but that agreement was never signed. It was disputed whether Anderson and Watson orally agreed that Anderson would be paid on an hourly basis or on a contingent fee basis. Anderson alleged that [Paul] Ware orally guaranteed Watson's obligation for the payment of attorney fees for his services. When Anderson did not receive payment for his legal services, he filed a verified complaint against Ware and Watson. Ware answered and counterclaimed for attorney fees pursuant to OCGA § 13–6–11. Ware then moved for partial summary judgment on Anderson's guaranty claim which motion the trial court granted on the ground that any oral guaranty was unenforceable under the statute of frauds. Following the ruling on Ware's motion for partial summary judgment, the trial court entered a pretrial order setting the remaining claims for jury trial. At trial, following the presentation of Anderson's case, the trial court entered a directed verdict in favor of Watson and Ware on Anderson's claim for attorney fees based on services he claimed he provided to Watson. Anderson v. Ware, 313 Ga. App. XXIII (January 20, 2012)(unpublished).

This resulted in the voluntary surrender of bar license.

Matter of Anderson, 299 Ga. 748, 749 (2016)

See also *In re Morrey*, 298 Ga. 435, 435 (2016): Attorney who was admitted to the Bar in 2002, admits that beginning in 2012 he undertook the representation of various individuals on a contingency basis but failed to prepare formal retainer agreements, failed to provide the clients with any writing describing his fees or expenses, and failed to maintain adequate records regarding his fee agreements. Further, beginning in early 2014, Morrey admits that in multiple cases he appeared in court as the attorney for a party in a garnishment action, although he had strong suspicions that the individual he represented was not in fact the actual party to the case and that he undertook no investigation to dispel his suspicions.

You're stuck with the witness's statement, whether it hurts your client, or not.

DON'T "help" a witness to recollect fake facts!

A Walker County attorney pled guilty to one count of influencing a witness, which led to the voluntary surrender of his license:

According to the Lafayette Times, "Hill admitted to working with his client, Mark Lynn McGill, an accused child molester, to pressure a witness against testifying. The witness had previously told investigators she saw McGill receive oral sex from a 12-year-old, but she was arrested last spring for possession of methamphetamine. While she was in jail, according to an incident report, McGill approached the woman's girlfriend. He allegedly said he could help the woman with her criminal case if she changed her statement against him. The girlfriend recorded the conversation. Still in jail, the woman told Walker County Sheriff's Office investigators that Hill was going to try to convince her to change her testimony. According to an incident report, the woman initially remained firm with Hill, telling the attorney she saw McGill engage in a sex act with a child. The report does not say whether the woman egged Hill on, making him think she was open to changing her statement. But the next part of the sheriff's narrative states Hill asked her to tell a family member and the victim in the case to recant their testimonies. Then, Hill returned with a written statements, supposedly in the woman's voice, explaining that she did not actually see the molestation.

"When Hill left the meeting room inside the jail, a Walker County detective waiting on the other side of the door. He seized the affidavit as evidence."

Matter of Hill, 302 Ga. 871, 872 (2018)

Shop with your own bucks.

DON'T open credit cards in former clients' names!

Attorney Miller was convicted of multiple felony charges; investigators determined that he opened a credit card in a former clients name to go shopping, spending more than $20,000 at places like Home Depot, Levi's, SiriusXM Radio and Amazon. Pickens Sheriff began investigating when $100,000 from various land deals "went missing from their escrow accounts."

He entered guilty pleas to financial transaction fraud-type charges.

Matter of Miller, 300 Ga. 139, 139 (2016)

The least-likely client will file a grievance with the State Bar.

DON'T to let a client propose that you allow him to wire transfer $100,000 into your trust account, you keep $5,000 and transfer the rest where client directs!

What if you don't even have a trust account, so you do this with your operating account? Or if you don't do the transfer "fast enough?"

"Axam admits that he agreed in 2010 to act as a "paymaster" for a client, a role for which he was paid $5,000 for each transaction that he facilitated. On August 5, 2010, another individual—at the direction of Axam's client—directed a wire transfer of $100,000 to what he believed was Axam's trust account; in fact, the money was wired to Axam's operating account. At that time, Axam did not maintain a trust account, and he generally used his operating account to handle the business of his law practice, as well as personal funds. A few days after Axam received the funds, he disbursed them according to the instructions of his client, retaining $5,000 for himself as his transaction fee. Although the individual who had directed the transfer to Axam specifically requested that he be notified of the disbursement of the funds, Axam failed to notify him. That individual later contacted Axam and repeatedly requested documentation of the disbursement, but Axam failed to provide an accounting or otherwise to document the disbursement of the funds until after the individual filed a grievance. Axam has admitted that he did not read the terms of the trading platform contract in connection with which he was serving as "paymaster," that he did not know the nature of the business dealings between his client and the other individual, and that he asked no questions about the transaction that he facilitated."

In re Axam, 297 Ga. 786, 787 (2015)

There's just one more hospital bill to pay for $12,000, but you'd like to disburse all funds today.

DON'T sign that affidavit that you've paid all bills associated with that PI case you took on until you've paid ALL of the bills!

"With all of the outrageous conduct throughout the disciplinary process, it is easy to forget what this case is about: dishonesty. As admitted by virtue of his default, Nicholson signed a false affidavit. He did so intentionally. He did so in the course of representing a client and in connection with the practice of law. And he did so to the injury of others, to whom he continues to refuse restitution, even after the entry of a judgment against him and the initiation of disciplinary proceedings. As this Court has explained, we have "little tolerance for a lawyer who lies during disciplinary proceedings or engages in conduct involving dishonesty, fraud, deceit, or misrepresentation." [citation omitted]

"Dishonesty in the practice of law and to the injury of another is a sufficient basis for disbarment. [citations omitted] Here, there are many aggravating circumstances, and no mitigating circumstance of significant weight. Considering the nature of Nicholson's misconduct, his prior disciplinary history, the absence of remorse, his indifference to restitution, and his repeated and contemptuous efforts to obstruct the disciplinary process, we conclude that the appropriate sanction in this case is disbarment."

Matter of Nicholson, 299 Ga. 737, 741 (2016)

Preamble to the Georgia Rules of Professional Responsibilities

1. A lawyer is a representative of clients, an officer of the legal system and a citizen having special responsibility of the quality of justice.

2. As a representative of clients, a lawyer performs various functions. As advisor, a lawyer provides a client with an informed understanding of the client's legal rights and obligations and explains their practical implications. As advocate, a lawyer zealously asserts the client's position under the rules of the adversary system. As negotiator, a lawyer seeks a result advantageous to the client but consistent with requirements of honest dealing with others. As intermediary between clients, a lawyer seeks to reconcile their divergent interests as an advisor and, to a limited extent, as a spokesperson for each client. A lawyer acts as evaluator by examining a client's legal affairs and reporting about them to the client or to others.

3. In all professional functions a lawyer should be competent, prompt and diligent. A lawyer should maintain communication with a client concerning the representation. A lawyer should keep in confidence information relating to representation of a client except so far as disclosure is required or permitted by these Rules or other law.

4. A lawyer should use the law's procedure only for legitimate purposes and not to harass or intimidate others. A lawyer should demonstrate respect for the law, the legal system and for those who serve it, including judges, other lawyers and public officials. While it is a lawyer's duty, when necessary, to challenge the rectitude of official action, it is also a lawyer's duty to uphold legal process.

5. As a citizen, a lawyer should seek improvement of the law, the administration of justice and the quality of service rendered by the legal profession. As a member of a learned profession, a lawyer should cultivate knowledge of the law beyond its use for clients, employ that knowledge in

reform of the law and work to strengthen legal education. A lawyer should be mindful of deficiencies in the administration of justice and of the fact that the poor, and sometimes persons who are not poor, cannot afford adequate legal assistance, and should therefore debate professional time and civil influence in their behalf. A lawyer should aid the legal profession in pursuing these objective and should help the bar regulate itself in the public interest.

6. A lawyer's professional responsibilities are prescribed in the Rules of Professional Conduct, as well as by substantive and procedural law. A lawyer is also guided by conscience and the approbation of professional peers. A lawyer should strive to attain the highest level of skill, to improve the law and the legal profession and to exemplify the legal profession's ideals of public service.

7. Reserved. [approbation: approval]

8. In the nature of law practice, conflicting responsibilities are encountered. Virtually all difficult ethical problems arise from conflict among a lawyer's responsibilities to clients, to the legal system, and to the lawyer's own interest in remaining an upright person. The Rules of Professional Conduct prescribe terms for resolving such conflicts. Within the framework of these Rules, many difficult issues of professional discretion can arise. Such issues must be resolved through the exercise of sensitive professional and moral judgment, guided by the basic principles underlying the Rules.

9. The legal profession is largely self-governing. Although other professions also have been granted powers of self-government, the legal profession is unique in this respect because of the close relationship between the profession and the processes of government and law enforcement. This connection is manifested in the fact that ultimate authority over the legal profession is vested in the Supreme Court of Georgia.

10. To the extent that lawyers meet the obligations of their professional calling, the occasion for government regulation is obviated. Self-regulation also helps maintain the legal profession's independence from government domination. As independent legal profession is an important force in preserving government under law, for abuse of legal authority is more readily challenged by a profession whose members are not dependent on government for the right to practice.

11. The legal profession's relative autonomy carries with it special responsibility of self-government. The profession has a responsibility to assure that its regulations are conceived i the public interest and not in furtherance of parochial or self-interested concerns of the bar. Every lawyer is responsible for observance of the Rules of Professional Conduct. A lawyer should also aid in securing their observance by other lawyers. Neglect of these responsibilities compromises the independence of the profession and the public interest which it serves.

12. The fulfillment of a lawyer's professional responsibility role requires an understanding by them of their relationship to our legal system. The Rules of Professional Conduct, when properly applied, serve to define that relationship.Your client just wants to know that you're periodically working on his/her case.

I did not write this; I have copied this from the State Bar of Georgia handbook. It is the Preamble to the Georgia Rules of Professional Responsibility

The take-away

1. Open a trust account; put $250 in there and don't touch that money. If you have an "active" trust account, make sure you and another responsible person review it on a regular basis. Don't delegate sole trust account responsibility to a non-lawyer. That "another responsible person" doesn't have to be an attorney (bookkeeper, CPA, spouse).

2. Don't commit a felony. Watch your alcohol intake; illegal drugs are illegal. Friends don't help you get arrested. Surround yourself with friends.

3. Don't steal. If it smells like fraud, it is. If you think it's questionable, question it.

4. Be honest, and then you don't have to be defensive.

5. Know the rules and read the cases. There are lots of them: statutes, uniform court rules, case law that comes out daily.

6. Representing, advising, advocating, negotiating, being an intermediary between clients, evaluating and examining a client's legal affairs and reporting about them to the client or to others is stressful.

You are human. You need an outlet for that stress, whether it's talk therapy, yoga, the gym, tennis team, vacation or just rolling around on the floor with your kids, find it.

Lawyers have a hard time making friends with non-lawyers. That's just how we are. Understand that non-lawyers, especially our clients, are afraid of us, no matter how mellow and gentle we may be. We all need friends.

http://www.abajournal.com/news/article/lawyers_rank_highest_on_loneliness_scale_study_finds/?icn=most_read

If you're prone to loneliness, make a conscious effort to have daily contact with a person who doesn't live or work with you. It can be the cashier at the QT, the barista at the coffee shop, someone with whom you make eye contact and a pleasantry. Learn that person's name, and use it.

It's probably easier to have an ethical lapse if you're a true solo practitioner than if you regularly engage with other attorneys. If you're in an office-sharing suite, find out who the other attorneys are in your suite. Join or form a group; it doesn't have to be a lawyer group, but sometimes, we communicate better with lawyers. Attend a house of worship; go to the gym; color with adult friends.

Limit exposure to Facebook, LinkedIn, Instagram, Reddit, Twitter so that you're on there only to promote your law practice. Pick up the phone and call your client, instead of relying on email or texts as primary sources of contact. Answer your phone when the client calls you. Designate telephone hours or telephone appointments so that you are not interrupted throughout your day.

If you're a DUI defense lawyer, you are hopefully trying cases every now and then. You should run the scenario past a few lawyer colleagues, but don't leave out non-lawyer friends* who are more likely to be like a potential juror. Listen to your non-lawyer tell you what the strengths and weaknesses are in your case with an open (not critical, not defensive) mind. I would suggest that it's highly ethical to do this; you are charged with doing your best for your client, and this type of "focus group" will help you win more cases. I have a friend who writes computer code; she doesn't really understand what I do, nor do I understand her job, but I run my cases past her and she gives great feedback.

Think you're losing it over an ethical dilemma? Contact the Lawyer Assistance Program at the Bar's website. You get six FREE! in-person personal counseling sessions per 12-month period.

gabar.org / Attorney Resources / Lawyer Assistance Program

*friends again! This is why you need them. Your staff are not friends. Take a break from your work, and go make a friend. In order to have a friend, you have to be a friend.

GA R BAR Rule 1.3, Diligence

A lawyer shall act with reasonable diligence and promptness in representing a client. Reasonable diligence as used in this Rule means that a lawyer shall not without just cause to the detriment of the client in effect willfully abandon or willfully disregard a legal matter entrusted to the lawyer. The maximum penalty for a violation of this Rule is disbarment.

I've been in private practice since 1995. I get it. I don't have any corporate clients; I have few repeat clients. The idea, when you represent DUI drivers, is NOT to have repeat clients. But when you agree to take on a new client, make sure first that you go to that court. I'm not saying you can't try out a new jurisdiction, but you may give the client the impression that you know how long the case will be pending, and what the requirements are for that court, and it's not going to pan out.

Don't do that!

Instead, once the driver is your client, immediately contact the court. Send an entry of appearance. (Copy the client) The clerk runs the show in the municipal courts. Find out which probation company is involved, the amount of the monthly supervision fee, if the judge will make non-reporting truly non-reporting (no supervision fee, but only after X months), if the judge will give credit for community service done before court, alcohol evaluation before court. You can accept all the cases in far-flung courts, but make sure what you advise your client is **accurate**.

GA R BAR Rule 4-102
Effective July 1, 2018

(a) The Rules of Professional Conduct to be observed by the members of the State Bar of Georgia and those authorized to practice law in Georgia are set forth herein and any violation thereof, any assistance or inducement directed toward another for the purpose of producing a violation thereof, or any violation thereof through the acts of another, shall subject the offender to disciplinary action as hereinafter provided.

(b) The levels of discipline are set forth below. The power to administer a more severe level of discipline shall include the power to administer the lesser:

(1) Disbarment: A form of public discipline that removes removes the respondent from the practice of law in Georgia. This level of discipline would be appropriate in cases of serious misconduct. This level of discipline includes publication as provided by Rule 4-219 (a).

(2) Suspension: A form of public discipline that removes the respondent from the practice of law in Georgia for a definite period of time or until satisfaction of certain conditions imposed as a part of the suspension. This level of discipline would be appropriate in cases that merit more than a Public Reprimand but less than disbarment. This level of discipline includes publication as provided by Rule 4-219 (a).

(3) Public Reprimand: A form of public discipline that declares the respondent's conduct to have been improper but does not limit the right to practice. A Public Reprimand shall be administered by a judge of a Superior Court in open court. This level of discipline would be appropriate in cases that merit more than a State Disciplinary Board Reprimand but less than suspension. This level of discipline includes publication as provided by Rule 4-219 (a).

(4) State Disciplinary Review Board Reprimand: A form of public discipline that declares the respondent's conduct to have been improper but does not limit the right to practice. A State Disciplinary Review Board Reprimand shall be administered by the State Disciplinary Review Board at a meeting of the State Disciplinary Review Board. This level of discipline would be appropriate in cases that merit more than a Confidential Reprimand but less than a Public Reprimand. This level of discipline includes publication on the official State Bar of Georgia website as provided by Rule 4-219 (a).

(5) Confidential Reprimand: A form of confidential discipline that declares the respondent's conduct to have been improper but does not limit the right to practice. A Confidential Reprimand shall be administered by the State Disciplinary Board at a meeting of the Board. This level of discipline would be appropriate in cases that merit more than a Formal Letter of Admonition but less than a State Disciplinary Board Reprimand.

(6) Formal Letter of Admonition: A form of confidential discipline that declares the respondent's conduct to have been improper but does not limit the right to practice. A Formal Letter of Admonition shall be administered by letter as provided in Rules 4-205 through

4-208. This level of discipline would be appropriate in cases that merit the lowest form of discipline.

(c)
(1) The Supreme Court of Georgia may impose any of the levels of discipline set forth above following formal proceedings against a respondent; however, any case where discipline is imposed by the Court is a matter of public record despite the fact that the level of discipline would have been confidential if imposed by the State Disciplinary Board.
(2) As provided in Part IV, Chapter 2 of the State Bar Rules, the State Disciplinary Board may impose any of the levels of discipline set forth above provided that a respondent shall have the right to reject the imposition of discipline by the Board pursuant to the provisions of Rule 4-208.3;
(d) The Table of Contents, Preamble, Scope, Terminology and Definitions and Georgia Rules of Professional Conduct are as follows: [seriously, this is where it ends????]

Amended effective July 1, 2018.
(I didn't write this; I have copied this from the State Bar of Georgia handbook. Did you know they changed the rules? I didn't)

GA R BAR Rule 1.4, Communication

(a) A lawyer shall:

1 promptly inform the client of any decision or circumstance with respect to which the client's informed consent … is required by these rules;

2 reasonably consult with the client about the means by which the client's objectives are to be accomplished;

3 keep the client reasonably informed about the status of the matter;

4 promptly comply with reasonable requests for information; and

5 consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

The maximum penalty for a violation of this Rule is a public reprimand.

"I have written four letters since my appointment. I am not sure what other communications Mr. XYZ wants me to provide, other than assurances that I am going through his case file in preparation for reading the trial transcript." Your client wants to see that you're making an effort; the DUI client is generally depressed and doesn't think anyone cares enough about him/her.

Once you've been paid, notify the court. You have two days. The rules about communication apply to communicating with the courts.

Ga. Unif. Super. Ct. R. 4.2:

No attorney shall appear in that capacity before a superior court **until the attorney has entered an appearance by filing a signed entry of appearance form or by filing a signed pleading in a pending action.** An entry of appearance and all pleadings shall state:

(1) the style and number of the case;
(2) the identity of the party for whom the appearance is made; and
(3) the name, assigned state bar number, current office address, telephone number, fax number, and e-mail address of the attorney (the attorney's e-mail address shall be the e-mail address registered with the State Bar of Georgia).

Within forty-eight hours after being retained, an attorney shall mail to the court and opposing counsel or file with the court the entry of his appearance in the pending matter. Failure to timely file shall not prohibit the appearance and representation by said counsel.

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Many Municipal Courts have a form Entry of Appearance because they realize that the drivers forget about the ticket until the last minute, and hire an attorney at the last minute.

The court just wants to separate out the *pro se* cases from the represented ones.

You can't just stop working on the case, even if the client has not kept up his end of the bargain by not paying you. You have an ethical duty to work on your client's case unless the court allows you to withdraw.

Ga. Unif. Super. Ct. R. 4.3:

(1) An attorney appearing of record in any matter pending in any superior court, who wishes to withdraw as counsel for any party, shall submit a **written request** to an appropriate judge of the court for an order permitting such withdrawal. The request shall state that the attorney has given written notice to the affected client setting forth the attorney's intent to withdraw, that 10 days have expired since notice, and there has been no objection, or that withdrawal is with the client's consent. The request will be granted unless in the judge's discretion to do so would delay the trial or otherwise interrupt the orderly operation of the court or be manifestly unfair to the client.

(2) The attorney requesting an order permitting withdrawal shall give notice to opposing counsel and shall file with the clerk and serve upon the client, personally or at that client's last known mailing and electronic addresses, the notice which shall contain at least the following information:
(A) the attorney wishes to withdraw;
(B) the court retains jurisdiction of the action;
(C) the client has the burden of keeping the court informed where notices, pleadings or other papers may be served;
(D) the client has the obligation to prepare for trial or hire new counsel to prepare for trial, when the trial date has been scheduled and to conduct and respond to discovery or motions in the case;

(E) if the client fails or refuses to meet these burdens, the client may suffer adverse consequences, including, in criminal cases, bond forfeiture and arrest;
(F) dates of any scheduled proceedings, including trial, and that holding of such proceedings will not be affected by the withdrawal of counsel;
(G) service of notices may be made upon the client at the client's last known mailing address;
(H) if the client is a corporation. . . .; and
(I) unless the withdrawal is with the client's consent, the client's right to object within 10 days of the date of the notice, and provide with specificity when the 10th day will occur.

The attorney requesting to withdraw shall prepare a written notification certificate stating that the notification requirements have been met, the manner by which notification was given to the client and the client's last known mailing and electronic addresses and telephone number. The notification certificate shall be filed with the court and a copy mailed to the client and all other parties. Additionally, **the attorney seeking withdrawal shall provide a copy to the client by the most expedient means available due to the strict 10-day time restraint, i.e., e-mail, hand delivery, or overnight mail.** After the entry of an order permitting withdrawal, the client shall be notified by the withdrawing attorney of the effective date of the withdrawal; thereafter all notices or other papers shall be served on the party directly by mail at the last known mailing address of the party until new counsel enters an appearance.

(3) When an attorney has already filed an entry of appearance and the client wishes to substitute counsel, it will not be necessary for the former attorney to comply with rule 4.3 (1) and (2). Instead, the new attorney may file with the clerk of court a notice of substitution of counsel signed by the party and the new attorney. The notice shall contain the style of the case and the name, address, phone number and bar number of the substitute attorney. The new attorney shall serve a copy of the notice on the former attorney, opposing counsel or party if unrepresented, and the assigned judge. No other or further action shall be required by the former attorney to withdraw from representing the party. The substitution shall not delay any proceeding or hearing in the case. Certificate of service on: former counsel, opposing counsel or party, assigned judge.

Ga. Unif. Super. Ct. R. 4.3

Ga. Unif. Super. Ct. R. 4.6:

In any matter pending in a superior court, **promptly upon agreeing to represent any client, the new attorney shall notify** the appropriate calendar clerk in writing (and, in criminal actions, **the district attorney**; and, in civil actions the opposing attorney(s)) of the fact of such representation, the name of the client, the name and number of the action, the attorney's firm name, office address and telephone number.

Each **such attorney shall notify the calendar clerk** (**and, in criminal actions, the district attorney**; and, in civil actions, the opposing attorney(s)) **immediately upon any change of representation, name, address or telephone number.**

Ga. Unif. Super. Ct. R. 4.11:

Subject to the provisions of Rule 17, **attorneys having matters on calendars**, or who are otherwise directed to do so, unless excused by the court, **are required to be in court at the call of the matter and to remain until otherwise directed by the court.** Should the judge excuse counsel from the courtroom before the matter is concluded such attorney(s) shall return as directed. So that the court can provide timely direction, **counsel shall contact the trial court daily during the remainder of any ongoing calendar.** Failure of any attorney in this respect shall subject that attorney to the contempt powers of the court.

Ga. Unif. Super. Ct. R. 7.4:

At or after the arraignment, pre-trial conferences may be scheduled as the judge deems appropriate. Such pre-trial conferences **shall be attended by the attorneys who will actually try the case**. At the pre-trial conference:

(A) All motions, special pleas and demurrers not previously determined shall be presented to and heard by the judge. Any and **all pending motions not called to the judge's attention at the pre-trial conference shall be deemed to have been abandoned and waived**; however, at the judge's discretion and for good cause, such matters may subsequently be heard. At the discretion of the judge, the disposition of any matter brought before the court may be postponed.

(B) To the extent possible without revealing confidential trial strategies, the attorneys shall inform the judge of probable evidentiary problems known to them or any other matter which might delay the trial so the judge may take any necessary action before the trial to avoid a delay.

(C) If possible, the judge shall set a firm trial date.

(D) Counsel are encouraged to enter into reasonable stipulations.

Ga. Unif. Super. Ct. R. 8.1:

The assigned judge has the sole responsibility for setting hearings in all actions assigned to that judge, for the scheduling of all trials in such actions and for the publication of all necessary calendars in advance of trial dates. In scheduling actions for trial the assigned judge shall give consideration to the nature of the action, its complexity and the reasonable time requirements of the action for trial. It is the intendment of these rules that no matter be allowed to languish, and the assigned judge is responsible for the orderly movement and disposition of all assigned matters.

Ga. Unif. Super. Ct. R. 17.1:

(A) An attorney shall not be deemed to have a **conflict** unless:

(1) the attorney is lead counsel and/or has been subpoenaed as a witness in two or more actions; and,

(2) the attorney certifies that the matters cannot be adequately handled, and the client's interest adequately protected, by other counsel for the party in the action or by other attorneys in lead counsel's firm; certifies that in spite of compliance with this rule, the attorney has been unable to resolve these conflicts; and certifies in the notice a proposed resolution by list of such cases in the order of priority specified by this rule.

(B) When an attorney is scheduled for a day certain by trial calendar, special setting or court order (including a subpoena compelling his or her appearance to testify) to appear in two or more courts (trial or appellate; state or federal), the attorney shall give prompt written notice as specified in (A) above of the conflict to opposing counsel, to the clerk of each court and to the judge before whom each action is set for hearing (or, to an appropriate judge if there has been no designation of a presiding judge). The written notice shall contain the attorney's proposed resolution of the appearance conflicts in accordance with the priorities established by this rule and shall set forth the order of cases to be tried with a listing of the date and data required by (B)(1)-(4) as to each case arranged in the order in which the cases should prevail under this rule. In the absence of objection from opposing counsel or the courts affected, the proposed order of conflict resolution shall stand as offered. Should a judge wish to change the order of cases to be tried, such notice shall be given promptly after

agreement is reached between the affected judges. Attorneys confronted by such conflicts are expected to give written notice such that it will be received at least seven (7) days prior to the date of conflict. Absent agreement, conflicts shall be promptly resolved by the judge or the clerk of each affected court in accordance with the following order of priorities:
(1) Criminal (felony) and habeas actions shall prevail over civil actions. Criminal actions in which a demand for speedy trial has been timely filed pursuant to O.C.G.A. §§ 17-7-170 and/or 17-7-171 shall automatically take precedence over all other actions unless otherwise directed by the court in which the speedy trial demand is pending;
(2) Jury trials shall prevail over non-jury matters, including trials and administrative proceedings;
(3) Within the category of non-jury matters, the following will have priority: (a) parental terminations, (b) trials, (c) all other non-jury matters including appellate arguments, hearings and conferences;
(4) Within each of the above categories only, the action which was first filed shall take precedence.
(C) Conflict resolution shall not require the continuance of the other matter or matters not having priority. In the event any matter listed in the letter notice is disposed of prior to the scheduled time set for any other matter listed or subsequent to the scheduled time set but prior to the end of the calendar, the attorney shall immediately notify all affected parties, including the court affected, of the disposal and shall, absent good cause shown to the court, proceed with the remaining case or cases in which the conflict was resolved by the disposal in the order of priorities as set forth heretofore.

Ga. Unif. Super. Ct. R. 33.4:

(A) Defense counsel should conclude a plea agreement only with the consent of the defendant, and should ensure that the decision to enter or not enter a plea of guilty or nolo contendere is ultimately made by the defendant.

(B) To aid the defendant in reaching a decision, defense counsel, after appropriate investigation, should advise the defendant of the alternatives available and of considerations deemed important by him in reaching a decision.

Ga. Unif. Super. Ct. R. 30.2
Call for Arraignment:

Before arraignment the court shall inquire whether the accused is represented by counsel and, if not, inquire into the defendant's desires and financial circumstances. If the defendant desires an attorney and is indigent, the court shall authorize the immediate appointment of counsel.
Upon the call of a case for arraignment, unless continued for good cause, the accused, or the attorney for the accused, shall answer whether the accused pleads “guilty,” “not guilty” or desires to enter a plea of *nolo contendere* to the offense or offenses charged; a plea of not guilty shall constitute the joining of the issue.
Upon arraignment, the attorney, if any, who announces for or on behalf of an accused, or who is entered as counsel of record, shall represent the accused in that case throughout the trial, unless other counsel and the defendant notify the judge prior to trial that such other counsel represents the accused and is ready to proceed, or counsel is otherwise relieved by the judge.

Ga. Unif. Super. Ct. R. 33.1
Alternatives:

(A) A defendant may plead guilty, not guilty, or in the discretion of the judge, nolo contendere. A plea of guilty or nolo contendere should be received only from the defendant personally in open court, except when the defendant is a corporation, in which case the plea may be entered by counsel or a corporate officer.

(B) A defendant may plead nolo contendere only with the consent of the judge. Such a plea should be accepted by the judge only after due consideration of the views of the parties and the interest of the public in the effective administration of justice. Procedurally, a plea of nolo contendere should be handled under these rules in a manner similar to a plea of guilty. [In State Court, see State Court Rule 33.1.]

State Ct. R. 33 Pleading by Defendant
State Ct. R. 33.1 Alternatives:

(A) A defendant may plead guilty, not guilty, or in the discretion of the judge, nolo contendere. A plea of guilty or nolo contendere should be received only from the defendant personally in open court, except when the defendant is a corporation, in which case the plea may be entered by counsel or a corporate officer. In misdemeanor cases, upon the request of a defendant who has made, in writing, a knowing, intelligent and voluntary waiver of his right to be present, the court may accept a plea of guilty in absentia.

(B) A defendant may plead nolo contendere only with the consent of the judge. Such a plea should be accepted by the judge only after due consideration of the views of the parties and the interest of the public in the effective administration of justice. Procedurally, a plea of nolo contendere should be handled under these rules in a manner similar to a plea of guilty.

State Ct. R. 33.11 Record of Proceedings:

A record of the proceedings at which a defendant enters a plea of guilty or nolo contendere shall be made and preserved. The record should include:
(A) the inquiry into the voluntariness of the plea (as required in section 33.7);
(B) the advice to the defendant (as required in section 33.8);
(C) the inquiry into the accuracy of the plea (as required in section 33.9), and, if applicable;
(D) the notice to the defendant that the trial court intends to reject the plea agreement and the defendant's right to withdraw the guilty plea before sentence is pronounced.

Ga. Unif. Super. Ct. R. 33.2
Aid of Counsel - Time for Deliberation:

(A) A defendant shall not be called upon to plead before having an opportunity to retain counsel, or if defendant is eligible for appointment of counsel, until counsel has been appointed or right to counsel waived. A defendant with counsel shall not be required to enter a plea if counsel makes a reasonable request for additional time to represent the defendant's interest, or if the defendant has not had a reasonable time to consult with counsel.

(B) A defendant without counsel should not be called upon to plead to any offense without having had a reasonable time to consider this decision. When a defendant without counsel tenders a plea of guilty or nolo contendere to an offense, the court should not accept the plea unless it is reaffirmed by the defendant after a reasonable time for deliberation, following the advice from the court required in section 33.8.

Ga. Unif. Super. Ct. R. 33.6
Consideration of Plea in Final Disposition:

(A) It is proper for the judge to grant charge and sentence leniency to defendants who enter pleas of guilty or nolo contendere where the interests of the public in the effective administration of criminal justice are thereby served. Among the considerations which are appropriate in determining this question are:
(1) that the defendant by entering a plea has aided in ensuring the prompt and certain application of correctional measures;

(2) that the defendant has acknowledged guilt and shown a willingness to assume responsibility for conduct;
(3) that the leniency will make possible alternative correctional measures which are better adapted to achieving rehabilitative, protective, deterrent or other purposes of correctional treatment, or will prevent undue harm to the defendant from the form of conviction;
(4) that the defendant has made public trial unnecessary when there are good reasons for not having the case dealt with in a public trial;
(5) that the defendant has given or offered cooperation when such cooperation has resulted or may result in the successful prosecution of other offenders engaged in equally serious or more serious criminal conduct;
(6) that the defendant by entering a plea has aided in avoiding delay (including delay due to crowded dockets) in the disposition of other cases and thereby has increased the probability of prompt and certain application of correctional measures to other offenders.

(B) The judge should not impose upon a defendant any sentence in excess of that which would be justified by any of the rehabilitative, protective, deterrent or other purposes of the criminal law merely because the defendant has chosen to require the prosecution to prove the defendant's guilt at trial rather than to enter a plea of guilty or nolo contendere.

Ga. Unif. Super. Ct. R. 33.7
Determining Voluntariness of Plea:

The judge shall not accept a plea of guilty or nolo contendere without first determining, on the record, that the plea is voluntary. By inquiry of the prosecuting attorney and defense counsel, the judge should determine whether the tendered plea is the result of prior plea discussions and a plea agreement, and, if it is, what agreement has been reached. If the prosecuting attorney has agreed to seek charge or sentence leniency which must be approved by the judge, the judge must advise the defendant personally that the recommendations of the prosecuting attorney are not binding on the judge. The judge should then address the defendant personally and determine whether any other promises or any force or threats were used to obtain the plea.

Ga. Unif. Super. Ct. R. 36.15
Assessment of Costs - Criminal:

When costs are assessed the minimum amount assessed as court costs in the disposition of any criminal offense shall be $100.00. Any surcharge provided for by law shall be in addition.

[In State Court, see State Court Rule **36.15 Assessment of Costs--Criminal.** When costs are assessed the minimum amount assessed as court costs in the disposition of any criminal offense shall be $50.00. Any surcharge provided for by law shall be in addition.]

Ga. Unif. Super. Ct. R. 33.8
Defendant to Be Informed:

The judge should not accept a plea of guilty or nolo contendere from a defendant without first:

(A) Determining on the record that the defendant understands the nature of the charge(s);
(B) Informing the defendant on the record that by entering a plea of guilty or nolo contendere one waives:

(1) the right to trial by jury;
(2) the presumption of innocence;
(3) the right to confront witnesses against oneself;
(4) the right to subpoena witnesses;
(5) the right to testify and to offer other evidence;
(6) the right to assistance of counsel during trial;
(7) the right not to incriminate oneself; and that by pleading not guilty or remaining silent and not entering a plea, one obtains a jury trial;

(C) Where a defendant is not represented by counsel, informing the defendant of his right to be assisted by counsel in entering the plea, as well as at trial, and that the defendant is knowingly and voluntarily waiving that right; and
(D) Informing the defendant on the record:

(1) of the terms of any negotiated plea;
(2) that a plea of guilty may have an impact on his or her immigration status if the defendant is not a citizen of the United States;
(3) of the maximum possible sentence on the charge, including that possible from consecutive sentences and enhanced sentences where provided by law; and/or
(4) of the mandatory minimum sentence, if any, on the charge.

This information may be developed by questions from the judge, the prosecuting attorney or the defense attorney or a combination of any of these.