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In 1974, Congress established the Legal Services Corporation (LSC) based on “a need to provide equal access to the system of justice in our nation for individuals who seek redress of grievances.” President Richard M. Nixon signed the law creating LSC. LSC is a national nonprofit that provides grants, support and oversight to more than 130 nonprofit legal aid organizations with more than 800 offices across the country, including Legal Aid of East Tennessee, Legal Aid Society of Middle Tennessee and the Cumberlands, Memphis Area Legal Services Inc., and West Tennessee Legal Services Inc.

LSC is the single largest source of funding for civil legal aid for low-income Americans in the country. However, its funding is still inadequate. Given the fundamental importance of legal aid organizations to our state and our communities, LSC deserves our support.

Earlier this year, a budget was initially proposed that denied all federal funding for LSC. Such action would have decimated our legal aid offices in Tennessee. For example, Legal Aid of East Tennessee gets about half of its funding from LSC. During 2018, Legal Aid of East Tennessee helped almost 10,000 people. Its services this past year have impacted more than 3,500 children, 275 veterans, and close to 1,500 victims of domestic violence. Legal Aid Society of Middle Tennessee and the Cumberlands also relies heavily on LSC funding for its 32 lawyers in eight offices to represent thousands of clients in 48 counties. Approximately 40 percent of the funding for Memphis Area Legal Services comes from LSC.

Fortunately, thanks to bipartisan support in Washington, Congress increased LSC funding from $385 million in FY17 to $410 million in FY18. The increased funding allowed our legal aid organizations to help more people across the state. The Tennessee Bar Association likes to think it played a small role in securing this increased funding for LSC. This past spring, a delegation of lawyers from Tennessee, as well as lawyers from every state in the country, went to Capitol Hill to visit with their respective elected members of Congress and discuss the importance of funding LSC as part of the annual Law Day events in Washington, D.C. Our message of how legal aid organizations impact our communities in so many positive ways was well received by representatives on both sides of the aisle. We were able to demonstrate some of the tangible results that LSC funding provides their constituents.

2018 was not the first time that LSC faced an existential threat. In the early 1980s, an attempt to abolish LSC was thwarted by a bipartisan coalition of Democratic and Republican legislators. Several other attempts to defund LSC throughout the decades have been unsuccessful. Access to justice is simply
Thank You for Writing about Lutie Lytle

This letter was written to our columnist, Russell Fowler, about his article, “Tennessee’s Lutie Lytle: A Woman of Many Firsts,” which was published in the October 2018 Tennessee Bar Journal.

Thank you in general for your many contributions to the Tennessee Bar Journal. I always enjoy reading your articles, and I especially enjoyed reading the October 2018 article on the trailblazing attorney Lutie Lytle.

— Charles K. Grant, Nashville

The Robing of Judges

The article about Justice Sanford in the December issue (“Edward Terry Sanford: The Man Behind the Robe,” by Stephanie L. Slater) noted that the Knoxville Bar Association and Sanford convinced Knoxville judges to wear robes in the 1930s.

In researching my history of the Memphis and Shelby County bar, I learned from elderly lawyers that Memphis judges didn’t wear robes until prompted to do so by the local bar in 1939. I read of at least one judge before that who presided in his shirtsleeves.

My suggestion to the bar association in the 1990s to go a step further by requiring courtroom lawyers to wear a short gown, similar to that of students at Sewanee, was met with ridicule and the suggestion that I would be wanting wigs next. That attitude has not prevented some of our judges from wearing robes in colors ranging from burgundy to robin’s egg blue to rainbow hues. We are probably the only nation in the Western world where lawyers do not wear some sort of robe in court.

— Hon. Robert A. Lanier, Memphis

Editor’s note: We would like to see some of these colorful robes! If you have been in court with a brightly clad judge (or if you are one), write to us and send a picture.

LETTERS OF THE LAW

WRITE TO THE JOURNAL! Letters to the editor are welcomed and considered for publication on the basis of timeliness, taste, clarity and space. They should include the author’s name, address and phone number (for verification purposes). Please send your comments to Suzanne Craig Robertson at srobertson@tnbar.org.

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JEST IS FOR ALL BY ARNIE GLICK

“I hate those whale watch boats -- they violate our right to privacy.”
TENNESSEE BAR JOURNAL | 5

YOU NEED TO KNOW FOR THE RECORD

Tennessee lawyers were sworn in Nov. 27, 2018, to practice before the U.S. Supreme Court in a ceremony in Washington, D.C.

STUDENT’S MURDER IS SUBJECT OF YLD'S HIGH SCHOOL MOCK TRIAL CASE

This year’s problem for the 2019 Tennessee State High School Mock Trial competition is a criminal case, involving the murder of a college student and the arrest of the student's best friend, who was accused of the crime.

The competition will be held in Nashville on March 22-23, following regional competitions across Tennessee. Chairman of the YLD Mock Trial Committee this year is Rob Sands, with Vice Chair Kati Goodner.

Follow developments on Twitter using the hashtag #tnmock19.

Read everything about the hallowed competition, including the case itself, at www.tba.org/info/tennessee-high-school-mock-trial-0.

YOUR TBA

TBA Members Sworn In to U.S. Supreme Court

Ten Tennessee lawyers were sworn in Nov. 27, 2018, to practice before the U.S. Supreme Court in a ceremony in Washington, D.C. TBA President-elect Sarah Sheppeard was on hand to move the admission of the group, which also included TBA Executive Director Joycelyn Stevenson. The group arrived in D.C. first for a reception at the historic Hay-Adams Hotel, and following the ceremony, enjoyed a tour of the Capitol conducted by staff from Sen. Bob Corker’s office.

Those admitted include Laura Smith, Michele Denise Hodges, Nancy Choate, Cynthia Sellers, Laura Williams, Christopher Bellamy, Elaine Michele Youngblood, Laura Yancey Goodall, Wendy Longmire and Berkley E. Schwarz.

Leadership Law Class Selected

Thirty-five attorneys from across the state have been selected for the 2019 Leadership Law program. Now in its 16th year, Leadership Law is designed to equip Tennessee lawyers with the vision, knowledge and skills necessary to serve as leaders in their profession and local communities. The class will meet for its first session in January, and then spend the next six months learning about leadership in the legal profession, issues in the courts, policymaking in state government and the importance of community service. Read the list of those who were chosen at www.tba.org/press-release/tba-selects-attorneys-for-2019-leadership-law-class.

YOUR PRACTICE

Legal Jobs Down Slightly from 2017

According to a report released in December by the Bureau of Labor Statistics, the legal services sector saw a slight decline in jobs for November, down 2,400 from the October total of 1,138,100 and down 100 from November 2017.

In addition to lawyers, jobs in the legal services sector include secretaries, paralegals and other law-related workers.

Survey: Many New Partners Not Satisfied with Pay

A recent survey found that more than 70 percent of new partners were dissatisfied with some aspect of their partnership, with many disappointed in their compensation, the ABA Journal reports. Only 57.2 percent of new partners reported they were “satisfied” or “very satisfied” with compensation, with several actually earning less than senior associates. Other identified areas of dissatisfaction included work-life balance, training, gender bias and cronyism.

Women’s Groups Speak Out Against Mandatory Arbitration Agreements

Women’s associations from eight elite law schools have joined the fight against forced mandatory arbitration among legal employers, releasing a joint statement last month calling continued on page 6
NEWS

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for an end to such agreements within the legal profession, Law.com reports. They say mandatory arbitration is an advantage to employers because it eliminates litigation as an option for employees who have been subjected to discrimination or other workplace misconduct. They also say they would no longer accept any funding from firms that require employees to sign such agreements or that do not disclose whether they use mandatory arbitration.

COURTS

Court Soliciting Comments on Proposed Changes to Rule 43 The Tennessee Supreme Court is soliciting comments from the legal community and the public on proposed changes to Rule 43, which covers the interest on lawyers’ trust accounts (IOLTA). Written comments may be sent to appellatecourtclerk@tcourts.gov or mailed to James M. Hivner, Clerk, Re: Tenn. Sup. Ct. R. 43, Tennessee Appellate Courts, 100 Supreme Court Building, 401 7th Avenue North, Nashville 37219. The deadline for comments is Feb. 4.

PRO BONO

Report: More than Half of Tennessee Attorneys Provide Pro Bono Services More than half of Tennessee attorneys provided pro bono legal services during 2016, according to an annual pro bono report from the Tennessee Supreme Court’s Access to Justice Commission. The report showed that nearly 9,000 practicing Tennessee attorneys provided more than 650,000 hours of pro bono service, with an estimated value of more than $130 million. The full 2017 Pro Bono Report includes data reported by individual attorneys, bar associations, law firms, law schools, legal service providers mediators and other organizations.

Read more about it on page 18.

LAW SCHOOL

Vandy Law Launches New Programs, Certificate in Law and Innovation Vanderbilt Law School and its Program on Law and Innovation (PoLI) has officially launched the PoLI Institute and a new Certificate in Law and Innovation program. The program provides a series of in-depth, live and in-person immersion courses that will be held at the Wond’ry innovation center on Vanderbilt’s Nashville campus. The initial curriculum includes seven courses in 2019 and more in 2020. Each PoLI Immersion course consists of two eight-hour days. Lawyers receive their certificate once they have completed six “immersions” within 36 months. The Institute’s first course, Legal Project Management 2.0 Immersion, will begin in February.

Duncan Law Back in Compliance with ABA Standards A recent decision from the American Bar Association’s Section of Legal Education and Admissions to the Bar found that Lincoln Memorial University Duncan School of Law is now in “substantial compliance” with admission requirements, the ABA Journal reports. The law school, which has provisional approval from the ABA, in April was found to be “significantly out of compliance” with Standards 501(a) and (b), which state that schools should maintain “sound admissions policies and practices” and not admit candidates who seem unlikely to finish law school or pass a bar exam. Dean Gary Wade explained the school’s challenge to the Knoxville News Sentinel, saying “Lincoln Memorial University has as its core mission providing higher education opportunities to the people of Southern Appalachia, who score lower on standardized testing.”

ETHICS

Faughnan Ethics Blog Named to ABA "Best-Of" List As a part of the American Bar Association’s “Web 100” best-of lists for 2018, Tennessee lawyer Brian Faughnan’s “Faughnan on Ethics” blog
made the cut for “Best Law Blogs” of the year. His blog came in at number 15 of 35 recognized blogs. Faughnan was the presenter at the TBA’s annual Ethics Roadshow CLE programming in December in six Tennessee cities.

TECHNOLOGY
LexisNexis Launches New Legal Analytics Tool
LexisNexis has launched Context, a legal analytics tool that includes data on every federal judge and for 100 different types of motions, Law.com reports.

The result of LexisNexis’ purchase of Ravel Law in 2017, Context also has sortable data on 380,000 expert witnesses who have appeared in federal court. LexisNexis joins other companies such as Gavelytics, Premonition and more in pursuit of data that will offer predictive information on judges’ behavior and lawyers’ success rates in state courts.

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138th Annual Tennessee Bar Association Convention
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**YOU NEED TO KNOW**

**SUCCESS!**

**S. Morris Hadden**, a former Tennessee Supreme Court special justice and current managing partner of Hunter, Smith & Davis, was recently honored at a celebration marking 50 years of service with the firm. After receiving his law degree, Hadden, center, served as a special agent with the FBI for three years. He then joined the firm’s Kingsport office where he built a litigation practice. Hadden is a previous member of the TBA Board of Governors and currently a fellow of the American College of Trial Lawyers.

Nashville lawyer **Austin Moore** has joined the law firm of Riley Warnock & Jacobson where he will focus his practice on business litigation. Moore previously served as a law clerk for Davidson County Circuit Court Judge Thomas Brothers. He earned his law degree from Washington University School of Law in St. Louis in 2016.

Bass, Berry & Sims has named **Erica Bell Vick** as new chair of the firm’s Government Advocacy & Public Policy practice. She succeeds J. Richard “Dick” Lodge, who retired at the end of 2018. In her new role, Vick will advocate for clients before the Tennessee General Assembly and state executive branch departments, agencies and commissions. She also provides advice regarding campaign finance and ethics laws.

**John R. Tarpley**, a shareholder in the Nashville office of Lewis Thomason, has been selected to serve on board of directors for ALFA International, a global legal network. Lewis Thomason is one of 145 firms affiliated with the group, which provides clients with high-quality, cost-efficient legal services worldwide. Tarpley will serve a three-year term. Tarpley is a former Tennessee Bar Association president.

**Burr & Forman LLP** recently announced that it would acquire Carolinas-based McNair Law Firm. McNair’s 84 attorneys—serving in seven offices across North Carolina and South Carolina—joined the firm effective Jan. 1. The acquisition expands Burr & Forman’s footprint to 19 offices across eight states.

Former Tennessee Senate Majority Leader **Mark S. Norris** was officially sworn in as the newest U.S. district judge for the Western District of Tennessee in a private ceremony on Nov. 8. A public investiture ceremony will be held on Jan. 11. Norris was nominated to the federal district court by President Donald Trump and confirmed by the U.S. Senate on Oct. 11, 2018. He fills the seat left vacant when U.S. District Judge J. Daniel Breen took senior status in 2017. Breen is a former Tennessee Bar Association president.

Memphis attorney **Lang Wiseman** has been named deputy to the governor and chief counsel for Governor-elect Bill Lee. Wiseman will step down from his role on the University of Tennessee Board of Trustees to take the job. Wiseman, who founded the Memphis firm of Wiseman Bray, currently serves on Gov. Bill Haslam’s Council for Judicial Appointments and is vice chair of the Advisory Commission to the Supreme Court on Rules of Practice and Procedure.

**Colonel Robert D. Pickle**, a TBA senior counselor, was inducted into the University of Tennessee Army ROTC Hall of Fame on Nov. 9, 2018. The program was held during Veterans’ Day weekend ceremonies at the World’s Fair Park in Knoxville. Pickle, a 1961 graduate of the University of Tennessee College of Law, practiced at the Pickle Law Firm in Saint Louis.

The Cystic Fibrosis Foundation of Middle Tennessee recently announced the 2019 class of 30 Under 30, which recognizes Nashville’s most active young professionals and philanthropists. TBA members among the group are **Alé Dalton**, Bradley Arant Boult Cummings; **Michael Hill**, Bass, Berry & Sims; **Casey Miller**, Bradley Arant Boult Cummings; **Kaya Porter**, Lewis, Thomason; **Lauren Spahn**, Shackelford, Bowen, McKinley & Norton; and **Adelee Traylor**, Butler Snow. Honorees will be recognized at an event on Feb. 2 at the Sheraton Hotel.

Memphis lawyer **Earl W. Houston II**, a director and shareholder with Martin,
Tate, Morrow & Marston, has been appointed to an ex officio position on the USLAW Network board of directors. In this new position he will represent the organization’s Diversity Council and serve as a liaison between the two entities. Houston is also a member of the Memphis Bar Association Board of Directors, Local Rules Committee for the U.S. District Court for the Western District of Tennessee and the Board of Court Reporting.

Grayson Jones has joined the Music Row law office of Russell A. Jones Jr. as an associate attorney. She will focus on entertainment and intellectual property law. Jones graduated with a minor in music industry studies from the University of Southern California’s Thornton School of Music. After graduating, she worked in creative licensing and strategic marketing at Columbia Records Creative Agency in Los Angeles. She returned to her native Nashville to attend Belmont University College of Law, graduating from the school in 2018.

Nashville lawyer John Wingo has joined the board of directors for Williamson Inc., an organization that works to develop an educated workforce, strong community leaders and top-tier economic development. He will serve a three-year term. Wingo, a partner at Stites & Harbison, works in the firm’s Business Litigation Service Group where he handles business transactions and commercial litigation.

The national law firm of Wilson Elser Moskowitz Edelman & Dicker has opened its first office in Tennessee. The Nashville office, located at 3102 West End Ave., Suite 400, Nashville 37203, can be reached at 615-324-7840. It will be managed by TBA member Jeffrey Melcher, regional managing partner of the Atlanta office, and Stratton Horres, Southwest regional managing partner overseeing the Dallas, Houston and Louisville, Kentucky, offices.

Gov. Bill Haslam appointed Christopher V. Sockwell as circuit court judge for the 22nd Judicial District on Nov. 15, 2018. Sockwell replaces Judge Robert Jones, who retired in October. Sockwell will hear cases from Giles, Lawrence, Maury and Wayne counties. He previously practiced with Boston, Holt, Sockwell & Durham in Lawrenceburg. He also served as city judge and city attorney in nearby Ethridge.

Former Court of Appeals judge and one-time Nashville law director Patricia Cottrell is now set to become the city’s first-ever chief compliance officer. An appeals court judge from 1998 to 2014, Cottrell was announced in December as Mayor David Briley’s pick for a new position that will oversee a “comprehensive review” of ethics regulations in the city’s procurement process — and whether they’re being followed — among other responsibilities.

Shundra Crumpton has joined the Nashville office of Bradley Arant Boult Cummings as a member of its Litigation Practice Group. Crumpton earned her law degree from Vanderbilt University Law School where she was a member of the Legal Aid Society Board, Black Law Student Association and the Labor & Employment Law Society.

The firm also announced that C. Meade Hartfield, a partner in the Birmingham, Alabama, office, has been appointed the inau-

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Rainey, Kizer, Reviere & Bell PLC welcomes

CHRISTIE KIZER BURBANK and HUGH FRANCIS

Burbank, who joins the Chattanooga office, will focus exclusively on health care regulatory and transactional law matters for a broad range of providers, including facilities, physician groups and individual providers. She previously practiced at Miller & Martin, PLLC in Chattanooga. The addition of Christie makes the firm’s practice a family affair, as she is the daughter of Founding Member Jerry Kizer, Jr. A graduate of the University of Tennessee College of Law, Christie is licensed in both Tennessee and Georgia. Her legal experience spans such areas as healthcare contract drafting and negotiations, fraud and abuse analyses, physician self-referral issues, and HIPAA and privacy issues.

Francis has joined the firm’s Memphis office as an associate attorney. He is a member of the firm’s Malpractice Practice Group where he represents physicians, nurses, hospitals, dentists and clinics in medical malpractice litigation. He also is a member of the Memphis Bar Association’s Health Law Section Board. Hugh has defended health care providers since earning his law degree from the University of Memphis Cecil C. Humphreys School of Law in 2013. While in law school, he served as the executive director of the Student Bar Association and won the Dean’s Award for Excellence in Legal Writing.
gural chair and a founder of the Women in the Law Committee of the Alabama Defense Lawyers Association (ADLA). Hartfield practices in the firm’s Banking and Financial Services Practice Group and represents financial, medical, automotive, aviation, industrial, insurance and environmental clients.

Rainey Kizer Reviere & Bell recently added two new attorneys to its practice. Christie Kizer Burbank has joined the Chattanooga office, where she will focus on health care regulatory and transactional law matters. She previously practiced at Miller & Martin in Chattanooga. Hugh Francis has joined the firm’s Memphis office as an associate attorney. He will represent health care clients in malpractice cases.

To submit career moves, awards, appointments and other notable achievements to Success!, TBA members may go to the online submission form at www.tba.org/success. Your entry will appear online at www.tba.org/success/news after approval, and in the next available print edition. News is subject to editing and pictures are used on a space-available basis. Save photos as a tiff or jpeg (with no compression), minimum resolution 200 dpi, and at least 1”x1.5”. Success! is compiled by Stacey Shrader Joslin and Linda Murphy. If you have questions, contact Linda at lmurphy@tnbar.org. For information on paid advertisements, please contact Stacey at advertising@tnbar.org.

JAMES E. BRADING died on Nov. 28, 2018, at the age of 85, at his home in Johnson City. A U.S. Army veteran and a 1961 graduate of Yale Law School, Brading practiced law in Upper East Tennessee for nearly 50 years, first with Wilson, Worley & Gamble, then as a sole practitioner, and finally with Hemdon, Coleman, Brading & McKee, where he spent the bulk of his career. He served for one year as a Circuit Judge for Tennessee’s First Judicial District. In lieu of flowers, memorial contributions may be made to the ETSU Quillen College of Medicine, to which Brading donated his body for medical education.

Longtime Columbia lawyer JERRY CAROTHERS COLLEY died Nov. 23, 2018. He was 91. Colley obtained his law degree from Vanderbilt University Law School in 1951. He practiced law for 65 years, serving on the Tennessee Supreme Court Board of Professional Responsibility, as a member of local bar associations and the American College of Trial Lawyers. In lieu of flowers, the family suggests memorials be given to First United Methodist Church, 222 West Seventh St., Columbia 38401. Condolences may be shared online at www.oakesandnichols.com.

Kingsport attorney JOHN D. PARKER JR. died Nov. 7, 2018, following a brief illness. He was 67. Parker graduated from East Tennessee State University with a psychology degree and later received his law degree from Nashville School of Law. A lifelong resident of Kingsport, he practiced law there for 34 years. He also served as a magistrate in Sullivan County. In lieu of flowers, memorial contributions may be made to the American Cancer Society, 871 N. Weisgarber Rd., Knoxville 37909, or First Broad Street United Methodist Church, 100 E. Church Circle, Kingsport 37660. Condolences may be shared online at www.hamlettdobson.com.

PASSAGES

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YOU NEED TO KNOW
LICENSURE & DISCIPLINE

DISABILITY INACTIVE
The law license of Davidson County lawyer Carla L. Arevalo was transferred to disability inactive status on Nov. 21, 2018, pursuant to Section 27.4 of Tennessee Supreme Court rule 9. Arevalo cannot practice law while on inactive status and may not return to the practice of law until reinstated by showing by clear and convincing evidence that the disability has been removed and he is fit to resume the practice of law.

REINSTATED
Davidson county lawyer Allyn Rubright Gibson was reinstated to the practice of law effective Nov. 19, 2018. The Tennessee Supreme Court noted that Gibson had been placed on inactive status in October 2013 but filed a petition for reinstatement in November. The Board of Professional Responsibility stated that the petition was satisfactory and met the requirements of Tennessee Supreme Court Rule 9. The court issued the order on Dec. 3, 2018.

Oxford, Mississippi, lawyer Mason S. Montgomery was reinstated to the practice of law in Tennessee on Nov. 8, 2018. He had been placed on inactive status in May 2012. Montgomery filed a petition seeking reinstatement. The Board of Professional Responsibility reported that the petition was satisfactory and he had met all requirements for reinstatement. The court’s reinstatement order was filed on Nov. 16, 2018.

DISCIPLINARY DISBARRED
The Tennessee Supreme Court on Dec. 3, disbarred Aschalew Guadie Nigussie of Decatur, Georgia, from the practice of law in Tennessee and ordered him to pay restitution to one client as a condition of reinstatement. The court found that Nigussie had accepted fees from two clients but performed little, if any, work on their behalf. He also ceased communicating with the clients and did not respond to a petition for discipline or an order for default judgment entered against him. These actions were determined to violate Rules of Professional Conduct 1.3, 1.4, 1.5(f), 1.16 (d), 8.1 (b) and 8.4 (a) and (d).

Suspended
The Tennessee Supreme Court on Nov. 21, 2018, entered an order denying the request of Davidson County lawyer Brian Phillip Manookian for dissolution of his temporary suspension. Manookian was temporarily suspended from the practice of law while on inactive status.
practice of law on Sept. 21, 2018, after the court found that he posed a threat of substantial harm to the public. On Sept. 28, 2018, Manookian filed a petition to dissolve his suspension. Following hearings on Oct. 11 and 19, 2018, a panel of the Board of Professional Responsibility recommended that the petition be denied. The Supreme Court agreed. In addition, the court lifted a stay it had earlier imposed on the 30-day deadline to stop representing existing clients. Manookian was to cease representation of existing clients within 10 days. The suspension will remain in effect until dissolution or modification by the court.

**Administrative Suspensions**

Notice of attorneys suspended for, and reinstated from, administrative violations — including failure to pay the Board of Professional Responsibility licensing and inactive fees, file the required IOLTA report, comply with continuing legal education requirements, and pay the Tennessee professional privilege tax — is on the TBA website at www.tba.org/administrative-suspension-lists.

Compiled by Stacey Shradar Joslin from information provided by the Board of Professional Responsibility of the Tennessee Supreme Court. Licensure and disciplinary notices are included in this publication as a member service. The official record of an attorney’s status is maintained by the board. Current information about a particular attorney may be found on the board’s website at www.tbpr.org/for-the-public/online-attorney-directory.

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**PRESIDENT**

Continued from page 3

a basic principle of the Constitution and should be protected by the federal government. Proper funding for LSC is crucial to protect the rights of all Americans and, indeed, the citizens of Tennessee. After all, the Tennessee Supreme Court has made access to justice its number one strategic priority.

I am cognizant of some of the controversies and criticisms that LSC has faced throughout its history. But for the most part, those concerns are a thing of the past. Congress has put in place restrictions on how LSC can spend its money. These restrictions are designed to keep politics out of access to justice initiatives and keep legal aid organizations focused on solving legal problems for individuals.

While we are grateful for the increase in funding for LSC this past year, it is still not enough to address the imbalance in the scales of justice with which low income individuals must contend. We must continue to work with our elected officials in an effort to direct more resources to LSC. It is vital for access to justice, and it is the right thing to do.

The Tennessee Bar Association is delighted to have current LSC board member and former ABA President Robert J. Grey Jr. as the keynote speaker at our annual Public Service Luncheon later this month in Nashville. Hope to see you there.

**Pannu’s Pairings – Chablis**

Chablis, located in the northwest corner of Burgundy, France, is Chardonnay country. Producers in Chablis rarely use oak barrels in the winemaking process, resulting in a distinctive Chardonnay with citrus and flower aromas and dry, light-bodied flavors of citrus and minerality. Chablis was once covered by the sea during prehistoric times so the soil is full of fossilized oyster shells and other marine life. This provides the minerality and briny oceanic flavors in Chablis that I enjoy so much.

Chablis wine is ranked hierarchically by French regulators. At the bottom of the pyramid is Petit Chablis followed by straight Chablis. Next is premier cru (about 40 named vineyard plots) and at the top of the pyramid is grand cru (7 named vineyard plots). Grand cru Chablis is an exception in this region in that it will likely see some time with oak.

My two favorite producers in Chablis are Vincent Dauvissat and François Raveneau. Look for premier cru plots named La Forest and Chapelot and for grand cru look for the Blanchot plot.

**Food Pairings:** The high acidity in Chablis will pair well with light creamy sauces. The oceanic characteristics of Chablis make it a natural pairing with oysters, clams, scallops, shrimp, and crab. Lighter white-fleshed fish and chicken are also good matches. Chablis should be served chilled but not icy (about 54-57 F).

Jason M. Pannu in Chablis, France

JASON M. PANNU is a shareholder in the Nashville office of Lewis Thomason. You can reach him at JPPannu@LewisThomason.com. Follow Jason on Twitter @jasonpannu and Instagram @jasonpannu.
Since 2003, LexisNexis™ has donated nearly $350,000 to Tennessee Pro Bono Programs

The LexisNexis Cares Program offers its online service for pro bono use. And since Tennessee Justice Center (TJC) was founded in 1996, LexisNexis has worked with the Tennessee Bar Association to provide thousands of hours of free legal research time to TJC.

Hundreds of thousands of Tennesseans rely on Tennessee Justice Center each year for legal help that they couldn’t afford any place else. Thanks to the work of TJC, they are able to get the legal representation they deserve. And thanks to LexisNexis for helping provide the necessary tools.

The Tennessee Bar Association and its members all across the state say thank you to LexisNexis for its work in supporting justice for all in Tennessee.

“LexisNexis breathes life into the phrase Equal Justice Under Law by arming us with the tools we need to represent Tennessee children and families. Because of their generosity, children receive the health care their doctors order and to which the law entitles them. Thanks LexisNexis for making the future of our community brighter!”

— Michele Johnson, executive director, Tennessee Justice Center
POWER UP YOUR PRACTICE

It’s a New Year. Give Your Practice the Boost It Needs With Compelling Programming from TBA CLE
Welcome to CLE for Tennessee.
This special section uses the icons below to indicate which amenities are included with featured CLE programs. The icons appear between the title and pricing information.

- Parking
- Premium Coffee
- Food
- Internet

Construction Law Forum
January 25 in Nashville, Tennessee Bar Center
Program: 8:30 a.m. – 4:30 p.m.
Credit: 5.75 General, 1 Dual

$300 Section Members
$325 TBA Members
$500 Nonmembers (includes TBA Complete Membership)

For attorneys interested in: Construction law, ethics
The parties in a commercial construction case often include: the owner(s), lender, surety, general contractor(s), subcontractors and suppliers. Though the interest of these stakeholders may align on some issues they diverge on others.

The TBA Construction Law Section is providing 6.75 hours of CLE, including one hour of ethics to examine the perspectives of these different stakeholders. Based on a common fact pattern, some of the topics to be discussed are: surety bonds, mechanics’ and materialmen’s liens, Prompt Pay Act, recent statutory changes and etc. The topics will be informative for all attorneys, regardless of construction law experience.

Networking lunch provided.

Speakers: Jerry Martin, Tim Crenshaw, John Critchfield, Glynn Dowdle, Timothy Gibbons, Daniel Hendricks, David Taylor

Law Tech Blast
February 15 in Nashville, Tennessee Bar Center
Program: 9 a.m. – 4:45 p.m.
Credit: 6.5 Dual

$30/hour Section Members
$40/hour TBA Members
$60/hour Nonmembers

For attorneys interested in: Law office tech, management, ethics
Find out what’s next in technology for your law practice and law office at this year’s Law Tech Blast on Feb. 15. Earn up to 6.5 hours of Dual CLE credit. You can create your own schedule and take as many or as few hours as you need. The registration desk will be open all day, so you can come and go for the hours you need when it is convenient for you.

Environmental Law Forum

February 1 in Nashville, Tennessee Bar Center
Program: 10:30 – 3:45 p.m.
Credit: 3 General, 1 Dual

For attorneys interested in: Environmental Law, Ethics
The Environmental Law Section’s annual forum will present timely updates on legal issues involving brownfields, Tennessee Water Rule amendments and emerging contaminants. Government, in-house and private practice attorneys will discuss new regulations affecting these topics. Do not miss this opportunity to learn from seasoned practitioners while networking with top players in the field.

Speakers: Jenny Howard, David Higney, Edward Sanders Jr., Evan Spann, G. Thomas

CLE Ski 2019

February 2 –7, 2019 in Olympic Valley, Calif.
Program: 7:30 a.m. – 9 a.m. mornings
4:30 p.m. – 6 p.m. evenings
Credit: 12 General, 3 Dual

For attorneys interested in: General, Solo, Small Firms, Ethics
Join us February 2-7, 2019, for the Tennessee Bar Association’s 34th Annual CLE Ski in Olympic Valley, California!! Located in the heart of Olympic Valley with direct lift service to Squaw Valley – site of the 1960 Winter Olympics –Resort at Squaw Creek offers an ideal base camp for your Lake Tahoe ski vacation. Known for deep snow, an extensive network of chair-lifts, and an incredible variety of terrain for all ages and abilities, Squaw Valley is a must-visit destination for skiers and riders from around the world.

Speakers: Max Shelton, Rusty Reviere, William Ryan, Newton Anderson, Perry Craft, Jeff Weintraub, Sarah Sheppeard, Bill Halton, Roy Herron, Sharon Jacobs, Renee Castle, Brice Timmons
CLE for TENNESSEE

Register now at cle.tba.org

Corporate Counsel Forum

April 5 in Nashville, Tennessee Bar Center
Program: 9 a.m. – 4 p.m.
Credit: 5 General, 1 Dual

For attorneys interested in: Corporate law, ethics
This forum will feature speakers on a range of topics relevant to in-house counsel, including the latest in law department technology, dealing with immigration policies and managing a dual legal and business role.

Speaker: Alicia Oliver

Estate Planning & Probate Forum

February 22 in Franklin
Program: 8:30 a.m. – 4 p.m.
Credit: 5 General, 1 Dual

$265 Section Members
$290 TBA Members
$465 Nonmembers (includes TBA Complete Membership)

For attorneys interested in: Estate planning, probate, ethics
This event provides six hours of CLE, including an hour of dual credit and will be focused on timely, relevant topics to help you stay on top of trends affecting this area of law. Legislative updates and the ever-popular Clerk & Masters Panel will ensure that you leave with the knowledge necessary to advance your practice. Do not miss this opportunity to fulfill CLE requirements while networking with attorneys who share your focus and cultivating relationships with fellow practitioners. Section members receive a discounted rate for the program.

Networking lunch provided.

Speakers: Michael Goode, Newman Bankston, James Barry Jr., Jennifer Exum, Robin Miller, David Parsons, Albert Secor

Register today at cle.tba.org

FEATURING FACULTY

Erika Barnes, a member of Stites & Harbison’s Creditors’ Rights and Bankruptcy Service Group, is speaking at the 16th Annual Bankruptcy Forum.

What’s your favorite pro sports team? Nashville Predators. I grew up watching hockey in Michigan, and I quickly became a Preds fan when the NHL came to Nashville.

UT, Vandy or Memphis? Vandy all the way! I am a graduate of Vanderbilt Law School; my husband is a life-long Vanderbilt fan, and we are raising two little Commodore fans!

What color is your light saber? Green. Green light sabers are used by Jedis who prefer negotiation and mediation, but will use strong force abilities when necessary. This accurately describes my practice as a bankruptcy and creditors’ rights attorney.

What is your favorite vacation spot? I love the crystal clear water and ocean breeze in Destin, Florida.
Dawn Coppock practices primarily in the area of adoption law in Strawberry Plains, Tennessee.

UT or Vandy or Memphis? UT, but only after Georgia Tech. Buzzzzz

Nashville Hot Chicken or Memphis BBQ? Prince’s Hot Chicken. The mild makes my lips peel, but I’m addicted.

What’s the most recent album you purchased? Mike Farris, Silver and Stone

What color is your light saber? Green

If you could trade places with anyone, who would it be? Nobody!

Where’s your favorite vacation spot? Edisto Beach, South Carolina

What’s your favorite go-to recipe? Mini tomato pies

Where do you find meaning of law practice? Too often lawyers lose the wonder of people bringing us their hurts, mistakes and dreams. We are elbow-deep in human frailty and fear, not to mention most vices and the highest human hopes. Sometimes people need a warrior. I am proud when lawyers play that critical role well. But when I’m the justice warrior, I’m terminating parental rights, which feels more like innocent vs. sadly messed up and downtrodden, rather than good vs. evil.

I love my work most when I can find resolution, not only of the legal problem, but of the bigger problem that either caused or came from the legal problem, a solution that will “make people whole” not just in the technical legal sense but in a human sense. The aggrieved are avenged and the “bad actor” has not only appropriate consequences but also the dignity of a fresh start that a just resolution can offer. After those cases, I love my work.

Name a bucket list item for 2019. To have an all night “drink and sing” with writing buddies like I did in my early poetry writing days. Seriously, I’m making plans and no, I’m not a good singer.

Anything else, you’d like to share? Lawyers are interesting and interested people, plus we have great stories. I feel lucky to be in this club.
CLE for TENNESSEE

Register now at cle.tba.org

Adoption Law Forum

March 6 in Nashville, Tennessee Bar Center
Program: 12 – 3:15 p.m.
Credit: 3 General

For attorneys interested in: Adoption law, family law

This program presented by the Tennessee Bar Association’s recently formed Adoption Law Section will focus on changes to adoption law. Lunch will be included with registration, and the forum will be followed by a social hour.

Speaker: Jason Long

$130 Section Members
$155 TBA Members
$330 Nonmembers (includes TBA Complete Membership)

Local Government Forum

March 28 in Nashville, Tennessee Bar Center
Program: 8 a.m. – 4:30 p.m.
Credit: 5 General, 1 Dual

For attorneys interested in: Government, employment law, ethics

Government law is an ever-changing practice area with a unique blend of constitutional, statutory and case laws. This program will address intangibles of the practice area, along with topics such as ABC laws, government employment law, legal ethics in a government setting and more. A networking event will follow the program.

Networking lunch provided.

Speaker: Charlotte Knight Griffin

$265 Section Members
$290 TBA Members
$465 Nonmembers (includes TBA Complete Membership)

FEATURED FACULTY

Jennifer Sheppard

Jennifer Sheppard is an attorney with Martin Heller Potem & Sheppard PLLC in Nashville.

What’s your favorite pro sports team? Nashville Predators

UT or Vandy or Memphis? UT (Class of 2000)

Nashville Hot Chicken or Memphis BBQ?

What’s the first (or most recent) album you purchased? My first album was JJ Fad: Supersonic. Most recent was Kacey Musgraves: Golden Hour.

If you could have dinner with five people, living or dead, who would they be? Rather than having a dinner with 5 guests, my preference would be to have 5 separate dinners so I could truly focus on each person. My deceased father-in-law, whom I never met. My two deceased grandfathers. Prince. Elizabeth Warren.

What is your favorite vacation spot? I have a serious case of wanderlust. Through all of my travels, I’ve learned the destination is not as important as the trip itself.

Tort, Insurance & Appellate Practice Forum

March 28 in Nashville, AT&T Building
Program: 9 a.m. – 4 p.m.
Credit: 6 General

$265 Section Members
$290 TBA Members
$465 Nonmembers (includes TBA Complete Membership)

For attorneys interested in: Torts, insurance
This year join tort, insurance practice and appellate lawyers from across the state to learn about the topics that will impact your practice. You will hear about the latest updates in appellate law and the newest developments in tort and insurance practice.

Speaker: Robertson Leatherman Jr., Kylie Wilson

International Law Forum

February 22 in Nashville, Tennessee Bar Center
Program: 1 – 4:15 p.m.
Credit: 3 General

$130 Section Members
$155 TBA Members
$330 Nonmembers (includes TBA Complete Membership)

For attorneys interested in: Business, international law
The International Law Section 2019 Annual CLE Forum is focused on providing both the experienced and the new business attorney, corporate counsel, employment law attorney, technology law attorney and others exposure to the current and changing international law issues and events affecting Tennessee companies, individuals and beyond the border. The program will consist of three international business panels with representatives from government and private international manufacturing perspectives, international sourcing, importing and exporting perspectives and international entertainment and tourism perspectives. The Section will be hosting a reception at the conclusion of the program.

Speaker: Terrence Olsen

Save the Date Winter Blast

February 27 in Nashville, Tennessee Bar Center
16th Annual Bankruptcy Law Forum

April 5 – 7 • Gatlinburg

Hilton Garden Inn, Gatlinburg
Credits: 7 General, 3 Dual

$495 Section Members
$525 TBA Members
$700 Nonmembers (includes TBA Complete Membership)

For attorneys interested in: Bankruptcy, ethics
The 16th Annual Tennessee Bar Association Bankruptcy Forum will take place April 5-7, 2019, at the Hilton Garden Inn in Gatlinburg, Tennessee. Please make plans now to join us in this wonderful and relaxing setting for an informative, unique retreat that is applicable to a wide variety of bankruptcy attorneys. Ten hours of CLE credit are available for this program, including three hours of ethics.

This high-quality program will begin on Friday afternoon with two CLE sessions. First, there will be a presentation highlighting bankruptcy case law updates. The second session will feature an experienced panel of practitioners who will discuss important differences in bankruptcy practice across the three Grand Divisions of the state. Included in the cost of the program is a Friday evening dinner and networking reception. Attendees are welcome to bring guests to the reception for an additional $75 per guest.

On Saturday, attendees will be organized into small groups with a discussion leader drawn from a faculty of prominent bankruptcy judges. These small group discussions will focus on case problems that bring into focus recent developments in the law and real world problems that bankruptcy practitioners face. The judges will encourage the participants to analyze, discuss and argue different approaches to the case studies. There will be an optional group hike planned for Saturday afternoon.

Networking lunch provided.

Speakers: Laura Ketcham, Lawrence Ahern III, Erika Barnes, the Hon. Suzanne Bauknight, the Hon. Paul Bonapfel, Joel Giddens, Gregory Logue, Michael McCormick, John Newton, the Hon. Shelley Rucker, the Hon. Charles Walker

FEATURING FACULTY
Newton Anderson, a managing member of Spicer Rudstrom in Memphis, is speaking at CLE Ski.

What’s your favorite pro sports team? Memphs Redbirds

UT, Vandy or Memphs? After 10 straight years with a valid parking decal, Memphs.

Nashville Hot Chicken or Memphs BBQ? Memphs. (Do you have to ask?)

What is the first album you purchased? Meet the Beatles, in 1964

If you could trade places with anyone, who would it be? Friends my age who have figured out how to retire already.

If you could have dinner with five people, living or dead, who would they be? My father, my grandfather, Dr. Martin Luther King Jr., Mahatma Gandhi and then my father one more time.

What is your favorite vacation spot? So far, New Zealand, but I’m still looking.

What’s your favorite go-to recipe? My spicy sun-dried tomato hummus.

What inspires you? Bright and energetic young lawyers who continue our noble profession.

Newton Anderson
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<th>Date</th>
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<th>Featured Speakers</th>
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| FRI 25 | **Construction Law Forum**  
Construction Law                                                                 | Jerry Martin, Tim Crenshaw, John Critchfield, Glynn Dowdle, Timothy Gibbons, Daniel Hendricks, David Taylor |
| SAT 02 | **CLE Ski 2019 – Olympic Valley, Calif.**  
General, Solo, Small Firms, Ethics  
February 2 – 7                                                                 | Max Shelton, Rusty Reviere, William Ryan, Newton Anderson, Perry Craft, J. Weintraub, Sarah Sheppeard, Bill Halton, Roy Herron, Sharon Jacobs, Renee Castle, Brice Timmons |
| FRI 15 | **Law Tech Blast**  
Law Office Technology/Management                                                                 | Thomas Shumate IV, Andre Bahou, Thomas Brothers, Joe Brown, Phillip Hampton, Jim KempVanEe, William Ramsey, Bryan Thornton, Barry Tidwell |
| FRI 21 | **Fastcase Legal Research Training**  
Law Office Technology/Management                                                                 | Jeff Asjes, Erin Page |
| FRI 22 | **Estate Planning & Probate Forum**  
Estate Planning, Probate                                                                 | Michael Goode, Newman Bankston, James Barry Jr., Jennifer Exum, Robin Miller, David Parsons, Albert Secor |
| WED 27 | **International Law Forum**  
International Law and Practice                                                                 | Terrence Olsen |
| WED 27 | **Winter Blast**  
General, Solo, Small Firms, Ethics                                                                 | For more information, visit cle.tba.org |
| WED 06 | **Adoption Law Forum**  
Adoption Law                                                                 | Jason Long |
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<td>Robertson Leatherman Jr., Kylie Wilson</td>
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<td>FRI 05</td>
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<td>FRI 12</td>
<td>Disability Law Annual Forum</td>
<td>Chris George, John Dreiser, Kimberly Joseph, the Hon. Robert Lee Martin</td>
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<td>THU 18</td>
<td>Litigation Forum</td>
<td>Mary Taylor Gallagher</td>
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<td>THU 25</td>
<td>Immigration Law Forum</td>
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<td>FRI 26</td>
<td>Dispute Resolution Forum</td>
<td>Stephen Shields, Robert Arrington, Larry Bridgesmith, Frank Cantrell, Cindy Ettingoff, Debra Fulton, Sandra Garrett, Rachael Henry, the Hon. Janice Holder, Joe Manuel, Robin Miller, Mary O’Mara, Patricia Vital, Jocelyn Wurzburg</td>
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<td>FRI 03</td>
<td><strong>23rd Annual Labor &amp; Employment Law Forum</strong>&lt;br&gt;<strong>Labor and Employment</strong></td>
<td>Donna Mikel, John Bode, Celeste Bradley, Stan Graham, Stephen Liston, Hon. Jon McCalla, Hon. Travis McDonough, Dan Norwood, Debra Norwood, Michael Russell</td>
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<td>THU 09</td>
<td><strong>Business Law Forum</strong>&lt;br&gt;<strong>Business Law</strong></td>
<td>Watch for more information, coming soon, to cle.tba.org</td>
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<td>FRI 10</td>
<td><strong>Intellectual Property Blast</strong>&lt;br&gt;<strong>Intellectual Property</strong></td>
<td>Hemant Gupta, Seth Ogden, Autumn Boyd, Edward Lanquist Jr.</td>
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<td>WED 15</td>
<td><strong>Family Law Forum</strong>&lt;br&gt;<strong>Family Law</strong></td>
<td>Susan Mackenzie</td>
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<td>WED 15</td>
<td><strong>Entertainment &amp; Sports Law Annual Forum</strong>&lt;br&gt;<strong>Entertainment Law</strong></td>
<td>Watch for more information, coming soon, to cle.tba.org</td>
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<td>FRI 17</td>
<td><strong>Communications Law Forum</strong>&lt;br&gt;<strong>Communications Law</strong></td>
<td>Watch for more information, coming soon, to cle.tba.org</td>
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<td>FRI 17</td>
<td><strong>Animal Law Forum</strong>&lt;br&gt;<strong>Animal Law</strong></td>
<td>Watch for more information, coming soon, to cle.tba.org</td>
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<td>JUNE</td>
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<td>WED 12</td>
<td><strong>TBA Annual Convention</strong>&lt;br&gt;<strong>June 12-15</strong></td>
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<td>JULY</td>
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<td>THU 18</td>
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STRETCH YOUR KNOWLEDGE

Upcoming TBA Section Forums

- **Construction Law Forum**
  Construction Law Section
  January 25 | Nashville

- **Environmental Law Forum**
  Environmental Law Section
  February 1 | Nashville

- **Law Tech Blast**
  Law Office Management and Technology Section
  February 15 | Nashville

- **Estate Planning and Probate Forum**
  Estate Planning and Probate Section
  February 22 | Franklin

- **International Law Forum**
  International Law Section
  February 22 | Nashville

- **Adoption Law Forum**
  Adoption Law Section
  March 6 | Nashville

- **Local Government Forum**
  Local Government Section
  March 28 | Nashville

- **Tort, Insurance and Appellate Forum**
  Tort and Insurance Section
  March 28 | Nashville

- **Corporate Counsel Forum**
  Corporate Counsel Section
  April 5 | Nashville

- **Bankruptcy Law Forum**
  Bankruptcy Law Section
  April 5-7 | Gatlinburg

- **Disability Law Forum**
  Disability Law Section
  April 12 | Nashville

- **Litigation Forum**
  Litigation Section
  April 18 | Nashville

- **Immigration Law Forum**
  Immigration Law Section
  April 25 | Nashville

- **Dispute Resolution Forum**
  Dispute Resolution Section
  April 26 | Nashville
TENNESSEE ATTORNEYS HAVE A SOLID RECORD OF COMMITMENT to pro bono service, among the highest in the country. Attorneys in the state reported performing an average of 53.1 hours of pro bono in 2016 — the second highest rate among all states taking part in an American Bar Association survey. The report also found that just shy of 67 percent of attorneys in the state reported having done at least some pro bono in 2016, and Tennessee was a leader in the proportion of attorneys offering reduced fee services. Tennessee also had the second lowest percent of attorneys who had never performed pro bono among the 24 states that participated in the survey. Results also showed that four out of five attorneys believe that pro bono services are important, although finding the time to provide free or low-cost legal services to the needy and charitable groups remains the biggest challenge for many.
There is great diversity among the thousands of Tennessee attorneys who make pro bono service a priority, with champions coming from every part of the state, every type of practice and field of law. We wanted to share just a few profiles, and always welcome additional information about pro bono heroes that you may know.

Look for these and additional profiles at www.tba.org/journal/2019_probono.

**DAN BUCHANAN** is a lifelong Memphian with a passion for justice. He has been a champion for civil and human rights throughout his life, working as an activist and community organizer before graduating law school to open a holistic law firm that focuses on problem-solving and mediation. Dan advocates for Memphis Area Legal Service clients by serving as Guardian ad Litem, representing clients in conservatorship matters, and representing clients in divorce proceedings. Though a new attorney, he has made pro bono service a core part of his practice.

**MARIA CAMPBELL** is a litigation attorney and public interest advocate with Bone McAllister Norton, originally from California and currently living in Clarksville. Since Maria’s move to Tennessee, she has become active in many professional activities, including the TBA YLD Diversity Committee. She is dedicated to pro bono service and gives her time to the Tennessee Justice Center’s TennCare Appeals project and Military Spouse JD Network. Maria was one of the first to take advantage of Tennessee’s Military Spouse Licensing Law, enacted in early 2016, which grants a Tennessee law license to military spouses who are licensed in another state.

**PRINCE CHAMBLISS** was born in Birmingham, Alabama, and grew up there during the tumultuous years of the Civil Rights Movement. After earning a law degree and clerking for a federal district judge, he joined a large (by long-ago Memphis and Tennessee standards) law firm and remained in private practice for more than 35 years, primarily as a trial lawyer, representing large (by any measure) national and international corporations with litigation matters in Memphis.

Encouraged to participate in both community and bar activities, Prince has volunteered extensively for the organized bar in many different capacities, including working with the Community Legal Center. He is a member of the adjunct faculty at Cecil C. Humphreys School of Law in Memphis where he teaches an advanced course in litigation drafting. Having joined the Law Division of the City of Memphis as an assistant city attorney in 2012, he is assigned to litigation matters in state and federal court.

**DAVID M. COOK** has dedicated more than 40 years to the Memphis bar and has been a voice for access to justice in many ways, including serving on the TBA Access to Justice Committee for multiple terms. David believes that pro bono service is not optional, but mandatory, as it is how we compensate society for the privilege to practice law. David is a regular volunteer at Memphis Area Legal Services’ legal advice clinics and helped found the 2nd Saturday Legal Aid Clinic, which celebrated its 11th year in July 2018. David consistently goes the extra mile for clients he meets at the clinics, continuing to assist clients with their matters even after the clinic has concluded.

**KATRICE FEILD** is a senior associate attorney with Bruce Turner PLLC in Memphis, working primarily in the practice areas of economic / nonprofit development, business / contract law and estate planning / probate law. Katrice is an advocate for access to justice and a committed volunteer with Memphis Area Legal Services. She regularly participates in MALS’ legal advice clinics and accepts pro bono referrals in the areas of probate. She also frequently makes home visits to assist clients in executing wills and powers of attorney.

**AMBER FLOYD** is a senior associate at Wyatt, Tarrant & Combs in Memphis. Amber stays active in the community by teaming up with local judges, government and churches to organize expungement clinics and has given numerous presentations about her pro bono work in Nashville and Memphis. She participates in Memphis Area Legal Services’ Saturday Legal Clinics and has been involved in the organization’s Campaign for Equal Justice Committee and Access to Justice Campaign. She has been honored with multiple local, state and national awards in recognition of her pro bono leadership.

Amber has demonstrated an unfailing commitment to the vulnerable population.
Amber Floyd

Amber Floyd, an attorney with expertise, and strong commitment to client service as a tax case volunteer with the Legal Aid Society of Middle Tennessee & the Cumberlands. Amber encourages all attorneys in Tennessee, no matter their specialty, to join in access to justice efforts and to help spread the word about the many types of opportunities available. “There is something we can all do. We all have a part to play. … Individuals already involved in access to justice work and about what you are doing. Keep talking about the needs of individuals who are seeking services, and eventually someone will listen. Because everybody wants to do something, they just may not know what.”

CHARLES FRAZIER, an attorney in private practice in Murfreesboro, is not a Nashville native, but he fits right into the community with a strong work ethic and family values that have helped him become a great tax law, estate planning attorney. He uses his expertise, and strong commitment to client service as a tax case volunteer with the Legal Aid Society of Middle Tennessee & the Cumberlands.

Charles is also a U.S. Army veteran who served his country proudly and with distinction before being honorably discharged. After leaving military service, he gained business experience as a life and health insurance agent, where he learned the values of placing his clients’ needs above his interest. Charles went on to earn a bachelor of business administration from Austin Peay State University with concentrations in finance and accounting, followed by a law degree from the University of Tennessee’s College of Law.

BRYAN HATHORN is an associate in the litigation and arbitration team at the international law firm Withers Bergman LLP, and works out of the Los Angeles office.

Even though he currently lives in California, Bryan is active in a wide range of pro bono activities in both California and Tennessee. In addition to participating in free legal clinics and representing pro bono clients, he is a regular user of TN Free Legal Answers, the virtual legal clinic website. Bryan says this is a great way for Tennessee lawyers living out of state to participate in pro bono activities in the Volunteer State. In order to maintain his close ties to Tennessee and as part of his long-standing commitment to pro bono service, Bryan strives to answer a question per day for low-income Tennessee residents, and has answered more than 1,000 questions on the website and its predecessor.

Before practicing law in California, Bryan served as a law clerk for Justice Janice Holder of the Tennessee Supreme Court. Before entering the legal profession, he worked as a research scientist at Oak Ridge National Laboratory in Tennessee. Bryan holds a bachelor of art from Haverford College, magna cum laude, a law degree from the University of Tennessee, summa cum laude, and a Ph.D from the California Institute of Technology.

LEAH HILLIS is an associate at Shea Moskovitz & McGhee and practices in all areas of family law, also serving as a Rule 31 General Civil Mediator. Leah is an active volunteer with the Community Legal Center in Memphis and serves as a committee chair with the Association of Women Attorneys. Leah is a Memphis native, received her undergraduate degree from Rhodes College and graduated magna cum laude from the University of Memphis School of Law in 2005. Following law school, Leah clerked for U.S. Magistrate Judge Thomas Anderson in the Western District of Tennessee.

KEITH HODGES is an active volunteer with Disability Rights Tennessee, taking on a variety of projects that help protect the rights of persons with disabilities. Keith assisted in research and drafting federal complaints to ensure that deaf patients get sign language interpreters in medical settings, and he has met with deaf clients in rural areas. Keith lives in

2019 TBA Pro Bono Honor Roll

Look for this year’s Pro Bono Honor Roll at www.tba.org/journal/2019_probono

The list of attorneys and law students includes those who volunteered with legal aid organizations and other statewide and local clinics and programs between Nov. 1, 2017, and Oct. 31, 2018.
Nashville and retired from state government in 2016. “I do pro bono because I like it, I have the time to do it and there are many people who need help that are far less fortunate than I am. My biggest pro bono challenge, and part of the satisfaction of doing pro bono work, is taking on cases in areas of the law I know nothing about.” Keith has also volunteered with Tennessee Justice Center, providing support with TennCare appeals.

JENNIFER KNIGHT received her Ph.D in chemical engineering before going to work for Eastman Chemical Company in 1997. In 2003, she was accepted to the UT College of Law, graduating in 2006, second in her class. She returned to Eastman Chemical Company in 2006 as a patent attorney until 2016 when she opened a private firm. Her outstanding commitment to community service, indicated by her serving on the board of directors of the Girl Scouts of the Southern Appalachians since 2013, was just beginning. In the spring of 2017, being semi-retired, Jennifer contacted the Johnson City office of Legal Aid of East Tennessee, offering her services as an in-house pro bono volunteer assisting with adoptions and conservatorships. Her willingness to share her knowledge with staff attorneys and explore new areas of law has made her an invaluable asset to LAET.

TONY SEATON is a sixth-generation upper east Tennessean who has practiced law in the region for nearly 40 years. He has an impressive commitment to pro bono service, including his instrumental role in establishing a weekly free legal clinic serving families in need in Johnson City. Tony also served on the Access to Justice Commission for six years, completing his service last year. During that time, Tony traveled extensively, recruiting, training and supporting lawyers to establish and volunteer with similar clinics in nearly all of the judicial districts in the state. Last fall, Legal Aid of East Tennessee again recognized Tony’s unique service by establishing a new Tri-Cities pro bono hall of fame named in his honor.

BEN SISSMAN has been practicing for more than 30 years handling consumer bankruptcies of all kinds. Ben is the best kind of pro bono attorney, as he often calls Memphis Area Legal Services to ask if there is a client who needs his help. Ben regularly attends MALS’ legal advice clinics and assists clients with Chapter 7 bankruptcy. He was recently recognized by the Legal Services Corporation for his unique and consistent pro bono commitment.

JOHN SPEER is an attorney with Bass Berry & Sims in Memphis. John’s representation of financial institutions spans more than 30 years and involves assisting them with disputes involving federal and state laws and regulations applicable to banks and mortgage companies. However, John also volunteers his time to Memphis Area Legal Service clients by serving as Guardian ad Litem and representing clients in establishing conservatorships. John got involved when he attended a conservatorship CLE hosted by MALS and since then has been an avid volunteer.

RYAN SPICKARD is an associate at Douglass & Runger, with a primary practice focus on immigration law. Ryan shares his expertise via volunteering with the Immigrant Justice Program at Memphis Community Legal Center. He is passionate about protecting immigrants who are facing removal in Immigration Court. He has successfully helped numerous persecuted children and individuals receive asylee status in the United States where they are now able to remain safely away from the dangers they fled in their home countries.

Ryan graduated cum laude from the University of Memphis School of Law in 2014. During law school, he was an active member of the University of Memphis Law Review and the Moot Court Board.

DAVE YODER is the past executive director of Legal Aid of East Tennessee (LAET) and remains an active member
of Tennessee's access to justice community. With more than 40 years of first-hand experience in creating and growing pro bono projects and working with volunteers, Yoder has a unique perspective. One of his main concerns is helping the larger legal community understand that the need for free and low-cost legal services is still critical.

“There is much being done in pursuit of justice for all. I have heard lawyers complain about, ‘all this fuss about pro bono.’ To some it may appear that certainly all this effort has met the need. Multiple studies document that there is still a huge unmet and critical need. Lawyers who contribute have been rewarded in ways that make them proud to be a professional. There is still much to do, and so many more rewards await.” [Go to www.tba.org/journal/2019_probono for Dave Yoder’s full profile, along with interesting historical perspective on Legal Services Corporation funding and the “early days” of legal pro bono.]  

**NOTE**


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Tennessee Supreme Court

**More than Half Tennessee Attorneys Report Providing Pro Bono**

More than half of Tennessee attorneys reported providing pro bono legal services during 2016, according to the Tennessee Supreme Court’s Access to Justice Commission. The 2017 *Pro Bono Report* showed that nearly 9,000 practicing Tennessee attorneys provided more than 650,000 hours of pro bono service, with an estimated value of more than $130 million, based on data reported by individual attorneys, bar associations, law firms, law schools, legal service providers, mediators and other organizations.

The Access to Justice Commission released the report in December 2018, marking the first time since the Tennessee Supreme Court began requesting attorneys to voluntarily report pro bono work, that more than 50 percent of Tennessee attorneys reported doing some pro bono service. This benchmark has been a long-standing goal of the Access to Justice Commission, arising out of its 2012 Strategic Plan.

“The Commission is extremely excited that Tennessee attorneys have donated their time and expertise to help us reach this level of pro bono service,” said Gail Vaughn Ashworth, chair of the commission. “The commitment and dedication of our attorneys to better the lives of their fellow Tennesseans is truly amazing, and we will work hard to continue this growth.”

As of Dec. 31, 2017, just over 51 percent of the 17,223 active attorneys licensed in Tennessee with a primary address in Tennessee reported participating in pro bono activity during 2016. The report relies on data collected in 2017 for work performed in 2016. Both the number of attorneys who reported pro bono and the overall number of hours of pro bono work reported increased from the prior year.

According to the *Pro Bono Report*, 8,869 attorneys practicing in Tennessee provided 652,555 hours of pro bono service, an average of more than 73 hours per reporting attorney. The value of these services is estimated to be more than $130 million.
hours provided to persons of limited means without a fee, or a reduced fee, in five years. The second highest category of service was to nonprofit organizations serving persons of limited means without a fee at just over 13 percent of reported hours.

Twenty bar associations from across Tennessee and 79 law firms of all sizes responded to the call for information for the 2017 Pro Bono Report. Twelve bar associations reported that at least 25 percent of their members participated in pro bono projects. The majority of bar associations reported that providing free or reduced fee legal services to persons of limited means and supporting a legal clinic as the two most popular types of pro bono service their members provide.

Law firms reported that more than 675 individual attorneys participated in pro bono work. Providing advice, meeting with clients, reviewing or drafting documents, writing a letter, and speaking with other attorneys were the top five types of tasks reported through law firm pro bono programs in 2017.

The full 2017 Pro Bono Report, along with more information about opportunities for legal volunteers, is available on the Access to Justice Commission's website at www.tncourts.gov/programs/access-justice.

Note


REPORT: Access to Justice Initiatives: 2018 and a Decade of Collaboration and Service

Ten years ago, the Tennessee Supreme Court made access to justice its top strategic priority, and over the years one thing has become abundantly clear: improving access to legal services in Tennessee is a collaborative effort.

In its first-ever annual report, issued in 2018, the Tennessee Supreme Court Access to Justice Commission presents the thousands of people and organizations — from private practice attorneys to county clerks to houses of worship to legal aid providers — that have worked to improve access to justice in the state.

“Access to the justice system is a critical issue as economic barriers disadvantage many of our neighbors who need civil legal help,” said Supreme Court Justice Connie Clark.

“What we have learned in the past 10 years is that there is no single solution, no magic bullet to solve this issue. But, with all hands on deck, we are having an impact and are improving lives across the state.”

The Tennessee Supreme Court noted the gap in legal services for low-income individuals 10 years ago when it created its Access to Justice Commission. Over the years, the Commission has built partnerships with thousands of attorneys and organizations to provide legal support for Tennesseans in need. As a result of that hard work, in 2016 the Justice Index1 ranked Tennessee one of the top 10 states in the country in terms of providing access to the courts.

The Access to Justice Commission has grown to include six different committees with representatives from Tennessee's institutions of higher education, state government, legal community, business community, nonprofit community, faith community and more.


Note

science, falling life expectancy, rising infant mortality, and incarceration per capita, to name a few. The rant lands Will in a good deal of trouble with the public and with his cable news network where he anchors the evening news.

**A Chance Meeting**

I was reminded of the episode recently when interviewing a client at a pro bono clinic. The woman was able of body and mind, had a college degree and a job but, nevertheless, was on the precipice of becoming homeless along with her children. She had a low level job for a city school system, but had recently become a teacher’s assistant and was on track to become a teacher in the fall of 2019. When she became a teacher’s assistant, she began to be paid once a month instead of every two weeks. Her take-home pay was so low that after paying her rent and her utilities, she and her children needed to live off about $10 a day plus food stamps. The change in the cycles of her paychecks had caused her to be six days late on her rent and her apartment manager had immediately moved to eject her from the apartment, notwithstanding the fact that her children’s toilet, her dishwasher and her refrigerator never had worked. The apartment complex had not made these repairs despite many requests. To add insult to injury, she lost a voucher from the local housing authority to pay for one month’s rent because when the housing authority came to inspect the apartment on three occasions, her apartment failed inspection each time.

In the 2012 HBO series *The Newsroom*, we begin to get to know the main character, Will McAvoy, played by Jeff Daniels, when we see him on a panel discussion on a college campus. In the first episode, a young woman from the business school asks the panel why America is the greatest country on earth? The other panelists say freedom, diversity and opportunity. After a pregnant pause, Will says he doesn’t believe America is the greatest country on earth. He embarks upon an abusive rant which cites illiteracy, low rankings for math and
because of the problems with the toilet, the dishwasher, and the refrigerator.

Then something happened I have never experienced at one of these clinics. We were walking down the hall together and she pointed in the room two doors down from us and said, “I think that’s the lawyer who sued me to have me thrown out of my apartment.” I asked how she knew what he looked like and she explained that she had gotten behind on her rent once before and he had given her payment terms, which she complied with meticulously. We patiently waited until the apartment complex lawyer finished helping the pro bono client he was counseling. He recognized my client and agreed to sit with us and see if something could be worked out. When he learned what had happened, especially that she was about to be on the streets with her children and that the apartment complex had never fixed the toilet, the dishwasher or the refrigerator, I could see tears welling up in his eyes. Right then and there, at that clinic held in a church surrounded by a poor neighborhood on a cold Saturday morning, this chance meeting resulted in her being rescued from homelessness.

The Rules Are Clear: Give

The Preamble to our Rules of Professional Conduct makes absolutely clear that all lawyers are to give of their time, resources, and civic influence to insure that we all have equal access to justice. Recently, a national ranking organization placed Tennessee second among 50 states when it comes to access to justice. A recent report issued by our Supreme Court indicates that about 50 percent of Tennessee lawyers do some pro bono.

Of course, it is wonderful that Tennessee has come so far, but I find myself simultaneously proud and ashamed of that 50 percent number because that means that there are thousands of lawyers who do nothing. I just wish these lawyers could experience the joys of using their legal education and their experience to make a profound difference in someone’s life. I wish those lawyers could have their hearts warmed as we did that cold Saturday morning. I wish those lawyers could discuss their work with their children and bring their children to pro bono clinics, so they could experience firsthand how it feeds our souls.

I suspect that some members of our profession pass on pro bono because of a misguided judgment about why people have low household income. There are certainly better messengers than I to give you the statistics, but I can give you the result of four decades of life experiences. Some think that people are poor because they are lazy. My experience has been that this is mostly a myth. In fact, low income people often work harder than medium and high income people. Some think that people are poor because they have alcohol or drug problems. That is certainly true sometimes, but usually not. Some even think that some ethnic groups are not as smart or don’t take as much initiative as others. I have seen no evidence that this is true. In my experience, the main reasons that people have low incomes are that (1) they haven’t had an opportunity to get an education, and/or (2) some adverse life event related to their physical or mental health or family has had a profound negative impact on the course of their life.  

My mother’s family was very poor. Sometimes, they relied on my great-uncle’s grocery store leftovers to feed the family. I vividly remember my mother and my aunt talking about bringing their pillows, blankets, and sheets downstairs to warm by the fire before going to bed because the family could not afford to burn coal in the upstairs fireplace. I never realized when I was growing up that there was any difference between Mom’s family and Dad’s family. They were just as much fun to be around, just as hard working, and just as smart. With the benefit of hindsight, I still don’t see any difference in their skills and attributes, just the circumstances into which they were born.

The Technology Exists

Technology has given us the opportunity to do a better job of pro bono and access to justice than we have ever done before. Here is my vision of what this might look like in the coming years.

In my vision, each state has an online portal its residents can access.  

In my vision, these portals have access to legal information and materials, toll free telephone lines, videos, legal aid and other direct providers, and on-line limited scope advice tools such as TN.FreeLegalAnswers.org.

In my vision, the public can access legal wellness check-ups and online dispute resolution through these portals.

In my vision, we use artificial intelligence to help direct clients to the best resource for them.

In my vision, lawyer volunteers have access to legal bots with artificial intelligence, which can read a natural language question and formulate a natural language answer, using a database of common law and statutory resources. The answers to the questions are reviewed and authorized by pro

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bono lawyers so some licensed lawyer is always responsible, but our pro bono volunteers have these resources at their fingertips, enabling them to give better advice to many more clients immensely more quickly.

“I know everything my Lord, might for right, right for right, justice for all, everything!”

— Tom of Warwick telling King Arthur what he has been taught about Camelot

In my vision, we use the data collected from many sources, including but not limited to FreeLegalAnswers, to predict which legal problems will afflict which citizens at which time of the year, month and week. We then push out legal information to those citizens in an effort to prevent legal problems before they even occur.

In my vision, when someone does an internet search for a lawyer, or for affordable housing, or for an abuse shelter, or for a homeless shelter, the next time they log on, they receive information regarding resources which relate to their problem. In my vision, we use the internet as a vast educational resource (such as the work done by Kahn Academy) to provide an education to all our citizens at a dramatically lower cost to society. Teachers can teach thousands of students at a time online, and the cost of brick and mortar buildings is avoided altogether.

I understand that some may see all this as quixotic, but all of this technology exists right now. We just have to muster the will to devote the resources to make these things happen on a large scale.

The Work of ‘Greater Fools’

Speaking of Don Quixote, Will’s hero in The Newsroom is his mentor and boss, Charlie Skinner, played by Sam Waterston, a self-described Don Quixote who wants to use the newscast to make television journalism what it was in the days of Edward R. Murrow and Walter Cronkite. As for Will, he prefers the Camelot metaphor and is particularly fond of the scene in which King Arthur meets a young stowaway named Tom of Warwick. Of course, Arthur knights Tom and sends him back to England to pass on Camelot’s ideals to future generations.

In the closing scene of the first season of The Newsroom, Will is in his office and sees the same young student from the opening scene. Confronting her, he asks, “What are you of all people doing here?” Using business school terminology, she says that she has watched Will and decided that she wants to be a “Greater Fool.” She wants to be a “foolish” idealistic young apostle, working to accomplish the goal of effectively informing our democratic electorate. Will then says, “Ask me the damn question again!” She sheepishly complies and asks again, “What makes America the greatest country on earth?” to which Will replies, “You do.”

From coast to coast, our profession is filled with patriotic, idealistic, big hearted “Greater Fools.” In fact, America was built on the work of “Greater Fools.” We need many more of them to join us in this struggle for equal access to justice. Now, more than ever, we have the capability to harness amazing technology in order to preserve age old American values. Don Quixote and King Arthur beckon us to the task.

Notes

1. The 2014 Tennessee Legal Needs Assessment reports that only 6 percent of low-income individuals have college degrees and that 29 percent of low-income individuals are disabled and unable to work.

2. Microsoft recently donated $500,000 each to Alaska and Hawaii for the development of state-of-the-art portals.

3. The Tennessee Alliance for Legal Services developed the first online legal wellness checkup in the country which may now be accessed on TN.FreeLegalAnswers.org.

4. The American Bar Association has formed a partnership with Stanford University to apply predictive analytics to the 50,000 plus questions and answers gathered by FreeLegalAnswers.

5. New Mexico’s Legal Aid agency is doing this now.

6. In investment parlance, the Greater Fool theory is that the price of a stock is not determined by its intrinsic value, but rather by the beliefs of market participants that there will be a “greater fool” who will pay more.
Lawyers Honored with Public Service Awards

Each year the Tennessee Bar Association recognizes outstanding service by attorneys and law students who have dedicated their time to helping others. The awards given are the Harris Gilbert Pro Bono Volunteer of the Year, the Ashley T. Wiltshire Public Service Attorney of the Year and the Law Student Volunteer of the Year. Read the stories of those recognized here.

**Harris Gilbert Pro Bono Volunteer of the Year**

This year’s Harris Gilbert award is presented to Nashville attorney ANGIE BERGMAN. The award recognizes private attorneys who have contributed a significant amount of pro bono work and have demonstrated dedication to the development and delivery of legal services to the poor. The award is named after Gilbert, a Nashville attorney and past Tennessee Bar Association president, who exemplifies this type of commitment.

From speaking with Angi Begrmnan, you would never know that she’d been up the entire night before with her five-year-old, who had a stomach bug. She shows no signs of sleep deprivation as she cheerfully and assuredly speaks of her husband and three children and of the court case that has occupied much of her professional life for going on three years.

A Wisconsin native, Bergman, 32, spent six years in Chicago working in business consulting before realizing that law school would be a better fit. She attended Vanderbilt Law School and by the time she graduated in 2013, had fallen in love with Nashville and decided it was a good place to land.

Bergman began work at Bass Berry & continued on page 24.
Sims in Nashville and, in the spring of 2016, was enjoying her third year of practice in the firm’s government investigations group, primarily focusing on healthcare-related fraud investigations. But, even with a few pro bono projects on the side, she couldn’t help but feel that there was something missing from her practice.

And then one day, Bergman’s birthday to be exact, the phone rang.

On the line was Dawn Deaner, who was Metro Nashville Public Defender (MPD) at the time, calling to ask Bergman for her assistance in representing a client of the MPD, pro bono. The client, John Hernandez, had been indicted on a murder charge in 2013 and had spent the following three years incarcerated and awaiting a trial that was continuously delayed because of the MPD’s overwhelming caseload.

Hernandez had filed a motion to represent himself so that his trial could occur as soon as possible and raised the claim that he had been deprived of his Sixth Amendment right to a speedy trial based on his lengthy post-indictment incarceration.

Hernandez’s assertion of his right to a speedy trial and his request to represent himself because of an underfunded public defender’s office highlighted that he was being forced to choose between constitutional rights: his right to counsel and his right to a speedy trial.

In addition to searching for the piece missing from her practice and finding the legal argument compelling, Bergman had even more reasons for saying yes so quickly, including “realizing I wanted to be invested in the city, that we felt like we were supposed to be in Nashville and part of being in Nashville means seeing and hearing the needs of the city and then becoming involved to help address those. So, when the project came up, it really just fit what direction I was hoping to go and something I was hoping to add to my practice and it just kind of hit all the right notes.”

Without hesitation, Bergman immersed herself in data from public defender’s offices across the state: the standards for their caseloads, a history of the funding they’d received from the state and how often the MPD specifically had warned the state that, because of inadequate funding, they could not appropriately represent their clients. She found an expert witness, a scholar in this field, who could help breakdown the data and she pored over years of writings about problems with indigent defense.

To better understand the complex history of her client’s case, Bergman also personally met with Hernandez several times and worked closely with his appointed public defenders, Georgia Sims and Kevin Griffith.

“Ms. Bergman never hesitated to sit down in a jail cell and discuss litigation strategies with Mr. Hernandez,” Sims and Griffith wrote in their nomination. “Even while juggling elected officials and massive amounts of confusing data, she never lost sight of Mr. Hernandez’s humanity or the importance of his voice.”

This laborious fact-finding mission resulted in the filing of a comprehensive motion to have Hernandez’s charges dismissed over the violation of his right to a speedy trial. Bergman laid out her case during a three-day evidentiary hearing in which she called Sims, Griffith and Deaner to the stand. Adding to the significance of the hearing was Davidson County’s elected District Attorney General, Glenn Funk, who personally appeared to represent the state.

Although the motion was denied, the trial court noted that “a legitimate question has been raised as to whether the Metropolitan Davidson County Public Defender’s office is understaffed and/or underfunded based on the sheer volume of cases.”

Hernandez was ultimately convicted during trial and, true to form, Bergman jumped at the chance to continue her representation of him during the appeals process. The Court of Criminal Appeals (CCA) gave permission for Bergman to file a separate brief on appeal on the claim Hernandez was denied his right to a speedy trial. In August 2018, she argued her case to the CCA and is now
Immigrants today face an almost daily barrage of attacks from politicians and the media: They’re drug dealers, criminals, rapists, animals. They hate America and they want to bring it down. They should be sent back to where they came from.

For the thousands of immigrants living in Nashville, it can be difficult to keep fear and uncertainty from growing in their minds, regardless of their legal status or how they came to the country. For them, a good lawyer is more than just someone who knows immigration law. It is someone who can be a guide, a mentor and a compassionate listener as they work to build new lives for their families in the United States.

For the past nine years, that person often has been Adrienne Kittos. The legal director at the non-profit Justice for Our Neighbors, Kittos, 34, has embraced JFON’s mission of providing high-quality immigration representation while also counseling and supporting thousands of immigrants.

“Adrienne has tremendous humility and grace, always shying from the spotlight and staying laser-focused on the needs of the clients before her,” Vanderbilt Law’s Spring Miller wrote in her nomination of Kittos. “She has secured immigration protections and lawful permanent resident status for hundreds of victims of criminal activity and domestic violence, ensuring that those individuals and their families have the opportunity to live safe, healthy lives in the U.S. … To say that she has transformed the lives of hundreds of families in middle Tennessee over the past nine years would be an understatement.”

Kittos began working with immigrants while an undergrad at Vanderbilt and joined the fledgling Nashville JFON office right out of Vanderbilt Law School. She was its first full-time attorney.

“It was a pretty lean operation,” Kittos says today of those early days at Belmont United Methodist Church, which hosted the organization in a room next to where the church’s bell choir practiced. “But we were lucky to have a board and volunteers who connected us with other nonprofits doing work here in the Nashville immigrant community.”

Tennessee’s Justice for our Neighbors is one of 19 branches nationwide of the organization founded in 1999 by the United Methodist Church as a practical response to the legal challenges that low-income immigrants face in the United States. Nashville attorney Katherine Dix launched the Nashville office that now annually serves more than 500 clients a year from more than 40 countries. Wade Munday serves as executive director for the team now based at Casa Azafrán.

Some of Kittos’ first cases involved U Visas — visas set aside for victims of crime who were willing to assist law enforcement in the investigation or prosecution of the criminal activity — and today, those still make up much of her practice.

“U Visa work is really incredible,”

Continued on page 26

Ashley T. Wiltshire Public Service Attorney of the Year

The Ashley T. Wiltshire Public Service Attorney of the Year Award is given to an attorney who has provided dedicated and outstanding service while employed by an organization that is primarily engaged in providing legal representation to the poor.

This year’s award is given to ADRIENNE KITTOSS.

‘That is the unconscionable harm here. The harm here is to people, not to a budget.”

— Kate Prince

Adrienne Kittos
Ashley T. Wiltshire Public Service Attorney of the Year

...
Kittos says. “The types of crimes that people have lived through … and to make something good come out of that … it is really redemptive.”

One of those cases involved Rocío Martínez, who came to the United States from Mexico as a teenager. She worked steadily and had children, but feared deportation and separation from her children. With the help of JFON, she was able to obtain a U Visa, because she had been a crime victim who helped police arrest and prosecute the man who had robbed her and others.

“The resilience of our clients is just incredible,” Kittos says.

Her other work is equally compelling. She has helped develop strategies to counsel and protect Deferred Action for Childhood Arrivals (DACA) recipients fearful of losing their status and also advocated for unaccompanied immigrant children facing deportation.

“The biggest thing to deal with is the fear people have with [immigration law] changes,” she says. “It is hard to keep track of what’s going on. They may hear something from a neighbor or online that may not be true or may not affect them. But at the same time, many changes do affect them. … It’s a little bit hard to advise people when things are changing so quickly and some of the options that may have been available in past we don’t have now.”

Kittos has also pushed forward JFON’s educational mission.

Once a month, JFON hosts a Saturday legal clinic that often involves more volunteers than clients. The role for these church members and other volunteers is to assist the clients, but they are also there to have the opportunity to meet and interact with immigrants who may be from a different culture and have different life experiences, but still share common interests and values.

She has also engaged attorneys newly interested in providing pro bono immigration-related services. Miller, who is also the assistant dean for public interest at Vanderbilt Law, recalls one clinic where Kittos had nearly 20 students helping her conduct intake and provide advice to clients at a clinic.

This educational work gives Kittos hope even during these difficult times for immigrants.

“Things are so divisive, it is hard to help people understand who it is we are working with,” she says. “I think a lot of that is a misunderstanding of how our system works. I talk to people who are not friendly to the work I do, but it is because they don’t really understand. I honestly believe that for many people, if they just had a little more education about what people are facing and what the immigration system really looks like, we would be in a better place.”

— Barry Kolar

**Law Student Volunteer of the Year**

The Law Student Volunteer of the Year recognizes a Tennessee law school student who provides outstanding volunteer services while working with an organization that provides legal representation to the indigent. This year’s honoree is AMBER VARGAS, a recent UT Law graduate.

Even in the legal profession, among which volunteer service is exceptionally high, one would be hard pressed to find a volunteer more dedicated to doing some of the hardest work imaginable, and at such a young age, than Amber Vargas.

Vargas, 25, a recent graduate of the University of Tennessee College of Law, has been an active volunteer on behalf of domestic violence victims since she was an undergraduate student at Maryville College. This year, soon after graduating from law school and taking the bar, she earned a spot at her “dream job,” working as an attorney at Legal Aid of Middle Tennessee and the Cumberlands (LAS).

From Camden, a small town in Benton County, Vargas has always had an empathetic heart and a desire to help others. She knew what she wanted to do from a young age, although she wasn’t always sure how to do it.

“I knew I wanted to be a lawyer,” Vargas says. “I wanted to work with people who otherwise wouldn’t have a voice — either by intimidation by the process, lack of education, poverty — I wanted to represent people like that.”

While she candidly admitted she was first inspired to pursue a legal career by Phylicia Rashad’s attorney character on “The Cosby Show” (“I thought Mrs. Huxtable was awesome,” Vargas says), it wasn’t until she witnessed Kathryn Ellis at work in court that she realized she had found her true calling. Ellis is the pro bono director at Legal Aid of East Tennessee (LAET).

“That was the first time I saw legal aid attorneys at work,” Vargas says. “I was like, that’s a thing? That’s a job? That’s what I want to be! I can’t believe people are paid to do this; it’s perfect!”

Vargas experienced her courtroom epiphany while working with Haven House in Blount County, a shelter for domestic violence victims, during her undergraduate years. There, she did anything and everything on behalf of the residents, including driving them on errands, helping staff a 24-hour hotline, and working many late nights. It was during this time she honed her skills as an advocate for individuals who have experienced trauma.

“She’s got such a calm demeanor and a compassion and empathy for victims, and it comes from such a sincere place,” Rachel Moses says. Moses is a mentor of Vargas’s who helped bring her on board to her original internship at LAS, which began when Vargas was just in her first year of law school.

Both with her work at Haven House...
and in her capacity as a legal aid intern, it was clear that Vargas had a unique ability to work with victims, and was especially gifted at building open communication and earning their trust.

“Amber has always been able to look at a person and see where they are — emotionally, mentally and physically — and just relate to the person, make them feel safe, and make them feel like they have opportunities to be away from their abuser,” Moses says.

Vargas, who majored in psychology, downplays her gift, saying she simply practices active listening. But she says that her number one goal in every interaction, especially when she was at the shelter, was to make sure survivors know they are not being judged.

“We want people to get out of those relationships and stay safe and grow, but it’s counterintuitive to talk down to them when a victim wants to go back to a violent situation,” she says. “That’s the hardest thing to deal with.”

“Logically I know what’s going to happen, but I still have a heavy heart when someone informs me that no, they don’t want an order of protection, no, they don’t want a divorce.”

And that’s a paradox — while working with domestic violence victims was Vargas’ ideal position, it’s a tough one. She explained that in various volunteer situations, there would be a ton of turnover among staff and interns, because the work is mentally draining.

“There’s a lot of burnout, compassion fatigue and secondary trauma,” she says. “It’s stressful, it’s heavy, it’s emotional.”

How does someone so young cope?

“A lot of compartmentalizing,” Vargas said. “Actually taking breaks. Since I’m still new, I don’t have as heavy of a case-load as some of my colleagues — that was intentional. And when I go home, I go home. I tell my coworkers when I’m on lunch, ‘I’m not talking about work right now!’”

Still, it’s hard not to take it home with you, she admits.

“It’s easier said than done,” Vargas says. “There’s still at least moments in time where I’m like ‘if only so-and-so was going to leave their abuser, if only this hadn’t happened in court.’”

She says she deals by focusing on living life: playing games during lunch or going to trivia nights with friends.

“It’s just a process,” she says. “Recognizing when things are too much and trying to learn my own limits.”

Perhaps most soberly, she recognizes: “I’m no good to anybody if I’m just a mess.”

A quality support system of coworkers and friends is a requirement as well, she says.

Moses, herself an accomplished legal aid attorney, admits that after 16 years she’s “gotten crustier around the edges,” and says that having someone with a focused energy like Vargas around is invigorating.

“I feel like I was a better attorney because I had Amber on my side,” Moses says.

Vargas now finds herself having achieved her primary goal: she became a legal aid attorney, hired before she even had her bar exam results in hand.

“I’m still tickled when I put things in the calendar for the next couple of months,” Vargas said. “I told all of my coworkers I’m still going to be doing this in March! I’m just amazed. This is my dream job.”

She’s now working shoulder-to-shoulder with some of her heroes. Where does she go from here?

“The dream is to work myself out of a job,” Vargas said. “To help all of the current victims to stop being victims. To educate people and help victims get what they need.”

Unfortunately, that future is a long way off, so for now, she focuses on the small victories.

“What I feel best about — and it’s happened a few times — was when different clients have thanked me for listening to them,” Vargas said. “The people who have taken the time to say ‘you listened to me, I needed somebody to listen to that, thank you.’ Those are the things I feel best about right now.”

She also said she is becoming a part of the community in Cookeville and doesn’t see herself leaving anytime soon.

Her colleagues are also keen to keep her around.

“To watch her through her law school career continue to use her law education to empower victims through her work,” Moses says, “I just think it’s been amazing to watch and we’re blessed to have her.”

— Katharine Heriges

KATE PRINCE is the Tennessee Bar Association’s leadership development and innovations coordinator; BARRY KOLAR is TBA’s assistant executive director; and KATHARINE HERIGES is TBA’s communications coordinator.
A recent decision of the Tennessee Court of Appeals reminds us of the interaction between our law of comparative fault and the legislature’s gift of “get out of jail free cards” (immunity and partial immunity) to certain special interest groups.

Edna Green was hurt on a church-sponsored bus ride to a local farm. The bus, driven by a fellow parishioner, hit some berms on the farm road causing severe injury to Ms. Green. Ms. Green sued her church, and the church asked in its answer to the complaint that fault be assigned against the farm. Ms. Green elected not to sue the farm, and went to trial only against her church.1

The jury found the church 15 percent at fault and allocated the remainder of the fault to the farm. However, the legislature granted immunity (under most circumstances) to farming-related operations that fall within the definition of “agritourism activity.”2 The collective impact of the farm’s immunity and the law of several liability meant that Ms. Green could collect only 15 percent of her damages. The Court of Appeals affirmed.

This result was mandated by two Tennessee Supreme Court decisions of 18 years ago. The first decision, Carroll v. Whitney, allowed fault to be assigned to a non-party governmental entity protected from certain types of claims under the Governmental Tort Liability Act.3 The second decision, Dotson v. Blake, allowed a fact-finder to assign fault to a non-party entity, which was immunized from suit by the four-year statute of repose that...
protects those involved in the creation and building of improvements to real property from being held responsible for their negligence. 9

So, except for two exceptions described below, Tennessee law (a) permits defendants to shift fault to a person or entity that a plaintiff is prohibited by law from suing; and (b) after the law of several liability is applied to the fault allocation, the economic consequences of the legislative grant of immunity fall entirely on the plaintiff. 7

The first exception to the general rule is if the nonparty blamed is the employer or co-worker of the plaintiff, no fault percentage can be assigned to the employer or co-worker. 8 (However, the defendant can argue that the fault of an employer or co-employee is the sole cause of the plaintiff’s injury or death, and, if it proves its sole causation defense, it will escape liability.) 7

The second exception is fault cannot be apportioned to a person not in the business of selling alcohol that inappropriately furnishes alcohol to another. 8 How can this be the law? Because Tenn. Code Ann. § 57-10-101 provides that “the consumption of any alcoholic beverage or beer rather than the furnishing of any alcoholic beverage or beer is the sole cause of the plaintiff’s injury or death and, if it proves its sole causation defense, it will escape liability.” 7

Thus, since the stated public policy of Tennessee is that furnishing alcohol cannot be the cause of injury or death, one cannot find the furnisher to be at fault because fault cannot arise in the absence of a combination of negligence and causation. 9 Fault arises when negligent acts or omissions are the legal cause (and therefore by definition a cause-in-fact) of an injury or death. Since the legislature has declared that furnishing alcohol cannot be a legal cause of injuries or death, one furnishing (but not selling) alcohol cannot be legally found to be at fault. 10

Who Else Gets the Card?

Which other classes of individuals, entities and activities have received grants of partial or complete immunity and thus, as non-parties, may be assigned fault that may impact the financial recovery of a plaintiff? The very long list includes the following:

(a) local governments under the Governmental Tort Liability Act; 11
(b) the State of Tennessee under the Board of Claims Act; 12
(c) beekeepers; 13
(d) adventure tourism activities; 14
(e) agritourism; 15
(f) bovine owners; 16
(g) certain equine activities; 17
(h) whitewater rafting; 18
(i) skiing operations; 19
(j) ice skating rinks; 20
(k) whitewater activities; 21
(l) epinephrine administration; 22
(m) first responders; 23
(n) mental health admissions; 24
(o) property owners for recreational use of land; 25
(p) claims involving trespassers; 26
(q) transportation projects; 27
(r) free clinic healthcare; 28
(s) dispensers of previously owned eyeglasses; 29
(t) certain drivers of the elderly; 30
(u) property owners for failure to prohibit weapons on property; 31
(v) property owners for liability to those committing felonies; 32
(w) coaches: liability for sudden cardiac death; 33
(x) charitable fundraisers; 34
(y) donors of fire equipment; 35
(z) officers and directors of certain nonprofit organizations; 36
(aa) administration of opioid antagonist; 37
(bb) acts of “good Samaritans”; 38
(cc) officers and directors of for-profit organizations; 39
(dd) those benefiting from statutes of repose, including accountants, 40 lawyers, 41 health care providers, 42

those in the construction industry; 43

surveyors, 44 sellers of securities, 45

product manufacturers, 46 certain airplane and component parts manufacturers; 47 therapists accused of sexual misconduct; 48 and

(ee) inmate work. 49

So, what is the reasonably prudent plaintiff’s lawyer to do in cases where the defendant is likely to allege fault of a non-party that has immunity falling within the grant of protection offered by Carroll and Dotson?

First, counsel should carefully investigate the facts and determine whether (a) any preconditions to the grant of immunity have been satisfied by the nonparty and (b) whether the immunity granted is complete or partial. For instance, under the act that impacted Ms. Green, there is no immunity if the property owner failed to install certain warning signs and, even if the signs are posted, there is liability under certain limited circumstances. 50 After the facts are gathered, a judgment should be made whether there is a good faith basis to add the immune party as a non-party defendant and seek a fault allocation for conduct for which the person or entity can be held liable.

Second, if the decision is made that one cannot or should not also sue the non-party who benefits from immunity, the plaintiff will essentially have to defend the acts and omissions of the non-party. How? By forcing the defendant alleging fault against the non-party to actually prove its affirmative defense; i.e., demonstrate that the non-party negligently contributed to the injury or death of plaintiff. Practically speaking, this requires plaintiff’s counsel to represent the non-party (to minimize the non-party’s fault) as well as the plaintiff.

Finally, plaintiff’s counsel may decide to decline representation of plaintiff if the likely fault of the immune nonparty is so great that, when coupled with the impact

Continued on page 30
of several liability, (a) there will be no meaningful recovery to the plaintiff (after subrogation interests, fees, and expenses); and/or (b) the lawyer’s work and advanced expenses necessary to achieve the result makes the case economically unfeasible for the lawyer.

One can debate the wisdom of grants of immunity — of a public policy to excuse negligence of those who engage in certain types of activities or because of the mere passage of time (pursuant to statutes of repose). One can also debate the wisdom of applying several liability in such cases, resulting in an adverse impact to the injured plaintiff (even a plaintiff free from fault). But one cannot debate that (a) any defense lawyer worth his or her salt will try to find a way to blame not only an empty chair but a chair-that-cannot-be-filled; and (b) any plaintiff’s lawyer worth his or her salt will take that into account in case selection decisions.

A regular columnist of this magazine, JOHN A. DAY is a plaintiff’s personal injury and wrongful death lawyer with offices in Brentwood, Murfreesboro and Nashville. He currently serves as regent in the American College of Trial Lawyers. His latest endeavor seeks to expand the definition of “bovine activities” in Tenn. Code Ann. Sec. 44-1-101(1) to include his written and oral communications.

Notes

4. 29 S.W.3d 26,129 (Tenn. 2000). It is the author’s opinion that the application of a statute of repose is in essence a grant of immunity triggered by the passage of a defined amount of time.
5. The Carroll and Dotson decisions were essentially codified in Tenn. Code Ann. § 29-11-107 (where subsection (d) makes several liability the general rule under the conditions stated therein and subsection (s) allows for the allocation of fault to immune parties).
6. Snyder v. LTG Lufttechnische GmbH, 955 S.W.2d 252, 256 (Tenn. 1997); Ridings v. Ralph M. Parsons Co., 914 S.W.2d 79, 82 (Tenn. 1996). The rule was also applied in Troup v. Fischer Steel Corp., 236 S.W.3d 143 (Tenn. 2007).
7. Id.
9. Id.
10. There is an exception for those in the business of selling alcoholic beverages. Tenn. Code Ann. Sec. 57-10-102.
18. Tenn. Code Ann. § 70-7-201 et seq.
23. Tenn. Code Ann. § 29-34-203 (immunity limited to access to home or business; not applicable to provision of care).
25. Tenn. Code Ann. § 70-7-104 et seq.
34. Tenn. Code Ann. § 29-34-204.
41. Id.
43. Tenn. Code Ann. § 28-3-201 et seq.
44. Tenn. Code Ann. § 28-3-114.
46. Tenn. Code Ann. § 29-28-103 (c) (2).
47. General Aviation Revitalization Act, PL 103-298.
48. Tenn. Code Ann. § 29-26-208. This list of persons, entities and activities who are granted immunity in whole or in part is not exhaustive.
49. Tenn. Code Ann. Sec. 41-2-143 (d).
50. Tenn. Code Ann. § 43-39-103 requires warning signs. Subsection (c) provides that immunity is not extended to those that do not provide the signs. Section 43-39-102 provides that immunity does not extend to certain acts or omissions.
51. The distinction is this: An empty chair is a chair at the defendant’s table in the courtroom that plaintiff has left empty because of a settlement or a decision not to sue a potential party. A chair-that-cannot-be-filled is a chair that would have been occupied by a defendant but for a law that does not permit a plaintiff to file suit.
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Ethics in Family Law Mediation

Ethics for lawyers is always an important topic. Ethics in mediation, particularly in divorce cases, is an area that should be a strong focus of any family law practice, if for no other reason than that the vast majority of cases are resolved through mediation between the parties. Mediation is required by statute in divorce and separate maintenance cases by Tenn. Code Ann. Section 36-4-130 with certain exceptions.

While mediation is more informal than litigation by design, mediation may also place the attorneys in a position where they need to be vigilant about their ethical obligations to their clients as well as the other side in the case. In addition to the attorneys for the parties, mediation generally involves a third, neutral practitioner, and that person also has ethical obligations that must be met, both to the parties and to the system in general. While the ethical obligations of one side’s attorney may be relatively clear cut, the mediator may be put in a more awkward position on occasion and their obligations are not as clear.

The Tennessee Supreme Court issued an order on Oct. 3, 2018, which was composed after input from a multitude of sources. The order enacted significant updates, amendments and additions to Tennessee Supreme Court Rule 31, which governs mediation practice and mediators in Tennessee. Many of these went into effect in November 2018 and others are to go into effect on Nov. 1, 2019. Part of this article will address the most pertinent of those changes for the practice of family law. Additionally, a review of specific and frequently occurring ethical issues for mediators can only serve to assist a family law practitioner and will be covered as well.

Requirements to Know in Advance

The Supreme Court has included requirements for lawyers to follow before the actual mediation begins. In order to serve as a mediator or to know what to expect from a lawyer serving as your mediator, a quick review of these requirements is helpful. The most general and expansive list of requirements for a mediator is in Rule 8, Section 2.4 of the Tennessee Supreme Court, wherein the qualifications of a mediator are discussed and obligations laid out. In order to serve as a mediator, the lawyer shall be competent in the area of law, shall be free from conflicts of interest, shall communicate with the parties and their attorneys about his/her qualifications to serve as a mediator and, if the mediation is being conducted pursuant to Rule 31, that the attorney is qualified under and will comply with all the requirements that are espoused in Rule 31. If a lawyer is so qualified and conducts mediation, the lawyer shall promote mutual respect among the parties, treat them both fairly, make sure that they understand the proceeding and the rules, treat information disclosed with confidentiality and seek nothing of value from either party other than reasonable compensation. Lastly, if the lawyer feels that he/she cannot comply with the rules because of conflict, or if either party requests, the lawyer shall withdraw as the mediator.

Other sources serve to guide the mediation process as well. Specifically in reference to divorce mediation, the
Tennessee Code also has certain provisions, particularly those designed to protect the confidentiality of information disclosed during the mediation process. A mediator may only disclose confidential information revealed in mediation under a few, limited circumstances such as when an allegation of child abuse has been made, or if there is a legal action by one of the parties against the mediator in relation to the mediation.  

In Rule 8, there are several cross-references to Rule 31, which is specifically designed to govern mediation and mediators. Many of the general requirements that are discussed in Rule 8 are further detailed in Rule 31 as well as the procedures for selecting a mediator, reporting to the court, disputes or disciplinary complaints against a mediator and other general information about how a mediation should proceed.

Protections Strengthened

One of the major additions to Rule 31 is that the protections for third-party mediators from disclosure of confidential information have been strengthened. Third-party mediators may not be called as witnesses or compelled to disclose any information that arises during the course of the mediation and such information shall be treated as confidential and privileged for litigation purposes. Though the prior rule did offer some protection, this makes explicit that mediators cannot be required to disclose information that the parties revealed during the course of the negotiations, which, of course, permits more freedom and candor on the part of all participants. Further, a mediator may not be called as a witness to any enforcement action in any type of post-settlement proceeding, further reinforcing the purpose of the modified rule.

An additional amendment to the Rule makes the work of the mediators privileged rather than merely noting that they are serving a judicial function, adding a further layer of protection to the mediator that then facilitates more effective mediation and resolution of issues.

Some Forms No Longer in Use

The Supreme Court order also elected to strike several forms that were previously used, or permitted to be used, by courts when ordering mediation and took reference to these particular items out of Rule 31, Section 2. Form orders for non-binding arbitration, for a case evaluation, for a mini-trial, and for a summary jury trial were all stricken from the Supreme Court in this revision. If any of those forms were in common use in your jurisdiction, be aware that they are no longer recommended for use when ordering dispute resolution related proceedings. A reciprocal, major addition to the Rules, though it does not specifically implicate divorce mediation, is Rule 31A, which was added in its entirety and now governs Alternative Dispute Resolution proceedings and incorporates the requirements from the now stricken orders, and definitions from Rule 31 Section 2, into a separately codified rule.

Other Changes

Another small but notable addition to Rule 31 is a paragraph where it makes clear that a mediator shall refrain from even giving the appearance that he/she is an advocate for one or both of the parties and shall explicitly make clear to both parties that he/she is not their advocate.

Also, an important change regarding the preparation of the final settlement documents was implemented. Initially, the proposed change regarding the preparation of the final settlement documents submitted to the Tennessee Supreme Court prevented a neutral from preparing legal pleadings, such as a Marital Dissolution Agreement and/or Permanent Parenting Plan, for filing with the court. However, the change adopted on Oct. 3 removed specific reference to a Marital Dissolution Agreement and/or Permanent Parenting Plan and included additional language that a neutral may assist parties in filling out the Parenting Plan Forms maintained by the Administrative Office of the Courts pursuant to Tenn. Code Ann. Section 36-6-404 and the Marital Dissolution Agreement as approved by the Tennessee Supreme Court under Tenn. Sup. Ct. R. 52 or any other forms approved under Tenn. Sup. Ct. R. 52. On Oct. 8, 2018, the Tennessee Supreme Court issued a correction to the adopted Rule 31, Appendix A – Section 10(a)(1). This correction completely removed the language preventing a neutral from preparing legal pleadings for filing with the court but did not remove the language allowing a neutral to assist parties in filling out Parenting Plan Forms maintained by the Administrative Office of the Courts and the Marital Dissolution Agreement and other forms approved by the Tennessee Supreme Court under Tenn. Sup. Ct. R. 52.

Many of these changes reinforce existing instructions that were already contained within Rule 31 as well as other regulations throughout the Supreme Court Rules and the Tennessee Code. But these modifications, and their implications, are important to take into account as a family law practitioner. Ethics, particularly the ethical obligations of a mediator, are critical to the divorce process as so many cases are resolved through mediation. Obviously, the mediator is not an advocate for either party, but that presents its own set of issues that a mediator should be cognizant of when conducting a mediation. These modifications serve to strengthen the protections for a medi-
University of Tennessee alumnus to serve on the Supreme Court of the United States had been largely forgotten in his hometown. Thankfully, Stephanie L. Slater’s thoroughly researched new biography recovers the memory of Justice Edward Terry Sanford from its fade into obscurity.

Sanford was born in Knoxville shortly after the end of the Civil War. His mother, Emma, immigrated to America as a child when her family fled religious persecution in their native Switzerland. His father, E. J., was a Unionist who became the Knoxville version of a Gilded Age robber baron. Sanford attended the University of Tennessee, where he received two bachelor’s degrees and was the valedictorian of his class. He then attended Harvard University, where he received his law degree.

Sanford returned to Knoxville and entered private practice in 1889. Much of his practice focused on corporate law, and he often represented his father’s numerous business interests. One particular company that “consumed a considerable portion” of Sanford’s practice was the Coal Creek Mining and Manufacturing Company of which his father was the president and director. Sanford himself was on the company’s board of directors at the time of the Fraterville Mine Disaster, the worst mine disaster in Tennessee history.

Throughout his career, Sanford gave much of his time to various civic and political causes in Knoxville and Tennessee. He was twice president of the University of Tennessee Alumni Association. He eventually gained a seat on the University’s Board of Trustees and was instrumental in the development of what would become the University’s College of Law. Sanford also served two terms as president of the Tennessee Bar Association. From time to time, Sanford’s name would be bandied about as a possible Republican candidate for governor.

After almost two decades of practicing in Knoxville, Sanford was made a special assistant to the United States attorney general to prosecute antitrust claims. In 1907, he was appointed assistant United States attorney general. In that role, he argued several cases in front of the Supreme Court. Sanford also served as the lead prosecutor in United States v. Shipp, the first and only criminal trial conducted in the Supreme Court.

President Theodore Roosevelt appointed Sanford to serve as the United States district judge for the Eastern and Middle Districts of Tennessee in 1908. At the time, there was only one judgeship to serve both districts. This required Sanford to hear cases in Knoxville, Nashville, Chattanooga and Greeneville. Despite such a crowded docket, Sanford wanted his opinions to

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Edward Terry Sanford: A Tennessean on the U.S. Supreme Court

Knoxville has traditionally done a poor job of honoring its greatest citizens. James Agee’s childhood home was unceremoniously demolished. Similarly, Cormac McCarthy’s childhood home was left abandoned, and it eventually burned to the ground. A gas station now sits at the location of the childhood home of the artist Beauford Delaney.

So it was not surprising to learn that the only Knoxvillian and
be “flawless.” This led to the only major criticism of Sanford as a jurist, that he was too slow in rendering his decisions. Otherwise, he was known as “the most impartial judge in the South” and showed a high degree of courtesy to all who entered his courtroom.

In 1923, Sanford was appointed to the Supreme Court by President Warren G. Harding. The vast majority of opinions authored by Sanford involved the interpretation of difficult procedural or statutory matters in areas such as bankruptcy, patents and taxation. His record on the Supreme Court was not without its flaws. Sanford authored the opinion in Corrigan v. Buckley, which upheld the use of restrictive covenants banning the sale of real property to racial minorities. He also joined the majority opinion in Buck v. Bell, which upheld a Virginia law allowing the forced sterilization of those deemed “socially inadequate.”

However, Justice Sanford’s greatest legacy from his time on the Supreme Court was having authored the majority opinion in Gitlow v. New York. In Gitlow, Sanford stated that the First Amendment’s protections of freedom of speech and of the press were incorporated into the Due Process Clause of the Fourteenth Amendment and applicable to state and local governments. The impact of Gitlow was initially muted because Sanford’s opinion upheld Mr. Gitlow’s convictions. However, Gitlow is widely considered to be the beginning of the incorporation doctrine, which has been used to apply most of the protections found in the Bill of Rights to state and local governments.

Sanford died unexpectedly in 1930 at the age of 64, muting his impact on American jurisprudence. Slater’s biography places a long overdue spotlight on him by exploring how he was affected by growing up and living in post-Civil War Knoxville and examining in detail the major opinions Sanford authored as a District Court judge and Supreme Court justice.

Hopefully, Slater’s excellent biography is just the beginning of Justice Sanford’s receiving the attention deserving of a man who, as Slater notes, was once described as “one of the more prominent and personable Tennesseans of his time” and Knoxville’s “most illustrious son.”

JASON R. SMITH is a law clerk to Judge D. Kelly Thomas Jr., of the Tennessee Court of Criminal Appeals. Smith also teaches legal communications as an adjunct professor at LMU Duncan School of Law. Prior to clerking for Judge Thomas, he was a research attorney at Butler, Vines & Babb PLLC in Knoxville. You can see more of what Jason is reading by following him on Twitter @jrs082 or at https://www.goodreads.com/jrs082.

Notes

1. Tennessee Supreme Court Rule 8, Section 2.4(b).
2. Tennessee Supreme Court Rule 8, Section 2.4(c).
3. Tennessee Supreme Court Rule 8, Section 2.4(d).
5. Tennessee Supreme Court Rule 31, Section 7.
6. Tennessee Supreme Court Rule 31, Section 10.
7. Tennessee Supreme Court Rule 31, Section 12.
8. Tennessee Supreme Court Rule 31, Appendix B, C, D, and E.
9. Tennessee Supreme Court Rule 31A.
10. Tennessee Supreme Court Rule 31, Appendix A – Section 6(b)(6).
11. Tennessee Supreme Court Rule 31, Appendix A – Section 10(a)(1).

MARLENE ESKIND MOSES is the principal and manager of MTR Family Law PLLC, a family and divorce law firm in Nashville. She is a past president of the American Academy of Matrimonial Lawyers. She has held prior presidencies with the Tennessee Board of Law Examiners, the Lawyers’ Association for Women and the Tennessee Supreme Court Historical Society. She is currently serving as a vice president of the International Academy of Matrimonial Lawyers. The Tennessee Commission on Continuing Legal & Specialization has designated Moses as a Family Law Specialist; she is board certified as a Family Law Trial Specialist.

MANUEL BENJAMIN RUSS earned a bachelor of arts from Johns Hopkins University, a master of arts from University College London, and a law degree from the Emory University School of Law. He is in private practice in Nashville focusing primarily on criminal defense.
LANDIS TURNER: You may remember or have heard of Judge Charlie Galbraith. A lot of us remember some of the outrageous things he did, some of which were far beneath judicial dignity. We senior lawyers will never forget Charlie’s letter to Hustler magazine about the pleasure of oral sex. His language was graphic and written on stationary of the Court of Criminal Appeals of which Charlie was a member. The letterhead bore the names of his fellow judges. When the issue came out many of us were in Memphis for the TBA convention. The Peabody’s magazine rack sold out of Hustler in less than an hour.

When Charlie was in the state house he sponsored several influential bills which became law. Here are a couple:
• The first public defender office was created for Nashville. Charlie helped create the office and then became the first PD in Tennessee and served as such until he became a judge.
• Until the ’60s liquor by the drink was illegal anywhere in Tennessee. Charlie passed a bill letting counties vote on the issue by local option. Memphis and Nashville voted on the issue the same day. Many of us had thought that Memphis was a better city and more fun to live in. But no longer was that true after Nashville legalized liquor by the drink and Memphis rejected it.

Charlie was at the Gaslight in Printers’ Alley and was served the first legal drink when his new law came into effect. I was on the next stool, so I had the second. He had a bourbon on the rocks and I had a martini.

TB/J: What about that public defender bill you mentioned? What happened after that?

LT: By the late ’80s Tennessee had PD offices in the four major cities, and there was talk about creating model programs in other areas, like Clarksville and Jackson, where the need was serious. It seemed to me that the need was serious all over the state, especially in rural areas.

As the number of crimes increased judges had to appoint more and more lawyers for indigent defendants. Many lawyers, especially sole practitioners, were really suffering. They were having to handle so many non-paying clients that they had no time for those able to pay. ...

As the leader of the TBA I along with many of our members decided something had to be done about the appointment crisis. We drafted a bill to make the office of public defender statewide. I told John Lyell, our excellent lobbyist, to give this bill his top priority. Our most valuable helper in the legislature was Rep. Bill Purcell. Bill is a former federal PD and later became mayor of Metro Nashville for eight years.

None of us believed we would be able to make the PD offices statewide, but we had a good chance to get a few model programs. The governor’s budget bill provided for $20 million not required for the state’s needs, so we might get part of that. $6 million would be the least [amount needed] to go statewide — and that would give PDs a lot less pay than DAs make and they don’t have to handle appeals, as PDs must. But nobody ever promised us that we could expect everything to be fair.

The bill passed. Now PDs all over the state can thank these efforts for their jobs. It’s far from adequate, but better than it used to be. ☺

In the January/February 1989 issue of the Journal, Turner’s president’s column was about war stories. For a good chuckle, read his story at www.tba.org/journal_spark.
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