

UPCOMING MEMBER EVENTS

7/11/24
Webinar: A Panel Discussion on Navigating the Regulatory and Enforcement Environment in Continental Africa as a Multinational Company
DLA Piper

7/24/24
ACC Georgia Duty of Technological Competence in the AI Era
Womble Bond Dickinson

7/31/24
ACC Georgia FinTech MIG "Crypto" Webinar
Arnall Golden Gregory

8/8/24
ACC Georgia Braves Game and CLE
Nelson Mullins

8/20/24
ACC Georgia Real Estate MIG Event
Troutman Pepper

8/28/24
ACC Georgia International Business MIG Roundtable
DLA Piper

9/18/24
ACC Georgia Legal Innovation Forum
Polsinelli

9/26/24
ACC Georgia GC/CLO Forum
Morris, Manning & Martin

10/24/24
ACC Georgia CLE Jamboree
King & Spalding

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MISTY MOUNTAIN HOP: LEADERSHIP IN ACTION



*Anne Kamosso
ACC Georgia President*

I'm very proud that, for the first time in my tenure on the ACC-GA board of directors, we held a Saturday-Sunday leadership retreat in May. I had never organized a retreat – candidly, I had never attended one in 10-plus years practicing in-house – so I was a little apprehensive when we started planning.

One of my concerns was whether anyone could attend. Corporate counsel are, by definition, very busy, and it's challenging to gather the board for just a one-hour meeting. What would happen when we asked all of them to drive two hours on a Saturday to meet me in the Georgia mountains?

The answer: Our leaders responded enthusiastically! Over 30 volunteers - board members and Member Interest Groups (MIG) leaders – came to the brand-new Cloudland at McLemore Resort Lookout Mountain. There we held a multihour, interactive, working board meeting; had a pleasant dinner; woke for a breakfast above the clouds; and engaged in productive discussions with our MIG leaders in another interactive, working meeting.

The most encouraging piece of feedback was that attendees loved getting to know one another personally and wanted even more time together next year. Our leaders are genuinely interested in forging personal relationships to make our association stronger for our members.

The Saturday afternoon board meeting reflected the can-do attitude of our leaders. As luck would have it, my daughter's soccer tournament, combined with Atlanta metro area traffic, delayed my arrival at the resort by about 20 minutes. But once I reported my ETA to my predecessor, Kathryn Hutton, she made sure the meeting started on time and was productive immediately.



ACC Board retreat location McLemore

The board's most significant work was on issues that go beyond the urgent, often programming-related matters that we regularly address at our monthly meetings. We discussed changes to our bylaws and policies like records retention and an events code of conduct recommended by the national Association of Corporate Counsel.



ACC Board retreat

It was particularly fun to see the collective brainpower of our board members on display as we refined our documents. The real-time collaboration made revising the bylaws, for example, more pleasant than exchanging endless redlines by email without the benefit of conversation.

During our meeting with MIG leaders, we acknowledged that our new structure has elevated our programming and feedback has been extremely positive. Our MIG leaders really know what practitioners in their assigned practice and subject areas are interested in learning! Not satisfied to rest on our laurels, we also brainstormed ways that the board can provide even more support and resources for our volunteer leaders.

Be sure to register for our upcoming MIG events:

- July 11, Webinar: Navigating the Regulatory and Enforcement Environment in Continental Africa as a Multinational Company, developed by the International Business MIG and hosted by DLA Piper LLP (US)
- July 24, Duty of Technological Competence in the AI Era, developed by the Ethics & Compliance MIG and hosted by Womble Bond Dickinson
- July 31, Webinar: Intro to Crypto: Legal Basics for In-House Counsel, developed by the FinTech MIG and hosted by Arnall Golden Gregory

As I look back on our first board retreat under my leadership, I want to thank every person who was involved in any way. I also want to extend a special thank you to Secretary Becca Hallum for leading the board's governance discussion and to Vice Presidents Lydia Tallent and D'ree Cooper for leading the discussion with MIG leaders. Finally, we expect to hold another retreat next year, so join our chapter leadership! We're really fun!

MEMBER SPOTLIGHT

Madiha Merchant

Corporate Counsel – Contracts, Technology & Data Privacy – Pep Boys



Q. How did you grow up, and why did you want to go to law school and become an attorney?

I grew up in sunny Miami, Florida. Growing up as the oldest child of immigrant parents, witnessing their immense sacrifices and unwavering dedication to my education and success, influenced my career path. Their pursuit of a better life in a new country instilled in me a major sense of motivation to make my parents proud. The desire to honor my parents' sacrifices and pursue a profession that I am passionate about led me to the practice of law.

Q. What do you like about working at Pep Boys?

Working in-house at Pep Boys provides a dynamic environment where I can engage with a diverse range of internal clients and legal matters. The opportunity to collaborate with different departments and teams allows for a multifaceted approach to problem solving and legal strategy. At Pep Boys, I am exposed to different challenges and scenarios that foster my continuous growth and development.

Q. What is your biggest legal challenge?

My biggest challenge is balancing legal considerations with business objectives. I am often faced with navigating the complexities of providing legal guidance while also ensuring compliance with regulations and mitigating legal risks. Managing workload demands and addressing the diverse legal needs of multiple departments within the organization can also be challenging.

Q. What is the most important thing you're working on right now?

I recently disseminated a survey to receive feedback from internal clients regarding the legal team's performance. I am in the process of thoroughly reviewing feedback, which includes paying close attention to themes and/or specific areas of improvement. As part of this process, I am also identifying the most pressing issues or suggestions that have been raised while simultaneously focusing on positive feedback in order to continue to build on the good. Developing an actionable plan and implementing the same will be the next phase of this exercise.

Q. How'd you get involved in ACC-Georgia?

I got involved in ACC when a friend who is a board member encouraged me to join – and I'm glad she did. Being part of ACC has allowed me to exchange insights about navigating legal challenges while also finding common ground in our approaches to risk management. I hope to continue to develop professional and personal relationships with the great people I've met through ACC.

Q. What are your favorite words of wisdom?

Effort is a choice. The level of effort we put into any endeavor is within our control. This perspective empowers us to take ownership of our actions and outcomes. Success is often the result of deliberate and consistent effort.

Q. What keeps you busy outside of work?

I enjoy going on adventures with my husband and our two dogs. I also enjoy baking and sharing my sugary creations with friends and family.

Q. What is your favorite legal movie?

"My Cousin Vinny."

Q. What is your favorite travel destination or place you hope to visit?

Japan has been my favorite travel destination so far. I hope to visit again soon so I can eat more ramen and mochi.

Q. What would you be if you weren't a lawyer?

A baker – so I can continue learning about experimenting with different flavors, textures and presentations. But also because eating carbs is my happy place.

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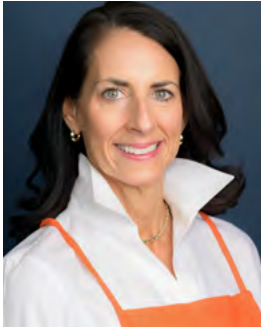
SPECIAL EVENTS

King & Spalding
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MEMBER SPOTLIGHT

Stephanie Aferiat

Associate General Counsel – Home Depot U.S.A., Inc.



Q. What attracted you to the type of law you practice?

I was attracted to employment law because I wanted to be involved in both litigation and giving proactive advice. On the litigation side, because employment issues center around people, they are usually more interesting than typical commercial litigation, but you still have more distance from the drama and personal feelings of family law. On the advice side, you can play a critical role in helping the business solve problems, reach its goals and improve compliance.

I also like discussing these issues as one of the leaders of ACC-Georgia's Labor & Employment Member Interest Group.

Q. What do you like about working at The Home Depot?

Ultimately, our decisions are guided by our eight core values. For employment law issues, "Doing the Right Thing" and "Taking Care of Our People" are at the core of what we do. Also, I love the pride all associates feel in wearing their orange aprons.

Q. What is your biggest legal challenge?

One of the most challenging aspects of my role has been dealing with novel and often unmeritorious claims, particularly in the class action context given the size of our workforce.

Q. What has been your involvement in a unique legal management effort, trend or initiative?

The most significant project I have worked on began over 15 years ago but continues to yield big dividends today, thanks to our terrific Employment Law Team. I created and implemented a unique retainer program for our employment litigation outside counsel. It lowered our fees substantially and increased the predictability of our spend, but more importantly, it aligned the interests of outside counsel with those of the company in pursuing a reasonable early resolution where possible.

Q. What is your best advice for outside lawyers?

Avoid tunnel vision. Understand the company's broader goals. Before taking a litigation position, consider the impact on the company's reputation, its other matters and its various constituents (employees, customers, shareholders, etc.).

Q. What are your favorite words of wisdom?

"You are enough." This one is for the working parents – especially someone who was the oldest daughter in their family, or in my case, the only child, trying to give everything at work while still being the spouse, mother, daughter and friend to your loved ones. Let go of the pressure to be Superwoman. You can still be amazing in all your roles and make a difference to so many just as you are.

Q. What keeps you busy outside of work?

I am an avid tennis player and prefer to stay active. My husband and I travel often to France and other adjacent or French-speaking countries. St. Martin is a favorite beach getaway destination for us and our two daughters, Elle (20) and Madeline (17).

Q. What is the last book you read?

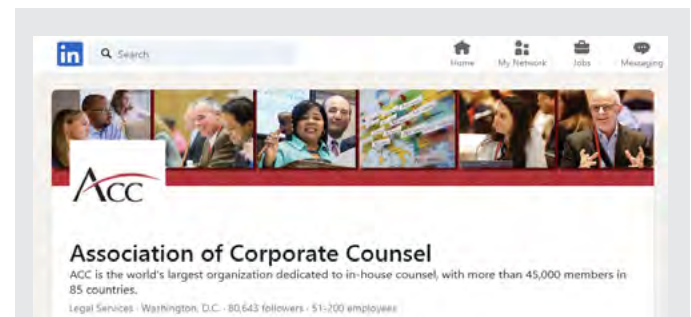
The Measure by Nikki Erlick. The premise is very thought-provoking – it involves a hint of science fiction, but ultimately it is really about relationships and what is important in life.

Q. What is your favorite legal movie, television show, joke, etc.?

Right now, I am enjoying "Suits." Despite the ethical boundaries routinely crossed, I find the fast pace and creative solutions to legal dilemmas addicting. I love the movie references, too.

Q. What would you be if you weren't a lawyer?

I do The New York Times' crossword daily and have a goal to create one and get it published. So I would love to be the NYT puzzle editor – or perhaps be a producer for the Braves telecasts. While I would not make a good announcer, I have fun watching the games and anticipating what they will say next.



Join Your ACC Georgia Colleagues on LinkedIn

Without a doubt, one of the most popular benefits of being an ACC Georgia member is the professional networking. There's an easy way you can show your online network that you're a member — follow the ACC Georgia LinkedIn page. We've launched a new group to allow in-house counsel to network with colleagues and stay up to date on chapter news.

Log in to LinkedIn and type "Association of Corporate Counsel Georgia Chapter" in the search bar to find our page.

By following our page, you'll stay current on the latest member events, CLE luncheons and more. We look forward to connecting with you online!

Weed at Work

By Gregory J. Hare and Abigail F. Schmadeke



Gregory J. Hare

Across the United States, a broad legal spectrum has developed regarding the use of marijuana, thus creating great uncertainty among employers that have long striven to maintain drug-free workplaces.

Federally, marijuana still is classified as a prohibited Schedule I substance under the Controlled Substances Act. In recent years, many states have decriminalized marijuana, some limiting its use to medicinal purposes, others allowing the full range of recreational uses. From an employment perspective, some states have implemented regulations prohibiting adverse employment action against workers for lawful marijuana use, and some even have banned employers from asking about job applicants' marijuana histories.

With this ever-evolving patchwork of state laws legalizing and destigmatizing marijuana use, Georgia employers understandably are confused about whether they can and should continue subjecting employees and applicants to drug testing for marijuana.

Quick Hits

- Georgia allows patients with specific health conditions to use low-THC oil-based products that may contain up to 5% THC; meanwhile, over-the-counter cannabidiol (CBD) oil is limited to a maximum of 0.3% THC.
- Georgia law does not limit the methods or means of drug testing available to employers, nor does it infringe on an employer's ability to take adverse action against an employee who fails a drug test.
- Employers may want to continue adhering to a structured drug-testing regimen for all employees working in safety-sensitive positions.



Abigail F. Schmadeke

Legal Status of Marijuana in Georgia

In 2015, Georgia enacted a law allowing for patients with specific health conditions to use low-tetrahydrocannabinol (THC) oil-based products that may contain up to 5% THC. Recreational marijuana typically contains much higher levels of THC, thus giving users the "high" that may impair their abilities – e.g., at work. Despite passing this law as a policy allowance, Georgia did not establish any practical way for users to obtain this low-THC medical product. Patients could register with the Georgia Department of Public Health, but they had no legitimate way to obtain medically designed marijuana oil. Over 10,000 individuals are

now registered under the state's plan. Notably, smoking marijuana remains entirely illegal in Georgia—only oil products are allowed.

In 2019, the state attempted to develop a marijuana-deliverables supply chain by enacting legislation called "Georgia's Hope Act," which authorized the Georgia Access to Medical Cannabis Commission to grant six marijuana production licenses. Companies with these licenses then could produce and dispense medical marijuana oil compliant with the state's requirements. However, progress was slow for multiple reasons, including legal challenges and the absence of existing brick-and-mortar production facilities.

Additionally, a November 2023 letter from the federal Drug Enforcement Administration (DEA) to pharmacies in Georgia stated that marijuana oil products would not be dispensed through any pharmacies on its registry because DEA-registered pharmacies are prohibited from dispensing marijuana.

Delta-8 and Other Hemp-Derived Products

The Delta-8 THC products commonly available at chiropractors, spas, wellness and medical clinics, etc., typically contain concentrated amounts of hemp-derived CBD, falling below the Georgia limit. This is in contrast to Delta-9 THC, which is designed off-market and often contains the intoxicating component of the cannabis plant, producing a "high" commonly associated with smoking or ingesting marijuana. These products are largely unregulated in Georgia, and thus they may contain unknown ingredients of unknown origin – and unknown safety implications.

More changes are afoot in Georgia, leading to even greater confusion about which types of THC products are allowable in the legally authorized marketplace. In November 2023, a Georgia appellate court ruled that Delta-8 THC and Delta-10 THC were not controlled substances under Georgia law. By contrast, also in 2023, the Georgia Senate proposed a bill to ban Delta-8 THC products, but the bill ultimately was not signed into law. All of these inconsistent policy initiatives have left Georgia residents (and employers) confused about the status of acceptable marijuana production and use in Georgia.

In late March 2024, however, the Georgia General Assembly passed a bill to bring more structure to the state's incipient hemp industry. The bill, which passed with near unanimity and awaits the signature of Governor Kemp, limits all hemp sales (including CBD oil) to figures twenty-one years of age and older, and it mandates testing and labeling of product ingredients, thus giving consumers more confidence about the authenticity of the contents.

Key Takeaways

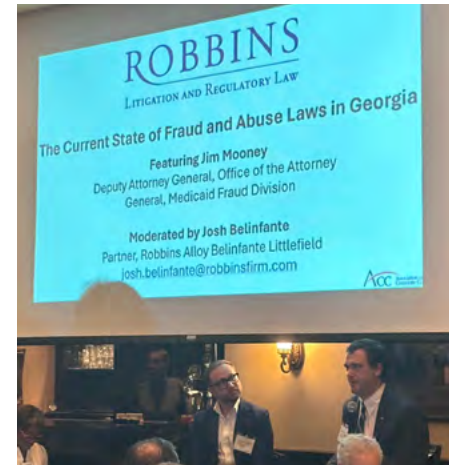
Due to the prevalence of CBD and other low-dose products in Georgia, marijuana use has become rather common, even coming with a social belief that marijuana (all forms) is now legal in Georgia. Of course, that is incorrect. While CBD and other oil-based products should not produce a positive drug test result due to their low THC content, given the long-running absence of state-regulated supply chain management, the marijuana products floating throughout the local marketplace remain riddled with unknown contents. In short, a Georgia worker easily could fail a marijuana panel of a drug test, even if the employee thought the product was entirely lawful and harmless.

Since Georgia law doesn't restrict available drug testing and allows employers to take action against employees who fail drug tests, employers may want to continue their adherence to a structured drug-testing regimen for all employees working in safety-sensitive positions in which an accident could pose a threat of harm to self or others. Many employers also continue to use structured post-accident testing for risk management and liability reasons. For non-safety sensitive positions, employers may want to evaluate whether they still wish to mandate pre-employment testing, depending on the nature of the work and other job-market based factors.

Ogletree Deakins' Atlanta office and Drug Testing Practice Group will continue to monitor developments and will provide updates on the Drug Testing and Georgia blogs as additional information becomes available.

This article was drafted by attorneys with Ogletree Deakins, a labor and employment law firm representing management, and is reprinted with permission. This information should not be relied upon as legal advice.

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