

Winter 2023

Federal Rules of Evidence Amendments Overview

Beware the Other Mailbox Rule

Privilege for Attorney Speech Preserved

Pattern Jury Instruction on Preponderance of the Evidence Rejected



DRI Honors GDLA Past President Matt Moffett with Outstanding Defense Bar Leader Award

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DLA Past President
Matt Moffett was
honored by DRI
with its Fred Sievert Outstanding Defense Bar Leader
Award during the closing
gala at the 2023 DRI Annual
Meeting in San Antonio,
Texas, in October.

The honor annually recognizes a current or Past President of a State & Local Defense Organization (SLDO) who has made a significant contribution towards achieving the goals and objectives of the organized defense bar by initiating innovative projects for the betterment of the organization and exercising strong leadership.

Below we have reprinted GDLA's nomination of Matt so every member can appreciate the hours of dedication he has poured into GDLA:

It is GDLA's honor to nominate our Past President, Matthew G. "Matt" Moffett, for the Fred H. Sievert Award. Matt truly embodies the award criteria: He is an outstanding defense bar leader, who has made significant contributions towards achieving the goals and objectives of the organized defense bar. He truly has exemplified strong leadership and initiated innovative projects that continue to benefit GDLA as well as, we believe, DRI, and our many fellow SLDOs.

Brace yourselves for a rather long story, but Matt's been at it for a while and he is just that extraordinarily (emphasis on "extra") outstanding; however, he would never accept that description or really any praise because he is so incredibly humble. Matt frequently shifts credit due to him to others who play a supporting role. He



Matt is pictured with DRI Immediate Past President Lana Olson (left) and DRI President Patrick Sweeney.

would say he doesn't deserve this award. (We disagree.)

Matt is a lifelong resident of Atlanta, Ga., and a founding partner of Gray Rust St. Amand Moffett & Brieske. While he is an accomplished civil defense litigator, handling bet-the-company cases, and could be lauded for that alone, GDLA's esteem for Matt stems from his innumerable hours of service and, in particular, his vision and dedication to improving our association during his tenure as President from June 2015-2016. GDLA is still reaping the benefits from the seeds he sowed and continues to "water."

When Matt took the helm of GDLA, the *Daily Report*—the American Lawyer Media (ALM) outlet in our state—published an article about his goals, "New Defense Bar President to Focus on Image and Growth" (June 24, 2015). As he explained in the article, "I plan to focus on expanding the visibility of GDLA by actively dispelling the perception that we're

just the insurance defense bar. We're the voice of the entire civil defense bar." He added, "Another misconception is that we're the criminal bar. So, we believe a concentrated effort to reach anyone defending businesses or individuals in civil cases will correct that."

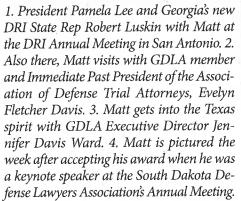
Matt accomplished his goals and more. As the article also explained, Matt wanted to open the lines of communication with our adversaries in the courtroom. Matt also believed that by associating with GTLA through joint events that we would benefit from being understood to be the counterpart to the plaintiff's bar on the other side of the "v." That affiliation would accomplish another one of his

goals—clearing up confusion that GDLA is the criminal defense bar, which back then was constant. GDLA suffered from a major identity crisis.

With that in mind, Matt had us team up with GTLA and the American Board of Trial Advocates' (ABOTA) Atlanta Chapter to hold the first-ever networking event on September 3, 2015. Billed as Rivalry Happy Hour, it took place on the first night of college football at a local sports bar. Judges from Georgia's Court of Appeals and Supreme Court were also invited to join the rivals for fun. Following that event, GDLA and **GTLA's** Executive Directors worked together to submit photos to the Daily Report's "After Hours" column, thereby accomplishing another of Matt's goals—expanding our visibility alongside GTLA.

With the success of the first GDLA-GTLA-ACTL networking reception, Matt encouraged us to plan another one. That was held on











April 7, 2016, at Ri Ra Irish Pub, and again included Georgia's appellate bench as special guests.

Later that spring, our Legislative Committee Chair crafted an idea to organize a forum for those running to fill three Fulton County (Atlanta) Superior Court seats; Matt embraced the idea, but also invited GTLA and the Daily Report to participate. Together, the three groups presented the Fulton Superior Court Judicial Candidates Forum on April 13, 2016, where Matt and then-GTLA President Darren Penn moderated the discussion. Again, Matt knew by teaming up with GTLA and the Daily Report, we would increase our marketing reach via publicity through GTLA's website and ours, plus six Daily Report print ads and online ads. Again, it would bolster our being recognized as GTLA's counterpart on the defense side. It resulted, too, in a front-page Daily Report article, once again expanding our visibility.

GDLA and GTLA next joined forces on May 13, 2016, presenting "Bridging the Divide: Plaintiff and Defense Counsel, Ethics, Civility & Mediation Summit" as part of the American Bar Association's Tort Trial & Insurance Practice Section (TIPS) Annual Conference, which was held in Atlanta. Matt was a key member of the panel that included mediators from two GDLA Platinum Sponsors, then-GTLA President and GTLA Immediate Past President, as well as several other GDLA members. Again, we submitted a photo to the Daily Report "After Hours" column, for all the previously stated reasons.

To actively combat the misperception that GDLA is only an insurance defense group, Matt focused on an effort that was approved during the prior administration. That program offered free one-year memberships to members of DRI, who had not been a GDLA member in the past five years. Since DRI did not seem to suffer as we did from the insur-

ance defense bar misnomer, affiliating with DRI could only help. We began a pointed campaign to educate DRI members that our association is accomplishing at the state level what DRI does nationally, and membership in GDLA was an essential practice tool. Our membership grew exponentially.

Matt is also committed to training the next generation of litigators and truly enjoys mentoring young lawyers. For several years, during his climb to the top of the ladder, he chaired our CLE Planning Committee. He has been a longtime member of GDLA's Trial & Mediation Academy faculty, having volunteered since 2008 and served two years as vice-chair and two years as chair (2012-2015). In fact, it was Matt's innovative idea to add mediation to the long-standing curriculum (formerly known as Trial Academy) to meet the changes in today's practice. That also netted GDLA sponsorship monies from mediation firms

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Matt Moffett Honored

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wanting to participate. Matt was back at it, teaching again, when we convened the 2023 Academy at the end of August.

Not only is Matt a highly respected litigator within our state and association, but also he is a recognized expert at the national level. He is a frequent speaker at our Annual Meeting (most recently on apportionment in June 2022), DRI meetings, SLDO Annual Meetings, and sister organization Annual Meetings—often being invited back multiple times. He has been invited to speak by the following groups:

- Arkansas Association of Defense Counsel
- Canadian Defence Lawyers
- Connecticut Defense Lawyers Association
- Kentucky Defense Counsel
- Massachusetts Defense Lawyers Association

- Michigan Defense Trial Counsel
- Mississippi Defense Lawyers Association
- Montana Defense Trial Lawyers
- New Jersey Defense Association
- Defense Association of New York
- Ohio Association of Civil Trial Attorneys
- Oregon Association of Defense Counsel
- South Carolina Defense Trial Attorneys' Association
- South Dakota Defense Lawyers Association
- Utah Defense Lawyers Association
- Virginia Association of Defense Counsel
- Washington Defense Trial Lawyers
- Association of Defense Trial Attorneys
- Federation of Defense & Corporate Counsel
- DRI Annual Meeting

- DRI Retail & Hospitality - Seminar
- DRI Trial Tactics Seminar
- DRI Young Lawyers Seminar
- DRI Trucking Seminar

As our 48th President, Matt felt it was important to recognize those leaders who had laid a foundation for our success over the past almost half-century. He established the inaugural GDLA Past Presidents Luncheon held on February 5, 2016, at the Capitol City Club in Atlanta, bringing together 15 former leaders and their spouses to be celebrated for their service. Matt felt it was important to honor the spouses, too, knowing from personal experience that their support was key to these leaders' spending many volunteer hours away from home. Again, to boost our visibility, we submitted a photo to the Daily Report's "After Hours" column. We have repeated that event since, and again enjoyed coverage in the newspaper-both online and in print.



While many outgoing leaders like to rest on their laurels, and enjoy the social part of Board involvement, Matt led an effort to establish an investment account in 2019 and developed a governing policy for it; he still serves as our Investment Committee Chair.

When Matt finished his term as GDLA President, Past President Ted Freeman was completing his three-year term as DRI State Representative. GDLA's policy had been to appoint our outgoing President to this important, and plum, position. Matt accepted the call of duty, but his three years did not end in 2020. The DRI Board granted our request to allow Matt to serve one more year, since the then-outgoing GDLA President (the late Jeff Ward) had transitioned to full-time mediating and was, therefore, ineligible. The plan was to wait for the then-incoming President George Hall to complete his term and take over for Matt. Unfortunately, tragedy struck when George died of a cardiac event during the swimming portion of an Ironman triathlon. Rather than rotating off duty, Matt kept on working for us as DRI State Rep. We have since revised our DRI State Rep selection policy so any GDLA member who otherwise meets DRI's criteria may be appointed, and Matt will be succeeded by Robert Luskin. We considered nominating Matt for the Kevin Driskell Outstanding State Rep Award, but we believe his accomplishments far outweigh his contributions as DRI State Rep.

We are tremendously proud of Matt's achievements on behalf of GDLA, DRI, and the organized civil defense bar as a whole. GDLA especially continues to be the beneficiary of his efforts, as we enjoy increased membership—we're closing in on the 1,200-member mark—and enhanced visibility within the legal community, as well as the bench.

It's no surprise that he was honored in 2017 by the *Daily Report* with a Distinguished Leaders Award for his outstanding leadership of our association. That, too, resulted in exposure for GDLA through an article focused on Matt's efforts. And, during that same year's *Daily Report* awards event, his law firm was named as the Litigation Department of the Year/General Practice, Small Firm.

Our nomination does not even address his record as an accomplished litigator or his dedication to community service. Matt has secured numerous defense verdicts in high risk and significant exposure cases, and his jury trial experience totals well over 100. He and his wife, Diane, his high school sweetheart of 33 years, are very active with their church, Peachtree Road United Methodist, where Matt has chaired the Administrative Board and teaches in the adult education program. They have two daughters: Kate, who earned her Masters of Social Work from the University of Tennessee at Chattanooga, and Megan, a 2023 University of Georgia graduate.

In summary, "outstanding" is only one word to describe the lawyer, mentor, friend, community leader, and family man who is Matt Moffett. He is a dedicated servant-leader who never stops working to innovate and improve the organized civil defense bar. And, if you're lucky enough to know Matt, then you know he is kind and funny and fun and loves only IPA beers.

We believe he is unequivocally deserving of DRI's Fred H. Sievert Award. We might close by adding that Matt has now shifted over to key volunteer roles with DRI's sister organization, the Association of Defense Trial Attorneys (ADTA)—he just can't help himself!

