

The background of the cover is a painting of several umbrellas in various shades of green and brown, set against a textured, yellowish-green background. The umbrellas are scattered across the frame, some fully open and some partially visible. The overall style is impressionistic and somewhat somber.

# Georgia Bar Journal

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What Does ERISA Have  
To Do With Insurance?

# Discipline Summaries

(Feb. 14 – April 10, 2009)

by Connie P. Henry

## Disbarments

### Pierce Winningham III

Kennesaw, Ga.

Admitted to Bar in 1994

On March 9, 2009, the Supreme Court of Georgia accepted the petition for voluntary surrender of license of Pierce Winningham III (State Bar No. 770875). Winningham represented a client in a personal injury case on a contingency basis, but without a written fee agreement. He settled the case for \$15,000 and \$1,400 was paid directly to the medical provider by the insurance company. He received a check for \$13,600 and paid his client \$8,050 after deducting a 33 percent fee and withholding an additional \$2,000 for a medical bill he agreed to pay from the proceeds. He did not provide his client with a settlement statement. He failed to pay the medical bill and converted the \$2,000 for his own use.

In another matter, Winningham represented a client in a divorce case and accepted \$28,000 in disputed marital funds to be held in escrow. Winningham commingled the client funds with his personal funds and spent funds belonging to the client for his personal use.

Winningham was disbarred in 1971 by the Supreme Court of Tennessee for misappropriation of funds. He was reinstated to the Tennessee Bar in 1994 and thereafter became a member of the State Bar of Georgia.

The Court noted in mitigation of discipline that Winningham attempted to enter into payment plans with the clients, but that he was unable to make full restitution. He is extremely remorseful for the harm he caused and his prior disciplinary offense was over 35 years ago. He also exhibited a cooperative attitude towards these proceedings. In aggravation, the Court noted Winningham's history of prior discipline and that he has not made restitution to either client.

## Suspensions

### Richard R. Harste

Savannah, Ga.

Admitted to Bar in 1986

On Feb. 23, 2009, the Supreme Court of Georgia accepted the petition for voluntary discipline of Richard R. Harste (State Bar No. 333333) for a one-year suspension with conditions for reinstatement. Harste was an agent for Old Republic Title Insurance Company and was entrusted with numbered title insurance policy forms for possible issuance of title insurance policies and sharing of policy premiums he issued. Harste terminated his relationship with ORTIC but kept the unissued policy forms. He did not return those forms nor did he otherwise account for forms that may have been lost, misplaced or destroyed. Harste issued policies but did not promptly report that to ORTIC, did not notify

ORTIC of the receipt of premiums he collected and did not promptly remit portions of the premiums he collected that were owed to ORTIC. Harste failed to properly account for premiums he collected and deposited into his trust account for policies he issued. He also commingled personal funds with funds in his trust account and withdrew trust funds without accounting for them.

Prior to readmission to the Bar Harste must file a petition with the Review Panel showing that he has complied with the following conditions.

Harste must submit to a complete audit by ORTIC of his title insurance policy records and make every effort to determine the location of all title insurance policy forms entrusted to him, and to determine the amounts of all title insurance policy premiums owed to ORTIC. He will remit to ORTIC all portions of all policy premiums he collected on all policies he issued or committed to be issued. He will cooperate with ORTIC regarding all title insurance policy forms entrusted to him, including making a diligent search of his records for policy forms and policies. He will meet with representatives of ORTIC, and he will promptly furnish documents and information reasonably requested by those representatives, including lost policy affidavits. He will promptly surrender unissued forms and policies. He will promptly provide closing files to ORTIC so unissued policies may be issued by ORTIC, and he will promptly remit monies owed to ORTIC on policies he issued.

#### **Christine M. Livingston**

Milner, Ga.

Admitted to Bar in 2000

On March 9, 2009, the Supreme Court of Georgia suspended Christine M. Livingston (State Bar No. 205595) for a period of one year. Livingston failed to file a Notice of Rejection to the Notice of Discipline, so the following facts

**“He who is his own lawyer has a fool for his client.”**

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are deemed true by default: Livingston was the closing attorney representing a mortgage company in a 2005 residential real estate closing. She failed to file the deed filings necessary to complete the closing and abandoned the legal matter the mortgage company entrusted to her without cause, and to her client's detriment. In addition to failing to reject the Notice of Discipline, Livingston failed to respond to the Notice of Investigation in this proceeding. Justices Sears, Hunstein and Thompson dissented.

#### **Public Reprimands**

##### **Ashutosh S. Joshi**

Atlanta, Ga.

Admitted to Bar in 1996

On Feb. 23, 2009, the Supreme Court of Georgia accepted the petition for voluntary discipline of Ashutosh S. Joshi (State Bar No. 405375) and ordered that he be administered a public reprimand. In addition, he must attend the next session of ethics school. After representing the state in its criminal prosecution of a defendant, Joshi spoke with the defendant's family and agreed to represent the defendant on appeal. During those discussions Joshi stated that certain witnesses at the defendant's trial had testified falsely. He later declined the representation. Joshi is remorseful and accepts responsibility for his conduct; he has no prior discipline; and he submitted letters from attorneys and judges attest-

ing to his general good character and reputation.


##### **Gregory E. Stuhler**

Atlanta, Ga.

Admitted to Bar in 1973

On March 9, 2009, the Supreme Court of Georgia accepted the petition for voluntary discipline of Gregory E. Stuhler (State Bar No. 690150) and ordered that he be administered a public reprimand and attend ethics school. In addition, for a one-year period beginning March 9, 2009, he is required to submit to quarterly evaluations of his case management procedures by the Law Practice Management Program. Stuhler failed to supervise a paralegal and failed to meet with clients before undertaking representation.

#### **Interim Suspensions**

Under State Bar Disciplinary Rule 4-204.3(d), a lawyer who receives a Notice of Investigation and fails to file an adequate response with the Investigative Panel may be suspended from the practice of law until an adequate response is filed. Since Feb. 14, 2009, no lawyers have been suspended for violating this Rule, and two lawyers have been reinstated. 



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