

THE GAVEL

*The Official Newsletter
of the Georgia Council of Probate Court Judges*

Volume 11, Number 4

March 2004

MESSAGE FROM THE PRESIDENT



My term as president is quickly coming to an end and I would be remiss if I didn't thank everyone who has contributed to the successes that we have enjoyed this year. During the past year your executive committee has worked hard to produce the following programs to improve our probate courts.

1. Created new districts divided along geographical lines rather than population lines which will allow all probate judges the advantages of participating in district meetings;
2. Amended the bylaws to allow the chairperson of each district to attend the executive committee meetings and participate on a non-voting basis;
3. Created a new firearms license form which will, after approval by the Department of Public Safety, allow our courts to easily comply with the many new federal firearms requirements;
4. Created a program to ensure that our forms are kept up to date by enlisting the help of AOC staff attorneys or by employing private counsel to do this important and time consuming work;
5. Approved and funded statewide membership in the National College of Probate Judges to allow all of our judges the opportunity of the educational opportunities offered by that organization;
6. Established a probate judges scholarship program for out-of-state training which will further open educational opportunities to our judges;

7. Continued to fund updating our handbook and support the training council in our own educational programs;
8. Held a planning session to determine the implementation of our strategic plan;
9. Continued to fund updating our handbook and support the training council in our own educational programs.

Below are listed the members of the executive committee. I hope you will take the opportunity to thank each one of these people for their hard work this year, which made all of the above possible.

Executive Committee Members

Judge Susan Tate, Clarke County
President –Elect

Judge Mike Bracewell, Morgan County
First Vice President

Judge Mary T. Cranford
Secretary – Treasurer

Judge Darin McCoy
Immediate Past President

Judge Henry Baker
Judge J. Mike Greene
Judge Judy B. Mullis
Judge LaVerne C. Ogletree

Thanks to all of you for giving me the opportunity to serve as your president. It has been a memorable year for me. Marion Guess

Probate Judge Executive Committee Minutes

Hyatt Savannah Hotel • Savannah, GA • November 18, 2003

Judge Marion Guess called the meeting to order at 10:30 a.m. and the Council reviewed the minutes from the previous meeting. The minutes were moved and approved after the appropriate corrections were made.

The State Budget Report and the Treasurer's Report were presented by Ms. Smith and Judge Cranford. Both budgets were approved as presented. Judge Harper presented the proposed budget for 2004. The Council reviewed the budget and agreed to increase the scholarship funds from \$3,000.00 to \$5,000.00. The Council approved the budget for 2004.

Judge Self informed the committee that he had recently attended the National College meeting and inquired if the Executive Committee would be interested in the Council participating as members of this organization. The group rate to join would be \$85.00 which is \$10.00 less than the regular \$95.00. After a brief discussion

concerning getting the Council to sign up for membership, the committee agreed that Judge Self should poll the membership to determine the level of interest if fees were covered by State or Council funds. The poll will be conducted via listserv.

Judge Guess deviated from the agenda to allow Judge Floyd Propst to speak on the probate handbook and benchbook updates. He informed the committee there is less legislation and more cases in the handbook update, which has not been the tradition. He also stated he was working on a computer disc (CD) version of the handbook

Judge Propst informed the committee that, if they desired him to do so, he would be happy to update the benchbook for 2004 and proposed that the compensation remain the same. He proposed to keep the prices the same unless changes occurred in the Guardianship re-write legislation,

in which case he will ask for an additional \$5,000.00 for the handbook and \$3,000.00 for the benchbook. The additional cost would also go towards compensating Professor Mary Radford who would assist him in updating the chapter of both books. The committee agreed that a contract for next year at the present compensation rate with Judge Propst be continued through next year, with the provision that those figures would not include a total revision of the Guardianship code if it became effective during that period of time. The committee concluded the discussion by agreeing the CD version of the benchbook and handbook would be formatted in Microsoft Word.

Committee Reports

Judge Cason reported for the Bylaws Committee and stated that Article VIII of the Executive Committee Bylaws will be present-

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Judge Guess Retires

Judge Marion Guess of the DeKalb County Probate Court announces his retirement from regular status on February 29, 2004. He will continue to serve the court system as a senior judge. Judge Guess has been elected to eight consecutive terms on the probate court bench since 1973. In 1995 he served as president of the National College of Probate Judges and is currently president of the Georgia Council of Probate Judges. In 1999 he was awarded the nationally recognized "Treat Award of Excellence" by The National College of Probate Judges

and in 2001 the Georgia Council of Probate Judges named him The "Outstanding Probate Court Judge of Georgia." He has written two books on probate law and publishes a monthly probate newsletter

Under Georgia law the Associate Judge/Chief Clerk of the Probate Court, Jeryl Debra Rosh will assume the duties of the office and serve as Chief Clerk and Acting Probate Court Judge until the end of the term (December 31, 2004). Rosh, an attorney and graduate of The Georgia State College of Law, has served in the DeKalb Probate Court for the past 19 years. She has been active in judicial and

legal education speaking to judges, lawyers and clerks of court on various court related topics. She has a special interest in the elderly population, the mentally ill and has spoken to various community groups on their problems. She will assume the office on March 1, 2004 at a ceremony to be held in the probate court courtroom located in the new courthouse annex at 10:00 AM.

Rosh has also announced her intention to seek the office of Judge of the probate court in the non-partisan election held July 20, 2004.

Probate Judge Executive Committee Minutes cont.

ed at the business meeting. Article VIII will allow all District Directors to be advisors to the Executive Committee, however without voting privileges.

Judge Self provided the status of the caseload reporting and informed the committee that 67% (106) of the courts have submitted their caseload reports. In the past year, Judge Self reminded the committee that it was his wish that the Council reach the goal of 80% by the November meeting. A brief discussion took place concerning why courts were not submitting their reports. Judge Bracewell who is the District Liaison and Judge McCoy, who is the editor to "The Gavel" both agreed to assist Judge Self in getting the remaining counties to submit their caseload report for the next quarter which ends January 30, 2004. The AOC will provide Judge Self with a list of counties that have submitted reports in order to determine who the remaining counties are.

Judge Self reported on Court Rules and Forms and informed the Council that there are forms that need to be revised. He stated that certain forms needed correcting and two rules need to be changed. He concluded his report by stating the process should be carried out by July 1st, 2004. A brief discussion took place concerning video tape rules and a change for mental health. The discussion ended with Judge Self confirming the Council's full support of the rule change.

Judge Tate reported for the Firearms Committee and stated she has reviewed a revised draft of the firearms application; however it has not gone into circulation. She concluded by reporting the form is down to three pages and can possibly become two pages.

Judge Tate also reported on the Internal Assistance Committee. She stated that Judge McVay is working on protocol rules for the committee. She also stated that Magistrate Philip Taylor of Cobb County has been working with the committee and offered to speak to the Council on how the Magistrate's Internal Affairs Committee operates. Judge Tate concluded that the committee will ask Judge Taylor to attend the April meeting.

Judge Bracewell reported for the Legislative Committee and distributed a handout summarizing the committee meeting that took place at Lake Lanier in September. The handout highlighted legislative issues that impacted the Council, such as SR 277 the Non-Partisan Bill and HB 869 concerning surcharges and additional charges administered by the AOC. Also outlined in the summary was a discussion concerning increasing supplements for those judges that hold elections. The committee voted in September to propose an increase in (election) supplements to the Executive Committee.

After reviewing the summary, Judge Bracewell, provided the committee with an update of what has occurred since the September Legislative meeting. He continued by informing the committee, that Council lobbyist, Mark Middleton recommended creating legislative awards to exemplify good will towards legislators. He read a letter to the committee from Mr. Middleton detailing how to create the awards committee and pick the recipient(s). After a brief discussion on the issue, an award recipient was approved for the April meeting. The Council also agreed that each year the Legislative Committee was authorized to

grant awards to a senator and member of the House as they deem appropriate.

In the absence of Judge McCoy, Judge Guess reported that the newsletter was doing fine and the fall edition had recently gone out.

Judge Cason reported for the Membership Committee which is developing a brochure about the Council of Probate Court Judges. The committee is being assisted by an AOC staff person.

Judge Self reported in the absence of Judge Van Horn, that the Technology Committee is close to having 100% of all judges with email addresses registered with the AOC. He also reported that there is well over 90% participation on listserv.

Judge Ogletree reported that the Traffic Committee and uniformed rules is monitoring the issue of decriminalization and looking into the adoption of that deal with criminal procedure. She feels that both issues will benefit the courts.

In the absence of Judge Hulsey, Judge Cason informed the committee that the Probate Judge Training Council met at Lake Lanier in September and discussed 2004 training.

Judge Guess reported on the status of the Scholarship Committee and informed the Council that a tele-conference was held on November 6th to discuss the distribution of the \$3,000.00 in scholarship funds and application guidelines. The scholarship notification was sent via email to all judges registered on the Probate Listserv. The guidelines permitted three applicants on a first come, first serve basis to receive a scholarship of no more than \$1,000.00. The applicant was to identify what training program they were attend-

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*You're
Invited!*

5th Annual Council of Municipal Court Judges Tournament



The 5th Annual Council of Municipal Court Judges Golf Tournament has been set for June 14, 2003, at 4:20 p.m. at the Lake Lanier Golf Course. The registration fee of \$85.00, (\$10.00 less than last year) covers green fees, range balls and two (2) cart drinks. Please fill out the registration form, remembering to include your handicap if you have

one, or your average score if you do not. The tournament will be fully handicapped so everyone will have an equal chance to win a trophy. There will also be prizes for Long Drive and Closest to the Pin. Please submit your registration along with a check in the amount of \$85.00, payable to J. Tillman Payne, Jr., Trust Account, by May 15, 2004.

Renaissance Pineisle • Lake Lanier, Georgia

June 24, 2004 • 4:20 p.m. • Fee \$85.00*

NAME: _____

ADDRESS: _____

PHONE#: _____

U.S. Handicap Index or average score: _____

Mail Registration Form & Fee to: Jim Payne
4807 South Main Street
Acworth, GA 30101

For Inquiries, call 770-974-6911; Fax 770-974-0949

* Fee includes range balls and two (2) cart drinks

ENTRIES DUE BY MAY 15, 2004

Miscellaneous Duties of the Probate Court

By Judge Darin McCoy
Evans County Probate Court

This column will feature duties that the Probate Courts rarely deal with. The first feature spotlights O. C.G.A. § 43-14-2(b)(2). This issue came up recently in one of our counties. It requires licensed air-conditioned contractors and licensed plumbers to file bonds with the Probate Court. There is no requirement for the Court to pursue the filings of such bonds, but requires us to accept and approve such bonds when filed in our office. The code section reads as follows:

" In order to protect the public from damages arising from any work by a licensed conditioned air contractor or licensed plumber, which work fails to comply with the ordinances or building and construction codes adopted by any county or municipal corporation, any such licensed conditioned air contractor or licensed plumber may execute and deposit with the judge of the probate court in the county of his or her principal place of business a bond in the sum of \$10,000.00. Such bond shall be a cash bond of \$10,000.00 or executed by a surety authorized and qualified to write surety bonds in the State of Georgia and shall be approved by the judge of the probate court..."

Legislative Tracking

The 2004 Georgia General Assembly began on Monday January 12, with a flurry of new bills and old bills that were recommitted from the 2003 Legislative Session. Log onto our web site at www.georgia-courts.org and click "Track Legislation" to receive up to date information on bills the AOC is tracking. Below are examples of some of the "hot" bills that are listed on our website:



Legislative Interns spend their time keeping up with the legislature.

- **HB 229- Guardianship** - This bill strikes all of title 29 of the Georgia Code, which relates to guardianship of a ward. It replaces it with a more comprehensive section of code, dealing with all aspects of guardianship, such as managing inheritance or appoint a temporary guardian.
- **HB 618- Magistrate Retirement** - This Bill creates the Board of Commissioners of the Magistrates Retirement Fund of Georgia. The Board shall create and manage a retirement fund. It shall be funded by the Magistrates (\$105/month) and by an additional \$3 filing fee on all civil cases. The retirement fund will monthly pay 5% of the Magistrates' final monthly salary from the date of retirement, if retirement is approved by the board.
- **HB 1169- Sentence Reform** - This bill provides for more uniform sentencing codes throughout Georgia. It categorizes all felony offenses into levels, as well as categorizing the severity of past offenses. These factors can then be applied to a sentencing grid that will enable judges to sentence more uniformly.

If you have questions or comments on any of the bills, please contact Debra Nesbit (404.651.7616) or Tonya Griesbach (404.656.6404).

Bills We're Watching

Council of Probate Court Judges
Legislative Committee Chair
Judge Mike Bracewell, Morgan County, (706) 342-6500

SR 277 - legislation seeking a referendum to amend the State's constitution to allow for the non-partisan election of all probate judges.

HB 229 - Guardianship Re-write bill.

HB 739 - Retirement bill, which allows a member without a spouse to elect another beneficiary.

HB 869 - Concerning civil filings and criminal fines.

HB 1372 - Supplement increases for probate judges who work elections.

Probate Judge Executive Committee Minutes cont.

ing, the program date, and the cost. The scholarship was not limited to the National Judicial College of Probate Judges; however, the courses have to be ICJE accredited.

The Council agreed that the Scholarship Committee will have the discretion to determine how the scholarships are requested and the guidelines are met. The committee may expand their committee membership, based on Council guidelines.

Judge Cranford continued to review the committee guidelines by informing the Council that while \$3,000.00 has been set aside for funding, there should be roll over funds from the prior year's remaining funds. The Council had previously agreed to increase the scholarship fund during the Council 2004 Budget review.

Report from AOC

Ms. Moore began her report by addressing concerns that had been expressed by the Council concerning the AOC taking over the Brain and Spinal Injury Trust Fund. She stated that Bob Bray of AOC is heading up staff to work with the fund. The staff's primary responsibility is to focus on finding collection problems and making an organized effort to collect fees. Ms. Moore apologized for the distribution of letters going to all judges instead of just those who handle traffic cases. The Brain and Spinal Injury Trust Funds staff's rationale behind placing all judges on the mailing lists is that future information will be mailed that is pertinent to everyone.

Ms. Moore reported on the Judicial Council meeting that took place in August of 2003 and informed the Council that the Bearing Point Study was the focus of the meeting. The study was

commissioned to address a governance model for Georgia courts automation. The Chief Justice will appoint a committee representative of all courts to review the study and other issues.

Ms. Moore introduced Michelle Golden, who is a part of the legal research team in the Macon office. She reminded the Council that the research department is there to assist them with research and questions; however they are not to issue legal opinions. Ms. Moore also reported on the agency architect, Judson Bryant, who is developing monographs that should be helpful to everyone.

Old Business

Judge Ogletree reported on the Criminal Rules Subcommittee and stated that Traffic Committee recommended adopting Criminal Court Rules. The committee also recommended the draft proposed by Judge Grayson be worked on further and presented to the Rules Committee. She concluded by proposing Judge Grayson and Judge Karen Pittman work with the Rules Committee on the adoption of Criminal Rules e. As co-chair of the Rules Committee, Judge Self approved of the Judge Ogletree's proposals.

Judge Ogletree asked the Council to look into adopting some language in the benchbook that deals with criminal procedure. Judge Self responded that at present the benchbook did not contain anything criminal and it was never the intent of Judge Lawson or Judge Propst to address the issue of criminal jurisdiction. He continued by stating, it was their opinion that the Traffic Committee would primarily be responsible for addressing criminal jurisdiction. After more discussion, there was a consensus that the traffic judges

could possibly utilize the benchbooks of the state and magistrate court judges which address criminal issues.

Due to a lack of time the Council agreed to table discussion of the 2003 Strategic Plans until January.

New Business

Judge Guess asked the committee to adopt the committee descriptions drafted by Judge Cason even though he has used them in assigning committees he noted that the descriptions have not been formally adopted by the Council. Judge Harper stated the descriptions looked good and Judge Ogletree moved to adopt the descriptions as presented. Judge Harper seconded the motion which passed with all in favor.

Judge Guess reported on the purchase of computers for judges without computers. He informed the Council that he is getting the information required for the purchase of computers. He concluded by stating he would have an update at the January 2004 meeting.

Judge Cranford reported on the Probate Court picture directory and informed the Council that she would not update it until after elections in the following year.

Next Meeting Date

The next meeting is scheduled for January 27, 2003, in conjunction with the Winter COAG at the Sheraton-Atlanta Hotel.

Adjournment

Judge Tate adjourned the meeting at 12:15 p.m.

Respectfully Submitted By
Bernadette Smith for
Judge Mary Cranford, Secretary

Are You Ready for Federal Mandates?

When fully implemented... new FEDERAL mandates will end the process of sending tickets, DPS912 and related reports by mail.

Does your court still submit tickets, DPS912 and other information to the state agency by mail?

In the past, as the state population grew, the number of convictions expanded well beyond the ability of the state to enter the data in a timely manner. Thus, a traffic court conviction could sometimes take several weeks or months

before it appeared on the offender's record. At its worst, there was an 18-month backlog to be processed.

New FEDERAL mandates will ultimately require 10-day notification. Traffic convictions must be reported to the license issuing state and entered on the driver's record within 10 days.

A. Electronic data transmission has been recommended for years. Soon it will become a requirement to comply.

B. Your court can upgrade to comply at NO COST to your court, county or law abiding citizens.

C. This program includes software, installation, initial training, support, maintenance, on-going training and upgrades. And, guarantees compliance with all state and federal mandates.

For more details contact Carl Usry, Port Management Consultant, of Courtware Solutions, Inc., Acworth, GA, (770) 333-5672.

Condolences

Judge Frances Seckinger of Effingham County on the loss of her husband in January.

The family of former Bulloch County Probate Judge, Gerald Groover, who passed away on January 22, 2004.

Judge Bob Phillips wife, Harlowe Phillips in Charlton County passed away on February 15th after dealing with an extended illness.

Judge William Self of Bibb County lost his mother, Mary Paul Self on February 18th.

Ms. Marla Moore of the Administrative Office of the Courts on the loss of father who passed away on February 23rd in Missouri.

Judge Pinkie Toomer on the loss of her mother in March.

Please keep their families in your thoughts as they get through this trying time.

Note of Thanks

Thank you so much for remembering me at the loss of my mother with the beautiful plant.

Judge Del Buttrill
Henry County

Get Well Wishes

Judge Henry Baker of Newton County who is recovering from a heart complication.

Judge Mike Greene of Jones County who is recovering from back surgery.



Mr. John Spears and Judge Betty Cason at the Fall COAG meeting in Savannah.

From the Judicial Council Information Services Division

All Georgia Probate Courts:

Recently many of you may have heard rumors or may have been the recipients of various types of misinformation being spread about the Court Information System software programs offered by the Administrative Office of the Courts. One such rumor would have you believe that the CIS programs are no longer being offered to the local courts or that the programs are being abandoned by the AOC. The truth is that these programs were being installed at a rapid pace in court offices all around the state and were gaining wide spread acceptance as was evidenced by the demand for their installation. In November 2003, it was determined that the CIS programs had become unstable and the AOC Information Services Division was forced to withdraw

the offering of the programs until the problems could be resolved. An AOC IS team was assembled to review the programs to determine the exact cause of the problems and make the necessary repairs to the code. This review resulted in a major debugging and redevelopment effort requiring major rewrites of the individual programs to eliminate the problems. All installations of the CIS programs were halted while this code was being reviewed and corrected.

The repair phase of these programs is almost complete. The CIS version 5 software is expected to be released to the AOC IS field installation group for testing in March 2004. The installation team should be ready to begin installation of the new version of the software in the local courts April 1, 2004. Installation will begin in those courts determined to have the most critical need. Other

courts will be contacted and scheduled according to availability of local computer equipment capable of supporting the software and the availability of local court staff to work with the installation team members for this installation and training.

We are preparing for four pre-release demonstrations of the CIS v.5 software throughout the state to give you a preview of the product and to get your input on any final revisions. If you have questions regarding an existing installation or a new installation you can contact the AOC Client Service Center at 800-298-8203 or on the web at www.georgia-courts.org. From the web site you will click on Contact at the bottom of the page and then TO REPORT A PROBLEM OR REQUEST SERVICE to submit an AOC Technology Request.

AOC Research Division Website

The Research Division of the Administrative Office of the Courts (AOC) has developed a website for distribution of court-related information. The website includes court caseload reports, legislative and legal research documents, and the Research staff directory. The website address is <http://research.georgiacourts.org>

The website will serve as the official publication vehicle for caseload reports for the Superior, Magistrate, State, Juvenile, Probate, and Municipal courts.

Information from the website can be copied and pasted into most popular software programs such as Microsoft Excel and Word.

Printable versions of the reports (pdf format) have been included for your convenience. If you need to download the Adobe Acrobat Reader, it is available at the following web address:

<http://www.adobe.com/products/acrobat/readstep2.html>

If you have any questions or suggestions regarding the website, please contact Greg Arnold at 404-656-6413 or arnoldg@gaaoc.us



Ms. Julie Childs, Esq., spoke at the Fall COAG seminar on Health Care Directives.

Equality Commission Name Change and Reception

On January 8, 2004, by Supreme Court Order, The Supreme Court of Georgia Commission on Equality changed its name to The Georgia Commission on Access and Fairness in the Courts (GCAFC). The change reflects the expanded mandate of the Commission which was created in 1995 to address issues of racial/ethnic and gender bias in the courts. More recently, the Commission's role has expanded to address broader issues of fairness and accessibility, including access for individuals with various forms of disabilities.

On February 19, the Commission hosted a reception in the Judicial Conference Room of the State Judicial Building to commemorate the



Speakers for the event were (from left): Ms. Stephanie Chambliss, Justice Carol W. Hunstein, Ms. Linda Klein, and Ms. Marla Moore.

15th Anniversary of the Supreme Court Commission on Gender Bias in the Judicial System. Guests in attendance included State legislators, judges, former Commission members and staff as well as supporters. Speakers for the event were Justice Carol W. Hunstein, Supreme Court of Georgia; Ms. Linda Klein, managing partner of Gambrell & Stolz, LLC and Ms. Marla Moore, Associate Director for Court Services, AOC who talked about the history, accom-

plishments and goals of the Commission.

Several targeted efforts developed to meet the original mandate of the Commission were also displayed during the event. Some of the projects highlighted included *Padres del Divorcio*, a Spanish language video for divorcing parents which complies with Uniform Superior Court Rule 24.8, *Georgia Bailiffs: Diplomats in a Multicultural Society*, *Let Justice Be Done* video and training material, the "Court Conduct Handbook" and the "Guide to Bias-Free Communication." Information for sign language interpreters is also available through the Commission.

For more information, please contact Stephanie Chambliss, AOC, Program Manager, Georgia Commission on Access & Fairness in the Courts at (404) 463-3927 or via email at chamblis@gaaoc.us



Let's welcome Judge Pam Ferguson, Clayton County Probate Court, to the Probate Council family.

Calendar of Events

March 16-19, 2004

Probate Clerks Seminar
Country Inn & Suites-Helen

April 14-16, 2004

Judges Spring Seminar
Georgia Center-Athens

June 24-25, 2004

Judges Traffic Seminar
Renaissance Pineisle-Lake Lanier

August 1-4, 2004

Summer COAG
Clarion-Jekyll

September 14-16, 2004

Probate Clerks Seminar
Comfort Inn-Jekyll Island

November 9-12, 2004

Judges Fall Seminar
Savannah

November 15-19, 2004

Newly Elected Judges Orientation
Georgia Center-Athens

Attention All District Directors

Bylaws Changes Membership

At the annual meeting of the Probate Judges of Georgia held November 18, 2003, the Council adopted changes in the Bylaws to allow District Directors to serve as non-voting members of the Executive Committee of the Council of Probate Court Judges beginning January 1, 2004. Each district needs to elect a District Director in accordance with Article XII of the Bylaws and notify Judge Betty Cason, Chair of the Membership Committee of the appointment at your earliest convenience. You may contact Judge Cason via email at judge@probatecourt.carrollcountyga.com or fax at 770-830-5995.

Council President, Judge W. Marion Guess and the Executive Committee encourage District Directors to attend quarterly committee meetings.

ARTICLE VIII EXECUTIVE COMMITTEE MEMBERSHIP, ELECTION AND DUTIES

Section 1. Membership. The Executive Committee shall consist of the officers of the Council, the Immediate Past President, the Chair or Chairs of the Court Rules Committee, Chair or Chairs of the Nominations Committee, Chair or Chairs of the Legislative Committee, Chair or Chairs of the

Audit and Budget Committee and the Chair of the Probate Judges Training Council. Beginning January 1, 2004 and extending for a period of twenty-four (24) months, all District Directors shall be advisors to the Executive Committee but without voting privileges.



The Gavel

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