

# DAILY REPORT

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## In Federal Suit, Insurer Says It Had No Duty to Defend Lawyers and Firm in South Georgia Legal Malpractice Case

The malpractice insurance carrier for two Statesboro firms is asking a court to absolve it from liability in a lawsuit claiming a blown filing deadline doomed a teacher's EEOC discrimination lawsuit.

By Greg Land | March 08, 2021



**Linley Jones (Courtesy photo)**

A missed filing deadline that resulted in a South Georgia teacher's discrimination claim being tossed has spurred a legal malpractice complaint

([//images.law.com/contrib/content/uploads/documents/404/58902/SDGa-Phillips-v.-Edenfield-complaint-Bulloch-County.pdf](https://images.law.com/contrib/content/uploads/documents/404/58902/SDGa-Phillips-v.-Edenfield-complaint-Bulloch-County.pdf)), and an insurer's claim

([//images.law.com/contrib/content/uploads/documents/404/58902/SDGa-ALPS-v.-Edenfiled-complaint.pdf](https://images.law.com/contrib/content/uploads/documents/404/58902/SDGa-ALPS-v.-Edenfiled-complaint.pdf)) that it is under no obligation to defend the suit because it had never been informed of the case's dismissal more than two years ago.

At the time of disposal of the two cases at the heart of the malpractice suit—an employment discrimination suit tossed on a blown filing deadline and a failed workers' compensation case—ALPS Property & Casualty Insurance did not even have a policy with the lawyers and their firms that are now being sued, it said.

The insurance litigation—recently transferred to Georgia's Southern U.S. District Court from the Northern District—has been playing out for a few months even though the underlying complaint was only filed late last month in Bulloch County.

The legal malpractice complaint names Sharon Edenfield of Edenfield Trial Law and her former firm, Edenfield Cox & Bruce (<https://www.edenfieldlaw.com/>); both firms are in Statesboro, Georgia.

They and the woman suing them, Allison Phillips, are all named as defendants in the declaratory judgment action ALPS filed in federal court.

"This is really one of the most egregious cases I've seen," said Linley Jones Firm (<https://linleyjones.com/>) principal Linley Jones, who filed the malpractice action.

Her client not only lost her chance to pursue a clear case of employer retaliation, said Jones; her lawyer also failed to properly handle her workers' compensation claim, leaving Phillips with no job and no money.

"They said, 'If you want to appeal, you'll need some money,'" Jones said.

Phillips, she said, took a job as a housekeeper for her lawyer's father, ECB partner and former State Bar of Georgia President Gerald Edenfield, in order to pay her legal fees.

"So she became Gerald Edenfield's housekeeper to pay for a case that's already lost," Jones said.

"Now, because of their mishandling of it, the insurance company has filed a declaratory judgment action 'no, we won't pay for it,'" said Jones, who represents Phillips with firm colleague Angela Forstie.

Sharon Edenfield is represented by Jenny Jensen of Duluth, Georgia-based Jensen Firm in the insurance action; ECB is represented by Warren Hinds of Roswell's Warren R. Hinds (<https://www.warrenhindslaw.com/>).

Jensen said she was constrained from discussing the case, under a Southern District local rule barring largely lawyers from discussing pending cases.

Hines did not respond to a query.

ALPS is represented by Kim Jackson and J. Jackson Harris of Bovis, Kyle, Burch & Medlin (<http://www.boviskyle.com/>); Jackson said they could not discuss the case.

According to Jones and court filings, Phillips began working at David Emanuel Academy, a private school in Stillmore, Georgia, in 2007, and went on to become a full-time physical education teacher; she also helped out in special education classes and coached several teams.

Phillips was the only Black coach at the school, her complaint said, and she came to learn that—unlike the other coaches—she was not receiving a stipend for each of the teams she led. When she complained, her superior said he would pay her \$150 for each team she coached; the other coaches were paid \$5,000 per team, her complaint said.

In March 2016, Phillips filed a discrimination charge with the Equal Employment Opportunity Commission, which contacted the school.

That same month, Phillips was attempting to break up a fight between two female students in the gym when one body-slammed her to the floor, injuring her arm and leg.

When contracts were renewed a week later, Philips was not among those retained for the next year. She filed another EEOC charge for retaliation before her position was terminated in May 2016.

The EEOC issued Phillips a right to sue letter giving her 90 days to file a complaint, and she contacted Gerald Edenfield, who referred her to his daughter Sharon; both were with Edenfield Cox & Bruce at the time.

Phillips retained Sharon Edenfield to file suit in the Southern District, but the lawyer missed the filing deadline by two days, and a judge dismissed it in late 2017.

Edenfield didn't tell her client the suit had been dismissed.

"Rather, every time Ms. Phillips inquired about the status of the EEOC Lawsuit, Attorney Edenfield told her it was 'on track,'" the complaint said.

Edenfield also told Phillips that, while she was not experienced in handling workers' compensation cases, she could help the teacher file a claim for the injuries she sustained breaking up the fight.

"Over the next several years, Attorney Edenfield continued to represent Ms. Phillips in the Workers' Compensation Case," her complaint, said, until 2019.

While the academy's lawyer had attempted to arrange a mediation, Edenfield never pursued it and did not tell Phillips about the outreach, the complaint said.

In July 2019, an administrative law judge denied Phillips' claim in that case.

"To the best of Ms. Phillips' knowledge, Attorney Edenfield did not file an appeal in her Workers' Compensation case," the complaint said. "Rather, when Ms. Phillips asked if she could appeal the decision in her Workers' Compensation Case, Attorney Edenfield told her it was too expensive to do so."

Phillips then asked for a copy of her file.

"Attorney Edenfield refused to provide Ms. Phillips with her file, advising that it was 'boxed up and put away in storage, and it would be too much of a hassle to dig out,'" the complaint said.

"Because Attorney Edenfield refused to provide Ms. Phillips with her file, Ms. Phillips was unable to appeal the decision in her Workers' Compensation Case."

For more than a year, Phillips cleaned Gerald Edenfield's house; in January 2020 she asked him about the status of her EEOC suit.

He said he didn't know and advised her to contact the court, the complaint said; only then did she learn the case had been dismissed more than two years earlier.

Last June Jones sent Edenfield—who had since started her own firm—a notice of representation letter saying she was bringing a legal malpractice claim.

ALPs, which had issued its first policies to both Edenfield Cox Bruce and Edenfield Law in 2019, was notified of the potential claim.

Both firms had answered negatively when asked whether there was any knowledge that a claim might "reasonably be expected" as the result of any attorney or employee's actions.

The insurer nonetheless agreed to defend the case for now, issuing a reservation of rights letter allowing it to recoup its expenses if it is not deemed liable for the claims against the firms.

Last September, Jones sent ALPS a demand letter offering to settle Phillips' legal malpractice claims for \$688,096.

In October, ALPS filed its declaratory judgment action asking the court to rule that its policies were not in force either firm for any malpractice associated with either the EEOC or workers' compensation claims.

The lawyers knew as early as October 2017 that the EEOC claims had been dismissed as untimely, and because both cases were part of single claim neither is covered.

The complaint Jones filed in Bulloch County on Feb. 22 includes claims for legal malpractice, breach of fiduciary duty, breach of contract, negligent misrepresentation and "liability for the acts of others" in violation of the Georgia Rules of Professional Conduct.

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