

I am a member of the Board of Governors from the Stone Mountain circuit, and my practice is comprised almost entirely of civil litigation.

I would urge the Court to reject the proposed Rule 6.8. The issue of spoliation is currently governed by well-developed statutory and case law. Approval of this rule would be tantamount to "legislating from the bench" since it directly affects an area of law which the legislature has been looking into (as part of the e-discovery bill) over the past several years, and attempts to change existing law by re-defining spoliation and further limiting the trial judge's options in dealing with spoliation of evidence. In addition, this rule would have the effect of limiting the discretionary options currently available to Georgia trial judges to conform the remedy to the violation in cases being overseen by those judges. The current law of spoliation is well-developed, is not being abused, nor is it resulting in untoward or undeserved outcomes. This Rule appears to be a "solution looking for a problem," and further gives the appearance of impropriety to the Council in attempting to legislate from the bench in a politicized debate currently before the legislature. Therefore, I strongly urge the Court to reject this proposed rule.

Thank you,

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