

# DICTA

A pair of scales of justice is shown against a background of classical architecture. Instead of a traditional metal weight, a roll of US currency is placed on the right pan. The roll is oriented horizontally, showing the '100' and 'ONE HUNDRED' text. The serial number '17756 A' is visible. The scales are made of dark metal with chains. The background features a statue of a person and architectural columns.

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**DICTA**

DICTA is the official  
publication of the  
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Association

DICTA is published monthly (except July) by the Knoxville Bar Association. It is designed to offer information of value to members of the local bar association. The news and features should illustrate the issues affecting the bar and its members. The opinions expressed do not necessarily represent those of the Knoxville Bar Association.

All articles submitted for publication in DICTA must be submitted in writing and in electronic format (via e-mail attachment). Exceptions to this policy must be cleared by KBA Executive Director Marsha Watson (522-6522).

DICTA subscriptions are available for \$25 per year (11 issues) for non-KBA members.

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## Section Notices

There is no additional charge for membership in any section, but in order to participate, your membership in the KBA must be current. To have your name added to the section list, please contact the KBA office at 522-6522.

### Alternative Dispute Resolution Section

The ADR Section plans regular CLE throughout the year. If you have a CLE program topic or speaker suggestions, please contact the ADR Section Chairs **Joe Jarrett** (566-5393) or **Betsy Meadows** (540-8777).

### Bankruptcy Law Section

The Bankruptcy Section plans CLE programs and helps coordinate volunteers for the Pro Bono Debt Relief Clinics. The next Pro Bono Debt Relief Clinic will be held on June 25 and volunteer registration is available at [www.knoxbar.org](http://www.knoxbar.org). Save the date for the "A Funny Thing Happened on the Way to Bankruptcy Court" bankruptcy mock trial program and social hour on June 29. The event, co-sponsored by the Bankruptcy Section and the Barristers, is for summer associates/interns and law students, as well as practicing lawyers, who are interested in knowing more about a bankruptcy law practice. If you have a program topic or speaker suggestions, please contact the Bankruptcy Section Chairs **Tom Dickenson** (292-2307) or **Greg Logue** (215-1000).

### Corporate Counsel

The Corporate Counsel Section provides attorneys employed by a corporation or who limit their practice to direct representation of corporations with an opportunity to meet regularly and exchange ideas on issues of common concern. Save the date for the "Annual Corporate Counsel Update" extended CLE on August 24. If you would like to know how you can get involved or have suggestions for CLE topics, please contact Section Chairs **David Headrick** (363-9181) or **Marcia Kilby** (362-1391).

### Criminal Justice

The KBA Criminal Justice Section represents all attorneys and judges who participate in the criminal justice system in Knox County. Join the Criminal Justice Section for the upcoming CLE program "Tennessee's Sex Offender Registry Law" on June 16. If you have suggestions for CLE topics, please contact Section Chairs **Joshua Hedrick** (524-8106) or **Sarah Keith** (931-260-5866).

### Employment Law

The Employment Law Section is intended for management and plaintiffs' counsel, in addition, to in-house and government attorneys. If you have a program topic or speaker suggestions, please contact the Employment Law Section Chairs **Howard Jackson** (546-1000), **Tim Roberto** (691-2777) or **Mark C. Travis** (252-9123).

### Environmental Law

The Environmental Law Section provides a forum for lawyers from a variety of backgrounds, including government, corporate in-house, and private firm counsel. Join the Environmental Law Section for the upcoming CLE program "Utilizing the Brownfields Program and Available Funding to Successfully Repurpose Contaminated Properties" on July 19. If you have suggestions for CLE topics, please contact Section Chairs **Catherine Anglin** (525-0880), **Kendra Mansur** (771-7192), or **Jimmy Wright** (637-3531).

### Family Law Section

The Family Law Section has speakers on family law topics or provides the opportunity to discuss issues relevant to family law practice. Join the Section for the upcoming CLE "How to Expedite Your Divorce Case in Knox County Chancery Court" on June 7. If you are interested in getting involved, please contact Section Chairs **Jo Ann Lehberger** (539-3515) or **Steve Sharp** (971-4040).

### Government & Public Service Lawyers Section

The Government & Public Service Lawyers Section is open to all lawyers employed by any governmental entity, state, federal, or local, including judicial clerks and attorneys with legal service agencies. If you are interested in getting involved or have suggestions for CLE topics, contact **Hon. Suzanne Bauknight** (545-4284) or **Ron Mills** (215-2050).

### Juvenile Court & Child Justice Section

The Juvenile Court & Child Justice Section has speakers on juvenile law topics or provides the opportunity to discuss issues relevant to juvenile law practice. If you have suggestions for CLE topics, please contact Section Chairs **Justin Pruitt** (215-6440) or **Mike Stanuszek** (766-4170).

### New Lawyers Section

The New Lawyers Section is for attorneys within their first three years of practice, and any KBA member licensed since 2020 will automatically be opted-in to the section. The KBA New Lawyers Section is hosting a social on Tuesday, June 21 at 35 North (11321 Kingston Pike) from 5:30-7:00 PM. Jennifer Noell, Realtor with Berkshire Hathaway HomeServices Dean-Smith Realty, is graciously providing drink tickets and light refreshments. If you would like to get involved in planning Section activities next year, please contact Section Chairs **Courteney Barnes-Anderson** (803-341-0196) or **Sanjay Raman** (607-972-6140).

### Senior Section

The KBA Senior Section plans to start meeting again in 2022 for lunch. If you have suggestions for speakers, please contact Chair **Wayne Kline** at (292-2307).

### Solo Practitioner & Small Firm Section

The goal of the Solo Practitioner & Small Firm Section is to provide and encourage networking opportunities and offer high quality CLE programs featuring topics that will help solo/small firm attorneys enhance and improve their practices and assist them with law office management challenges. If you have a program topic or speaker suggestions, please contact Section Chairs **Tim Grandchamp** (392-5936), **Brittany Nestor** (214-7869), or **Tripp White** (712-0963).

## Event Calendar

### June

- 7 Law Office Tech Committee
- 7 Family Law Section CLE
- 8 Veterans Legal Advice Clinic
- 8 Barristers Meeting
- 9 Judicial Committee
- 9 Knoxville Bar Foundation Reception
- 11 TurboSpin
- 14 Professionalism Committee
- 16 Criminal Justice Section CLE
- 16 Rooftop Happy Hour
- 21 New Lawyers Section Social
- 22 Board of Governors Meeting
- 24 Wellness Committee
- 25 Debt Relief Clinic
- 28 Diversity in the Profession Committee
- 29 Bankruptcy Section Social

### July

- 5 Law Office Tech Committee
- 12 Professionalism Committee
- 12 Access to Justice Committee
- 13 Veterans Legal Advice Clinic
- 13 Barristers Meeting
- 14 Judicial Committee
- 14 Legislative Update CLE
- 22 Wellness Committee
- 26 CLE Committee
- 26 Diversity in the Profession Committee
- 27 Board of Governors

Check the KBA  
Events Calendar  
at  
[www.knoxbar.org](http://www.knoxbar.org)  
for scheduling  
updates.

By: Jason H. Long  
London Amburn



# BENCH-BAR CELEBRATION

When I first started practicing law, the partners in my firm required me to join the Knoxville Bar Association. They explained that they wanted me to contribute as much as reasonably possible and enjoy all that the bar had to offer. They also made clear that there were at least two obligations per year which would be required of me. First, I was required to attend the annual meeting of the KBA each year. This seemed like an obvious obligation. If I was going to be a member of the Association, I needed to attend its one meeting. Second, I was informed that I would be required to attend the annual Supreme Court Dinner. This one seemed a little less obvious to me. It was, after all, one of many social events that the Association put on each year. I did not understand why my partners would elevate it to the point of mandatory obligation. Nonetheless, taking their words to heart, I began my annual attendance of the celebration every September.

Twenty-five years later, I think I understand why the event was important to them and really should be important to all members of the bar. First, it is a significant communal gathering. While we have parties and social events and service events throughout the course of the year which may attract as many as 50 or 100 members, the turnout for the Supreme Court Dinner has been consistently larger and provides the best opportunity for our members to catch up, interact and share fellowship, without any other distraction or obligation. The purpose of the bar is to share in the practice and to accomplish collectively what we cannot do individually. Events like the Supreme Court Dinner are the building blocks that allow for that collective effort. Next, the Supreme Court Dinner, at least in its original incarnation, was a wholly unique experience amongst bar associations in the state of Tennessee. It was a formal gathering and honoring of our state's highest court, with an opportunity to hear from the justices as to the state of the judiciary. It was, in the truest form, an opportunity to honor and show appreciation. Finally, the event further strengthened the indissoluble link between practicing attorneys and the judiciary. It was one of the few events of the year in which the entire judicial system was united, from those of us who sit in their offices and answer pleadings or draft contracts to those who issue rulings from the bench and apply the laws of our state. This show of unity and fellowship is important, not only to those of us who practice, but also to the public at large. Faith in our system of justice is strengthened through such events.

Many, like myself, may have felt the absence of the Supreme Court Dinner over the past two years. With the pandemic came modifications to the way in which we live and conduct business. Those modifications extended all the way to our celebrations and our social interactions. As everyone knows, the Supreme Court Dinner was

cancelled two years ago and, despite the best efforts of bar leadership at the time, it was cancelled last year as well. I am thrilled to let everyone know that we have plans to bring it back this year, better than ever. We have been in touch with the Court, and Marsha and her staff are diligently working on a return to Knoxville's unique and annual celebration. However, as with most things during the pandemic, we have learned to adapt and even improve. Under the leadership of Cheryl Rice last year, our bar conceived of a different kind of celebration of the Court. Rather than a traditional seated dinner, we wanted to create something a little more dynamic. The highlight of the dinner for many years has been

the cocktail reception beforehand in which guests were able to freely mingle, catch up and share fellowship. While the presentations were important and well-received, we thought that the interaction of the cocktail reception was a highlight of the evening. Added to that, when we were planning for last year, we thought that we would only be able to host an event if it was properly socially distanced and outdoors. Moreover, while the event had been labeled the Supreme Court Dinner for years, and certainly our goal is to honor those justices who service this state so well, we felt like there was a missed opportunity in extending the celebration to all members

of our judiciary, at all levels, who have dedicated their careers to the administration of justice.

As a result, we envisioned a bench-bar celebration in a more relaxed social setting of a cocktail reception in which there would be some brief remarks and acknowledgement of our appreciation of the judges, but the focus would be on interaction and fellowship with those judges. In every sense, a true Bench-Bar Celebration. Unfortunately, COVID continued to intervene last year and that celebration was put on hold. We are back this year and, even though it would be feasible for us to return to the standard dinner format, we were so excited about the changes that had been planned for last year that we are going forward with the Bench-Bar Celebration as envisioned.

This event, like any other that the bar hosts, will be successful only with active participation and eager attendees who are ready to interact and enjoy one another's company. I hope you will join us to take advantage of a rare opportunity to show true fellowship in celebration of what we do. Please mark your calendar for September 7, 2022 (details will follow). The Supreme Court will be in town. The local judges will be invited. The cocktails and hors d'oeuvres will be ready. In short, the table will be set for celebration, fellowship and appreciation. The Bench-Bar Celebration, like the Supreme Court Dinner that preceded it, will remain a pivotal event in the life of each bar year. Take advantage of the opportunity, and come join us.

*...the event further  
strengthened the  
indissoluble link between  
practicing attorneys and  
the judiciary.*





## WHAT I LEARNED ABOUT INCLUSION AND WHY IT MATTERS

By: Sherley Cruz

University of Tennessee College of Law

# AND THIS IS WHY BELONGING MATTERS

Diversity, Equity, and Inclusion (D.E.I.) efforts foster diverse thoughts, experiences, and perspectives that lead to engaging, innovative, and creative results. DEI work often follows a sequence. First, a group identifies that bringing together different people has value. Then, they recognize that not everyone has the same opportunity to succeed or equal access to the tools needed for success, so the group implements policies and procedures to try to increase the opportunities to succeed. Once the group becomes more diverse, efforts turn to including new members, “giving them a seat at the table,” or ensuring they “have a voice” in the conversation.

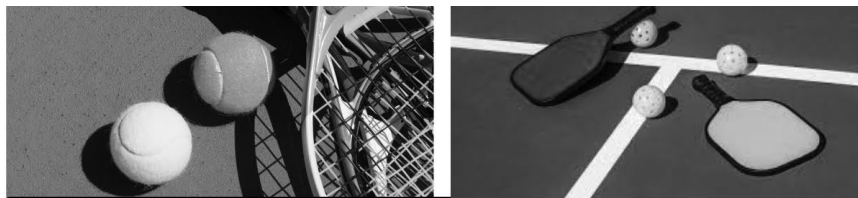
Inclusion focuses on getting invited, being part of the conversation, and participating in the decision making. Being included, however, does not mean that we belong. People often speak of “fitting in” to a group. The problem with “fitting in” is that we lose what makes us special and unique. To fit in means to lose ourselves in the group. To be like the others. To not stand out. To be included does not go far enough to allow our authentic selves to shine. We can be included in a conversation, a meeting, or a project without feeling like we belong or should be part of the group.

Instead, belonging comes from feeling like we are valued and our values are reflected in the group. When we belong, our voices are heard and credited. We form connections because of who we are, not who we resemble. We don’t need to look, sound, or act like the others. Our

identity and all of the intersecting parts (gender, race, socio-economics, religion, sexual orientation, etc....) become an asset to the group. We are not just a part of the group. Our voices, ideas, and experiences are reflected in the conversations, projects, and solutions to create the whole.

As a first-generation, Dominican-American who grew up in Boston, I do not “fit in” most legal spaces. I am accustomed to being the only Latina in a class, at a meeting, an event, or in the courtroom. I am grateful, however, to have the privilege of being part of the 5% of attorneys and 3% of law school faculty who are Latinx.<sup>1</sup> I have succeeded in my legal career because I do not fit in. Fitting in ignores that I am bicultural, it assumes that I can ask friends and family for help, and overlooks the pressures of pretending. Belonging is different. It encourages me to pull from my immigrant experiences to identify issues and solutions, allows me to speak Spanish to help a client feel comfortable, and gives me permission to admit that I cannot relate to an experience because I did not grow up in a traditional American household. And this is why belonging matters.

<sup>1</sup> American Bar Association, *ABA Profile of the Legal Profession 2020* (July 2020), available at: <https://www.americanbar.org/content/dam/aba/administrative/news/2020/07/potlp2020.pdf> ; See also, National Center for Education Statistics, *The Condition of Education 2020, Chapter two: Characteristics of Postsecondary Faculty*, (available at: [https://nces.ed.gov/programs/coe/pdf/coe\\_csc.pdf](https://nces.ed.gov/programs/coe/pdf/coe_csc.pdf))



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By: Kendell Garrett Voncx  
Paine, Tarwater & Bickers, LLP



# ASSISTING RESIDENTIAL PROPERTY OWNERS AND MANAGERS IN ASSESSING REQUESTS FOR ASSISTANCE ANIMALS AS A REASONABLE ACCOMMODATION UNDER THE FAIR HOUSING ACT

In representing owners and management companies in the multifamily housing industry, I have quickly learned that many clients have reservations about animals in rental properties due to the risk of damages and other issues arising with pet ownership. While animals pose challenges in rental housing, landlords may be required to make exceptions to their pet policies for tenants or applicants who request an animal in their unit as a reasonable accommodation for their disability. On January 28, 2020, the U.S. Department of Housing and Urban Development issued FHEO Notice 2020-01, Subject: Assessing a Person's Request to Have an Animal as a Reasonable Accommodation Under the Fair Housing Act ("Notice"), which is instructive when counseling clients on such requests.<sup>1</sup>

Assistance animals are animals that "do work, perform tasks, assist, and/or provide therapeutic emotional support" for disabled individuals.<sup>2</sup> Assistance animals are not pets and are not subject to regular pet bans or policies, including breed restrictions or deposits and fees.<sup>3</sup> The steps a landlord may take to properly verify and evaluate a request for an assistance animal differs based on whether a resident is requesting a service or support animal. As such, the first step in evaluating a request is to determine which type of animal is being requested.

## Service Animals

The first inquiry a landlord should make regarding a service animal is whether the animal being requested is a dog. The Notice suggests that landlords apply the definition of service animal provided by the Department of Justice and the Americans with Disabilities Act in evaluating service animals under the FHA.<sup>4</sup> These agencies define a service animal as a *dog* that is trained to work or perform tasks for a person who has a disability, which includes physical and mental disabilities.<sup>5</sup> If the animal being requested is not a dog, it is not a service animal.

Next, a landlord must determine whether the disability-related need is apparent and observable. If a landlord can see that a person is clearly disabled and the animal is assisting with the disability, further inquiry regarding the animal is not required or appropriate, and the request should be approved.<sup>6</sup> The Notice provides examples of when a disability-related need may be apparent, such as a dog that assists with a visual impairment or a mobility issue.

Where the disability-related need or assistance provided by the animal is not readily apparent, the Notice suggests that a landlord limit further inquiry to two topics: namely, whether the resident is disabled and what work or task the animal is trained to perform.<sup>7</sup> If a resident answers yes to the first question and identifies work performed by the animal that assists with disability, a landlord should approve the request.<sup>8</sup> It is important to note that a landlord should never ask for documentation or diagnosis information for a service animal.

## Support Animals

Where a tenant requests to keep an animal that does not meet the definition or criteria for service animals, the landlord should evaluate the request as one for a support animal. Support animals are defined as "other animals that do work, perform tasks, provide assistance, and/or provide therapeutic emotional support for individuals with disabilities."<sup>9</sup> The first step in evaluating a request for a support animal is determining whether the tenant or applicant has an observable disability. If a person is visibly disabled, the next inquiry is whether the tenant has provided

information showing the animal provides assistance that helps to alleviate symptoms of the disability.<sup>10</sup> If no information has been provided, a landlord may request the information, such as "information from a licensed health care professional," that may be useful in assessing whether an animal assists with disability.<sup>11</sup>

If a person is not visibly disabled, the landlord should inquire as to whether the person meets the definition of disability under the FHA. The FHA defines disability as any "physical or mental impairment that substantially limits one or more major activities."<sup>12</sup> The Notice identifies several conditions that almost always qualify as a disability under the FHA, including but not limited to, PTSD, major depressive disorder, and bipolar disorder.<sup>13</sup>

Where a landlord must verify an individual's disability, the Notice suggests the landlord can use information such as information from a licensed healthcare professional or information showing the person already qualifies for disability benefits or services.<sup>14</sup> A landlord should not seek information regarding diagnosis.

If the landlord determines a person meets the definition of disabled under the FHA, the landlord can then seek documentation or verification that the animal being requested assists with symptoms of the person's disability, as described above.

## Timing of a Request for an Animal as a Reasonable Accommodation

A tenant or prospective resident can make a request for reasonable accommodation regarding an assistance animal at any time, whether that is prior to or after the landlord seeks to terminate his lease or prior to or after getting the animal.<sup>15</sup>

## Type of Support Animal

The Notice provides that if a tenant or applicant verifies he or she is disabled and that the support animal will assist with disability, the landlord should approve the request provided the animal is a type of animal that is "commonly kept in households."<sup>16</sup> If the animal is unique, the tenant has a heightened burden and must show a specific therapeutic need for the animal or type of animal.

In sum, approximately 60% of all FHA complaints in 2020 were related to the denial of reasonable accommodation requests, including those concerning assistance animals.<sup>17</sup> As such, the Notice is helpful and instructive in counseling clients on assessing these requests to avoid violations of the FHA.

<sup>1</sup> U.S. Dept. Hous. & Urban Dev., FHEO Notice: FHEO-2020-01, Subject: Assessing a Person's Request to Have an Animal as a Reasonable Accommodation Under the Fair Housing Act (2020) ("Notice").

<sup>2</sup> Notice at page 3 (citing 24 C.F.R. § 5.303).

<sup>3</sup> *Id.*

<sup>4</sup> Notice at page 6.

<sup>5</sup> *Id.* (citing 28 C.F.R. §§ 35.104, 36.104).

<sup>6</sup> *Id.* (citing 28 C.F.R. §§ 35.136(f); 36.302(c)(6)).

<sup>7</sup> Notice at page 6-7 (citing 28 C.F.R. §§ 35.136(f); 36.302(c)(6)).

<sup>8</sup> Notice at page 7.

<sup>9</sup> Notice at page 3.

<sup>10</sup> Notice at page 11.

<sup>11</sup> Notice at page 12.

<sup>12</sup> Notice at page 9.

<sup>13</sup> Notice at 10 (citing 28 C.F.R. §§ 35.108(d)(2)(iii); 36.105(d)(2)(iii)).

<sup>14</sup> Notice at page 10.

<sup>15</sup> Notice at page 8.

<sup>16</sup> Notice at page 12.

<sup>17</sup> Notice at page 4.



## ATTORNEY PROFILE

By: Christine Knott

Knott Law

# 2022 RECIPIENT OF THE LAW & LIBERTY AWARD: AN EXAMPLE OF UTMOST DEDICATION TO OUR COMMUNITY

The Law and Liberty Award is an accolade that is given to a legal professional who strives to foster and maintain good relationships between the legal profession and community. Someone who works to advance the understanding of the law and legal processes in the non-legal community. Someone who sets an example of good citizenship and gives time for volunteer work. Someone who exemplifies high professional standards and expresses concern for the safeguard of personal, political, civil, and religious liberties.

The 2022 recipient for the Law and Liberty Award is Professor Maha Ayesh.

A native of Knoxville, Professor Ayesh has made a vast impact on our community, both in state and out of state (and country). Her impact began early, well before becoming a licensed attorney when she interned for the Legal Aid Society of Middle Tennessee and the Cumberland where she assisted clients with a plethora of issues, including low-income based benefits and TennCare.

Professor Ayesh started her formal career in 2006 after graduating Summa Cum Laude from the University of Tennessee College of Law, achieving the highest of honors and being named Outstanding Graduate of her class. She is admitted to practice law in Tennessee state courts, the federal District Court for the Eastern District of Tennessee, and the Sixth Circuit Court of Appeals. She holds many membership rolls, including Vice President of the Tennessee Employment Lawyers Association (TENNELA), board member of the Tennessee Bar Association Labor and Employment Executive Council, and board member of the East Tennessee Lawyers Association for Women. Professor Ayesh is also a Master Emeritus with the Hamilton Burnett Chapter of the American Inns of the Court.

Shortly after graduating, Professor Ayesh hit the ground running as a judicial law clerk for the Honorable Joseph M. Tipton, Judge for the Tennessee Court of Criminal Appeals.

A few years later, in 2008, Professor Ayesh moved her career to Jennifer Morton Law, PLLC where she fought to uphold civil rights and

various employment related issues.

Roughly three years later, in 2011, she was awarded a U.S. Fulbright grant. As part of her grant, Professor Ayesh traveled to Amman, Jordan where she researched human trafficking, forced labor, and the rights of migrant domestic workers.

After a brief sabbatical from her practice, in 2020, Professor Ayesh joined Lincoln Memorial University Duncan School of Law (LMU DSOL) as the Director of Experiential Learning and an Assistant Professor of Law. In her short time at LMU DSOL, Professor Ayesh has worked with the faculty curriculum committee to have three new law clinics approved. Starting in the fall, LMU DSOL will assist the community with: immigration services, domestic violence cases in order of protection court, and alternative dispute resolution skills. These clinics, with the guidance of Professor Ayesh, “will work to advance the understanding of law and the legal process for the non-attorney clientele of each of the three clinics.”<sup>1</sup> In addition, “the benefits

the clients and their families will receive at no charge will cultivate a trusting, amiable relationship between student-attorney and client.”<sup>2</sup>

All of her accomplishments are a true testament to the type of advocate and educator Professor Ayesh is. In 2021, she was named one of twelve Knoxville Bar Foundation fellows. The Fellows, “represent quality practitioners in the Knoxville area who are distinguished in the practice of law and service.”<sup>3</sup> Less than 1% of the local bar association members are selected for this salient title.

In her 16 years as a legal professional, Professor Ayesh has achieved far more than can be included in one article and the impact she has made far exceeds that.



*Barristers Constitution Day & Community Outreach Committee Chairs present the Law & Liberty Award to Maha Ayesh at the KBA Law Day Celebration on April 29.*

<sup>1</sup> Professor Allison Starnes-Anglea

<sup>2</sup> Id.

<sup>3</sup> Professor Ayesh Inducted as 2021 Knoxville Bar Foundation Fellow (lmunet.edu)





# THE ROAD HOME

It was January 24, 1944, just outside of Isola Bella, Italy.<sup>1</sup> At that time of year, the skies are usually gray and overcast, and the temperature hovers in the mid-teens to low 20's with a couple of inches of snow.<sup>2</sup> That is what twenty-four-year-old Technician Fifth Grade Eric G. Gibson was facing as he crawled out of the ditch, reeling from the concussive force of heavy artillery fire.<sup>3</sup>

He and his tiny band of replacements were in the middle of a fierce battle involving over 70,000 German soldiers that had assembled against the approximately 36,000 U.S. soldiers who had landed ashore.<sup>4</sup> Gibson was a cook—a member of the Quartermaster Corps that has been providing logistical support for the Army since 1775.<sup>5</sup>

As he crawled up out of the ditch, he started taking fire from two enemy combatants.<sup>6</sup> He killed one and captured the other.<sup>7</sup> When his squad started taking fire from a machine gun about 200 yards down the ditch, he crawled 125 yards through heavy artillery fire and the cross-fire of two machine guns to throw two grenades into the embankment where the machine gun nest was located.<sup>8</sup>

After he made sure his squad was secure, Gibson went on ahead until he came to a bend in the ditch. The next thing the squad heard was machine-gun fire. They moved forward and found Gibson's body. This young cook was gone, but not until after he had eliminated the enemy threat.<sup>9</sup> That is the Quartermaster Corps in action.

Technician Fifth Grade Eric G. Gibson was buried in Nora Cemetery in Rice Lake, Wisconsin.<sup>10</sup> It took almost four years for his remains to be identified, transported, and interred in this private cemetery near his parents' home.<sup>11</sup> Members of the Quartermaster Corps were the ones who brought him home.

Since 1862, the Quartermaster Corp has been responsible for caring for the remains of deceased service members, ensuring a proper burial, and maintaining our country's national cemeteries.<sup>12</sup> 1862 was a bloody year. It was the year of the Battle of Shiloh, with nearly 24,000 casualties in two days.<sup>13</sup> Then, there was the Battle of Antietam, with nearly 23,000 casualties in one day.<sup>14</sup> In between, was the Peninsula Campaign with over 20,000 casualties in and around northern Virginia.<sup>15</sup> As General Robert E. Lee wrote, "Among the dead there will be found many whose names will ever be associated with the great events in which they all bore so honorable a part."<sup>16</sup>

There were many heroes to bury, and so, in July 1862, Congress authorized President Lincoln "to purchase cemetery grounds . . . to be used as a national cemetery for soldiers who shall have died in the service of the country."<sup>17</sup> The Act made the Quartermaster Corps responsible for the care and administration of the national cemetery system.<sup>18</sup> The assignment made sense. The Quartermaster Department was already assigned the responsibility of walking through the battlefields to identify and provide a proper burial for fallen soldiers on or near the battlegrounds. It made sense that it would also be responsible for ensuring these soldiers had a dedicated resting place where they could be honored and remembered.<sup>19</sup>

And so, two years later, Brigadier General Montgomery C. Meigs, Quartermaster General of the Army, found himself walking the grounds of the Custis estate where General Robert E. Lee and his wife, Mary Randolph Custis, lived before Lee resigned from his Army commission to join the Confederacy.<sup>20</sup> For the last three years, Meigs had been responsible for ensuring that food and supplies were delivered to the Union soldiers, but now, as casualties from the many battlefields in and around Northern Virginia and Maryland began to flow into Washington, D.C., Meigs had to find a place for them to rest.<sup>21</sup> The Federal government acquired the property at public auction, and by the time Lee surrendered in Appomattox a year later, over 12,000 soldiers

had been buried at the Arlington estate.<sup>22</sup> Over the next six years, Meigs and the Quartermaster Corps undertook the enormous task of heading out to remote battlefields to locate and identify as many Union soldiers as possible and the reburial them at the Arlington estate. As Quartermaster Edmund Whitman observed, "Such a consecration of a nation's power and resources to a sentiment, the world has never witnessed."<sup>23</sup> By 1870, over 315,000 soldiers had been identified by name, rank, and unit, and had been reburied in what has come to be known as Arlington National Cemetery.<sup>24</sup>

Today, over 400,000 service members and certain of their dependents are buried at Arlington National Cemetery.<sup>25</sup> My grandfather, U.S. Air Force Chief Warrant Officer 2 Elmer John Halas, and my grandmother, Dorothy Cain Halas are buried there.<sup>26</sup> Grandpa Halas served in Europe during World War II. My brother, Lance Corporal David Burton Houck (USMC) is also buried there.<sup>27</sup> David was killed in Iraq during the Battle of Fallujah. A few feet away are two of his brothers in arms, Corporal Nicholas Lee Ziolkowski<sup>28</sup> and Lance Corporal Dimitrios Gavriel,<sup>29</sup> both killed in action within a few days of David. All of them were escorted home by members of the Quartermaster Corps.

We are forever grateful to the servicemembers who brought my brother home. I suspect there are thousands of other families who have the same feeling. Whether serving on the front lines of battle, working out the logistics of some very long and dangerous supply chains, or carefully and respectfully bringing another hero home, for 247 years, the Quartermaster Corps has been making things better.

*We're the gang that keeps things moving,  
At the front and post to post,  
When a soldier has tough going  
We're the guys he needs the most.  
From the day he joins the Army  
'Til the time he's home once more,  
If he should have to shoot or ride  
The buddies fighting by his side  
Will be from the Quartermaster Corps.<sup>30</sup>*

<sup>1</sup> This article is a continuation of the article "Logistics," which was published in the May 2022 issue of DICTA, regarding the important duties of the Army Quartermaster Corps. For a copy of the article, please visit the KBA website at [www.knoxbar.org](http://www.knoxbar.org).

<sup>2</sup> See Weatherspark.com, Climate and Weather Year Round in Isolabella, Italy, <https://weatherspark.com/y/55480/Average-Weather-in-Isolabella-Italy-Year-Round>, last visited May 9, 2022.

<sup>3</sup> Congressional Medal of Honor Society, *Stories of Sacrifice: Eric Gunnar Gibson*, <https://www.cmohs.org/recipients/eric-g-gibson>, last visited May 9, 2022.

<sup>4</sup> Dr. Steven E. Anders, *Cook Under Fire*, Quartermaster Professional Bulletin (Spring 1998), available at <http://www.seabeecook.com/cooks/army/gibson.htm>.

<sup>5</sup> *Id.*; see also U.S. Army, Quartermaster Corps, Quartermaster History, <https://quartermaster.army.mil/history/#:~:text=The%20Quartermaster%20Corps%20traces%20its, support%20to%20the%20new%20Army>, last visited May 9, 2022.

<sup>6</sup> Congressional Medal of Honor Society, *supra* n. 3.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> Find a Grave, Eric Gunnar Gibson, <https://www.findagrave.com/memorial/7722443/eric-gunnar-gibson>, last visited May 9, 2022.

<sup>12</sup> U.S. Army Quartermaster Corps, Quartermaster History, <https://quartermaster.army.mil/history/>, last visited May 9, 2022.

<sup>13</sup> American Battlefield Trust, Shiloh, Pittsburg Landing, <https://www.battlefields.org/learn/civil-war/battles/shiloh>, last visited May 9, 2022.

*continued on page 20*



## AROUND THE BAR

**By: Mariel S. Cooper**

*Quist, Fitzpatrick & Jarrard*

**Grant T. Williamson**

*Bradley Arant Boult Cummings LLP*

# KBA MEMBERS TAKE ACTION TO FURTHER DIVERSITY IN THE BAR: A NOTE OF GRATITUDE FROM THE BARRISTERS DIVERSITY COMMITTEE

When the Knoxville Bar Association (“KBA”) Barristers Diversity Committee began to think about its goals for 2022, the committee began by considering how it could continue to promote an environment that was welcoming to diverse students at both of Knoxville’s law schools so that more students would consider remaining in Knoxville to practice after graduating. The thinking was that by fostering a welcoming environment that encouraged law students to get involved and connected with the KBA while still in law school, the Barristers Diversity Committee could foster a larger community of diverse attorneys that would further encourage more diverse, young attorneys to remain in Knoxville after graduation – effectively creating a more diverse and inclusive bar overall. Especially in the last few years, the KBA has seen fewer diverse attorneys join its ranks as Knoxville law school graduates have increasingly moved to Nashville, Charlotte, Atlanta, and other cities after finishing law school. In the past, diverse students had relayed to the Barristers Diversity Committee that it was difficult to make connections with members of the KBA, which made diverse students more likely to seek out other cities when deciding where to begin their practice.

In order to start identifying ways to better serve as a liaison between the KBA and the law schools, the Barristers Diversity Committee reached out to students at Knoxville’s law schools. Through conversations with the leaders of diverse student organizations at Lincoln Memorial University’s Duncan School of Law and at the University of Tennessee College of Law on how to foster relationships and further diversity and inclusion efforts between the KBA and law students, the committee learned of a different side of the same issue. While the KBA is experiencing a decrease in diverse attorneys becoming members of the bar, the student leaders have also noted a decrease in diverse student enrollment and lower student participation in diverse student organizations at the law schools in Knoxville. Students were offering up their own homes and apartments to law school applicants who wanted to visit the law schools in Knoxville in an effort to try to make the financial burden of visiting just a little bit lighter. In this way, the student leaders hoped they could allow a greater number of diverse students to be able to visit and experience all that Knoxville and its law schools have to offer.

In order to target the issue of the lack of diversity in the KBA at its root, the Barristers Diversity Committee determined that it was imperative to get involved with diversity efforts at the law schools in Knoxville – without a diverse group of law students in town, a diverse and inclusive KBA is not possible. By creating a scholarship fund for students of diverse backgrounds who are interested in attending law school in Knoxville, the Barristers Diversity Committee hoped to remove a hindrance to its goal of creating a more diverse and inclusive bar by making it at least a little bit easier for future attorneys to experience Knoxville, its law schools, and its local bar.

Because of the generosity of the KBA’s members, and their commitment to fostering a more diverse and inclusive bar, the Barristers

Diversity Committee has been able to, at the time of publishing, raise a total of nearly \$6,500, exceeding its initial goal of \$5,000, for the scholarship fund for students interested in visiting and possibly attending one of Knoxville’s law schools. This financial assistance allowed diverse students from middle Tennessee, Florida, Texas, Virginia, Pennsylvania, Georgia, Kentucky, and even Canada to visit the University of Tennessee College of Law and also provided nearly \$3,250 in funds allocated to a grant for the University Advancement Office at Lincoln Memorial University’s Duncan School of Law to utilize to minimize travel expenses for interested and admitted students. None of this would have been possible without the support of Knoxville’s attorneys. The Barristers Diversity Committee would like to extend our deepest gratitude to the firms and individuals who have donated thus far:

- Anderson Busby;
- Bill Mynatt of Lewis Thomason, P.C.;
- Bradley Arant Boult Cummings LLP;
- Brock Shipe Klenk;
- Fox Farley Willis & Burnette;
- Hodges, Doughty & Carson, PLLC;
- Law Office of Ursula Bailey;
- Lewis Thomason, P.C.;
- Merchant & Gould P.C.;
- Milberg Coleman Bryson Phillips Grossman, PLLC;
- Peterson White, LLP;
- Watson Roach Batson & Lauderback;
- Professors Douglas Blaze, Joan Heminway, Becky Jacobs, and Gregory Stein of the University of Tennessee College of Law;
- Hon. Mary Beth Leibowitz;
- Hon. Suzanne Bauknight; and
- Zachary W. Arnold of Legal Aid of East Tennessee.

The Barristers Diversity Committee’s hope is that this scholarship will continue to grow and that it can be used to help alleviate the cost barrier that prevents many diverse students from visiting and ultimately deciding to attend a Knoxville law school. A donation of only \$250 (which can be made on the KBA’s website) helps to ensure that one student, who may not otherwise be able to afford to visit a law school in Knoxville prior to their enrollment, is able to visit.

Additionally, there are many other ways to support diversity and inclusion efforts by the KBA and by diverse student organizations at the law schools in Knoxville. Please feel free reach out to either Mariel Cooper ([mcooper@qfjlaw.com](mailto:mcooper@qfjlaw.com)) or Grant Williamson ([gwilliamson@bradley.com](mailto:gwilliamson@bradley.com)) for more information on how your donation will be used, or for more ways to get involved with the Barristers Diversity Committee’s efforts to make the Knoxville Bar Association a more inclusive and diverse organization.





## BRIDGET PYMAN



This month's "Hello My Name Is..." q-and-a features Bridget Pyman, who is an Associate Attorney at Arnett, Draper and Hagood LLP, where she practices primarily healthcare liability defense litigation. Although she is a recent addition to the bar, Bridget has already become quite involved in the KBA, as a Member of the Barristers' Hunger and Poverty Relief Committee as well as a Co-Chair of the Barristers' High

School Mock Trial Committee. She is a two-time alumna of Michigan State University, for her undergraduate degree (2016) and her J.D. from the Michigan State College of Law (2021). Bridget brings a unique perspective that is evident in her q-and-a responses, and after you learn more about her, I think you will agree with me that the KBA is lucky to have this rising star within its ranks.

### Describe the most significant experience you had prior to becoming a lawyer that influenced your career today.

During the summer after my 1L year, I clerked for the Knox County Circuit Court Division II. Fortunately, there were two trials before Judge Ailor that summer, both of which I was able to observe.

These two trials were the first trials I'd ever seen, and—fully acknowledging how cliché this is—while watching Rick Powers present his opening statement to the jury, I had an "aha!" moment from which I unequivocally knew that I wanted to be a trial attorney. During the second trial that summer, while Rachel Hurt was cross-examining a witness, I had a second significant moment that seamlessly conjoined with the first: I knew I wanted to be a trial attorney, and I needed Rachel to teach me how to be an excellent one.

Now, I'm an associate with Arnett Draper and Hagood, and Rick and Rachel are my mentors; both sponsored my admission to the Bar, and both were present with me while I was sworn in to practice law in Tennessee.

### What is your favorite place in East Tennessee?

Easily, my parents' flower garden.

### What book are you currently reading?

I'm re-reading *In the Realm of Hungry Ghosts: Close Encounters with Addiction*, written by Dr. Gabor Maté. In the book, Dr. Maté describes his experiences as a physician working on Vancouver's skid row, treating primarily homeless individuals suffering from severe substance use disorder. He examines and explains the complex biological, medical, and social interactions comprising addiction incidence and prevalence, and he discusses various similarly complex treatment forms. Since opioid



addiction is becoming increasingly visible and prevalent, I sought out the book for use as a starting point for developing an informed perspective on the issue.

### Let's say you are having a bad day. What do you do to turn things around?

I try to zoom out from whatever problem I'm facing and recalibrate my perspective. A few years ago, I asked my running coach what she listened to during her long runs. At the time, she was training for a 100-mile race, and I was mystified that she would run 36 miles at a time without getting bored. She told me she doesn't listen to anything while she runs. Instead, she focuses on every step she's taking.

My running coach has had a few battles with cancer, and she has won them. Her resultant mantra was that simply having the ability to run and a body that works is a privilege that, in and of itself, deserves deep reflection and gratitude.

I've tried to adopt her perspective and lean on it when days are challenging. When I can do that and recalibrate successfully, I find comfort and gratitude in the reality that my bad days are still incredibly privileged, which usually makes the present feel much lighter.





## LESSONS LEARNED: REFLECTIONS FROM A RETIRING LAWYER

By: John Eldridge

# GRATITUDE

The value of gratitude cannot be overstated. Gratitude is the grease of life; it gives the daily routine a lift that it would not have otherwise. Think about it: have you ever NOT appreciated someone's "Thank you"? And have you also missed a word of gratefulness when you do something for someone who then walks away without a "thanks"?

Beyond the daily need to express gratitude, lawyers have many other "gifts" for which to be grateful.

Think about your law license. Did you earn it on your own? In the words of Kevin in the movie "Home Alone, "I don't think so!" Behind that law license are people who believed in you. Think about your parents, teachers, friends, counselors, even pastors from your youth and college years. A law license is a gift from many people over many years.

Before I went to law school, I lived in Chile, where there were many poor people. I did not know what I wanted to do with my life. I was out of college but not clear about my future. Finally, I figured out that I would be a fool not to return to the States and take advantage of the gifts showered upon me by parents who always believed in me and the host of persons who had assisted me through the years. And so, I returned to the States and went to graduate school, then law school.

Sure, you worked hard for your law degree. You burned the midnight oil on more than one occasion, and you devoted yourself to being a law student for those years. But you can never forget all the folks in your life that prepared you for law school.

An attitude of gratitude should not end when you finish law school. It just may be the beginning of a lifetime of other gifts. You have the gift of your mentor and other lawyers who guide you down the path of something you haven't done before. Plus, there are all the court clerks who help you and judges who don't embarrass you when you don't get something right. The judge who comes to mind is Chancellor John Weaver, who includes a friendly, "You need to add..." as he looks at your pleading. During my first trial, I second chaired a case with James A. H. Bell. Jim leaned over in voir dire and said, "you take Mrs. Smith, we are going to strike her anyway!" It's funny, but still it was the gift of giving me my first opportunity to speak in open court.

The point of this column is simply to say: you may think that you have earned your position in this world, but you cannot ignore the host of people who helped you get to where you are today. Be grateful.

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# LET THEM EAT CAKE... OR SHOULD YOU?

Does your office celebrate birthdays? While I have always appreciated a “Happy Birthday” from a coworker and my assistant’s excellent cinnamon apple cake (made for me each year without fail), apparently this feeling of appreciation is not universal. Who knew that a recognition of turning another year older could result in unexpected legal consequences? At the end of the day – it’s all about *how* you do it.

While intended to be celebratory, anything that recognizes someone’s age should give an employer pause. In *Edwards v. William Raveis Real Estate, Inc.*,<sup>1</sup> a plaintiff used the fact that her employer threw her a fiftieth birthday party at the office that included age-related gag decorations to try to bolster her claims under the Age Discrimination in Employment Act (“ADEA”). She argued that the decorations and comments made about her age at the party showed a discriminatory state of mind after the employer decided to lay her off thereafter. The court stated that “While the court may question the wisdom of throwing birthday parties at offices with age-related gag decorations, the throwing of such a party, on its own, does not create an inference of discriminatory intent on the part of [the owner].” Ultimately the district court refused to grant the employer summary judgment due to a multitude of other facts.

On the other hand, in *Wheeler v. Bank of N.Y. Mellon*,<sup>2</sup> the plaintiff used the fact that the employer *did not* throw her a birthday party to try to bolster her claims under Title VII (national origin discrimination) and the ADEA. She introduced the fact that the employer had thrown such a party for all of the other employees – but not her. Clearly, either way, the employer can’t win.

When celebrating birthdays, a claim under the ADEA is a logical leap. But the ADA wants in on the action, too. On March 31, 2022, a Kentucky jury awarded a former employee \$450,000 finding that the man had suffered an adverse employment action because of his disability related to anxiety.<sup>3</sup> Apparently the man’s employer had a practice of celebrating birthdays. However, due to the man’s anxiety disorder, he requested that his employer specifically not celebrate his birthday. Despite this request, his employer threw him a surprise birthday party which apparently caused the employee to have a panic attack.

It was reported that the employee texted his employer upset that his request was not honored. His employer called him into a meeting where the employee felt “confronted and criticized” for his reaction – which purportedly caused another panic attack. The employee was sent home for two days and then subsequently sent a letter informing him of his termination “because of the events of the previous week.” The employer argued that the employee was “violent” in the post-party meeting which was the catalyst for the termination.<sup>4</sup> The jury apparently sided with the employee – and in a big way.

While this article is not intended to crush everyone’s cake dreams – your office could consider some practical tips to avoid legal liability and hurt feelings moving forward.

1. Be Consistent. If you celebrate one – celebrate them all.
2. Don’t Mention/Inquire About Age Unless Authorized to Do So. Age isn’t “just a number” to some. Be sure to ask before broadcasting a milestone birthday to the office.
3. Ask Permission. Some people don’t like celebrating in a public way. Be sure to respect the employee’s wishes.
4. Consider Monthly Celebrations. Bringing in a monthly birthday cake or doughnuts ensures that no person is singled out and may increase office morale.

<sup>1</sup> *Edwards v. William Raveis Real Estate, Inc.*, No. 3:08-CV-1907 (JCH), 2010 U.S. Dist. LEXIS 99758 (D. Conn. Sep. 21, 2010).

<sup>2</sup> *Wheeler v. Bank of N.Y. Mellon*, 256 F. Supp. 3d 205 (N.D.N.Y. 2017).

<sup>3</sup> NBC News. “Man told employer not to celebrate his birthday. He was awarded \$450,000 after unwanted party.” <https://www.nbcnews.com/news/us-news/man-told-job-not-celebrate-birthday-was-awarded-450k-unwanted-party-rcna24698>.

<sup>4</sup> NY Times. “Jury Awards \$450,000 to Man Fired Over Unwanted Office Birthday Party.” <https://www.nytimes.com/2022/04/17/us/office-birthday-party-lawsuit-kentucky.html>

## DICTA EDITORS’ NOTE

DICTA is a monthly publication of the Knoxville Bar Association. DICTA is offered to all members of the Knoxville Bar Association as one of the many benefits of membership. This issue represents one of our “super circulation issues” and is sent not only to all members of the Knoxville Bar Association but to all lawyers licensed to practice law in Knox County and all of its contiguous counties, Blount, Loudon, Anderson, Union, and Sevier. DICTA is an important publication to the Knoxville Bar Association and it provides news regarding members and events of the Knoxville Bar Association as well as information on upcoming CLE seminars. It also provides news and notices from the Knoxville Bar Association president, the Barristers, and the Knoxville Bar Association’s nineteen different committees and eleven different sections. If you are interested in becoming a member of the Knoxville Bar Association, please contact KBA Executive Director Marsha Watson at 505 Main Avenue, Suite 50, P.O. Box 2027, Knoxville, Tennessee 37901-2027, (865) 522-6522 or access our award-winning website at [www.knoxbar.org](http://www.knoxbar.org).

**SUPER  
CIRCULATION  
ISSUE**

**About this column: “The cobbler’s children have no shoes.” This old expression refers to the fact that a busy cobbler will be so busy making shoes for his customers that he has no time to make some for his own children. This syndrome can also apply to lawyers who are so busy providing good service to their clients that they neglect management issues in their own offices. The goal of this column is to provide timely information on management issues. If you have an idea for a future column, please contact Caitlyn Elam at 546-4646.**



## OUTSIDE MY OFFICE WINDOW

By: Robbie Pryor

*Pryor, Priest & Harber*

# TWO PHOTOGRAPHS

I walk a lot. I've worked downtown for the last 27 years and lived here the last four. I walk to and from work, and my wife requires me to walk with her for exercise. It's a good thing. As you might imagine, I come across a great many interesting things and people walking around this town. Twice, I've come upon lost photographs.

I found the first several years ago on a parking garage floor. The second, I found less than a year ago on Broadway, just where it turns from Summit Hill. It was on the sidewalk just on the other side of a fence where the homeless camp. When I found these photos my heart was immediately broken. As with almost any photograph, the unfamiliar viewer searches for meaning. I knew someone was missing them. I considered what I could do to return them to their owners. Perhaps I should have just left them where they were found. With the first one, I actually took some steps to find its owner. In the end, I still have them both and continue to believe that holding them is better than their destiny of assured destruction, that somehow, by possessing them, I preserve the story of each - even if it is imagined:

### Photo 1

He didn't know that he dropped it from his wallet when he was retrieving a card to pay for parking. He just couldn't believe there wasn't a parking attendant or that cash was unwelcome. Although he later discovered the photo was missing from his wallet, he didn't know he'd truly lost it until he searched the top of his bedside table where he kept it at night. He always put it in his wallet when he left the house, which

happened with less frequency these days. After assuring himself it was gone, he drove back downtown and unsuccessfully traced his steps, panic and loss in his chest. The first place he went was the parking garage. He scoured the garage. Every floor. He searched the restaurant where he had lunch with his daughter and grandson. He did the same thing the following day.

Of the panel of three photos from the booth, it was the one she liked least. It was his choice. She'd reluctantly given it to him, writing "To Jesse" in the upper left corner.



Although she thought it unflattering, she knew he loved it. Through the years he protected it, and every time he looked at it he felt the same as he had the day he asked her to get in the booth. They were so young. She'd wanted to take another panel with both of them, and they did, the two of them laughing while squeezing in together. The weathered photo in his wallet had been the only one he wanted and, consequently, it was the one that survived all these years. It was her just as he always pictured her. The shutter closed before she got her smile right, leaving a seductive yet playful look. It was the look he loved then and the one that would survive in his wallet, on his bedside table, and in his mind.

He'd promised her that it would always be in his wallet, so that when someone found him after taking his last breath, the photograph would be with him. She always laughed dismissively when he said this. Was it a gift of love or of the hope of love. Was it the love of a season or a

lifetime? I imagine the answer was clear to him. I only wish I knew how to get it back in his wallet.

### Photo 2

He kept it in his coat pocket. His daughter mailed it to a post office box he once kept in Knoxville. He would pull it out and look at it infrequently, but he knew where it was - front left pocket. He was always drunk when he pulled it out to look at it. It would start with a smile and end with tears. He never pulled it out on those rare occasions he was sober. A sober mind couldn't adjust to or absorb what was lost. Can a photo that represents such sadness also serve as the last bit of hope? Perhaps it captured the only light he could see at the end of a never-ending tunnel. Then it was gone. If I could only find him.



As stated, these are stories I've conjured from the images. They are probably not in the vicinity of truth. Perhaps you might see a different story behind the image. Does the story you see tell us something about you? Some of you have a photo you carry, one not stored on a phone or tablet. I have a photo in my own wallet. Only one. The wallet also serves as a phone carrier, and the aged photo sits beside my vaccination card and driver's license. It is from a panel taken in a K-Mart photo booth around 1975. Behind the sepia tones and the missing flecks of cheap film are the faces of two boys. My phone contains thousands of photos of those closest to me. I can look at them anytime I want. For some reason this is the one photo I can touch. It is me and my little brother looking into the lens. There we are in the heart of our innocence, before life took hold, before time gave us lessons like unwanted gifts. My father always taught me to take my brother with me. He is 3 years younger.

The result has been as intended - John is my best friend and our continued friendship has produced a field of flowers. Our many friends are friends with each other, and those friendships have given us unlimited joy and many great times. Our baby sister, Amy, is no less important to me. The three of us are thick as thieves, but she hadn't been born when my mother forced us into the booth. It's funny - despite her absence from the photo, I think of her every time I pull it. Even an incomplete picture can become a completely perfect treasure. When she reads this, I'll have to get into a photo booth with both of them.

I know how heartbroken I'd be without my photo. Perhaps that is why I hold onto the other two. It's not realistic to think I'll return them to their owners, but there is something magical and mysterious in possessing them and the many possible stories they represent. I do know this - a message in a bottle cannot be delivered unless it stays afloat.







# NIL COLLECTIVES ARE THE OUTLAWS OF THE NCAA'S POST-ALSTON WILD WEST

The Supreme Court's decision in *National Collegiate Athletic Association v. Alston Et. Al.*<sup>1</sup> ushered in what has been both affectionately and derogatively referred to as the "wild west" era of college athletics. In *Alston*, the conservative-majority Supreme Court, in a somewhat unexpected decision, affirmed the ruling of the Ninth Circuit Court of appeals that the National Collegiate Athletic Association ("NCAA") had violated the Sherman Act by "agreeing to restrict the compensation colleges and universities may offer the student-athletes who play for their teams."<sup>2</sup> For supporters of the decision, *Alston* provided an opportunity for college athletes to be compensated for their play and, effectively, brought pay-for-play out of the shadows, with stories of (previously) improper payments and benefits from university boosters to college athletes being replete, in a way that would allow for the NCAA to better regulate the practice so that athletes were not being taken advantage of and larger schools were not being given an unfair advantage in recruiting top athletes. For those against the decision, *Alston* represented the beginning of an arms race in college athletics where the richest schools would get richer, so to speak, *because* of their ability to offer more money and better inducements to top athletes in return for them attending their school and college athletes would be harmed in the process. Regardless of what any person's stance was on the *Alston* decision, it was clear that the name, image, and likeness ("NIL") era, where college athletes could profit from, as the name suggests, their name, image, and likeness, had begun.

As stories of college athletes securing lucrative contracts for use of their NIL began to pop up,<sup>3</sup> a curious type of business began to pop up around major universities: NIL collectives. NIL collectives are essentially companies that are set up with the explicit purpose of raising funds for college athletes at a certain school, with some even offering subscription services where fans can donate the equivalent of the cost of a Netflix subscription to a fund. The NIL collectives then advertise the amount of funds that they have to entice potential athletes to go to their school: if you are considering the University of Tennessee, knowing that there is a group that already has a certain amount of money that they are willing to make available for you might help sway your decision of where to ultimately play your particular sport in college. As of now, NIL collectives are still permitted by the NCAA, if only because the NCAA has been slow to act during the "wild west" era of NIL.<sup>4</sup> NIL collectives look quite a lot like the same concept as a booster at a university providing an improper payment to an athlete to attend a certain university as was the case pre-*Alston*, and the NCAA is expected to provide new guidelines soon that will ban the practice of university booster-led NIL collectives.<sup>5</sup>

But as the NCAA considers how to handle the issue of NIL collectives raising money explicitly for the purpose of inducing athletes to go to a certain school, an issue that has only been highlighted by stories such as former National Football League Quarterback Charlie Batch tweeting to Caleb Williams, a prized transfer at the quarterback position, that Eastern Michigan University "is prepared to pay [Williams] ONE MILLION DOLLARS"<sup>6</sup> if he transferred to the school, state legislatures, including the Tennessee General Assembly, have attempted to jump out in front of any proposed NCAA guidance and explicitly *allow* NIL collectives. On April 20, 2022, Governor Bill Lee signed Amendment No. 1 to HB1351 to clarify the State of Tennessee's stance on NIL Collectives. HB1351, which was originally passed on April 29, 2021, allowed for a college athlete to be compensated for the use of their

NIL, under the conditions that the compensation was "commensurate with the fair market value of the authorized use of the athlete's name, image, or likeness" and that the compensation was "not provided in exchange for athletic performance or attendance at an institution."<sup>7</sup> The amendment removed the previous requirement that "an institution, or an officer, director, or employee of the institution" could not be involved in the "development, operation, or promotion of a current or prospective intercollegiate athlete's name, image, or likeness, including actions that compensate or cause compensation to be provided to athletes."<sup>8</sup> Further, the amendment clarifies that an institution *may* be involved in supporting an athlete's name, image, or likeness activities without improperly providing compensation to the athlete "so long as the institution does not coerce, compel, or interfere with an intercollegiate athlete's decision to earn compensation from or obtain representation in connection with a specific name, image, or likeness opportunity."<sup>9</sup> Effectively, under this change, universities are allowed to communicate with NIL collectives about opportunities that may be available to its athletes – taking a positive view, the university can help its athletes find opportunities for NIL compensation that may be available by connecting them with an NIL collective; taking a negative view, the university can shift its liability for possible NCAA violations to the NIL collective instead while still finding a way to pay its players. Most importantly, though, for NIL collectives, the amendment removes the express prohibition on

entit[ies] whose purpose includes supporting or benefitting the institution or its athletic program from compensating or causing compensation to be provided to a current or prospective intercollegiate athlete for the athlete's name, image, or likeness if the arrangement is contingent on the athlete's enrollment or continued participation at an institution.<sup>10</sup>

For now, at least, universities in the State of Tennessee will be able to work with NIL collectives to procure opportunities for their athletes to be compensated for their NIL. How long it will be before the NCAA explicitly prohibits NIL collectives, and what impact the prohibition will have on state laws to the contrary, remains to be seen. It truly is the wild, wild west in college sports indeed.

<sup>1</sup> <https://www.law.cornell.edu/supct/pdf/20-512.pdf>.

<sup>2</sup> *Id.*

<sup>3</sup> See generally, <https://www.sportico.com/leagues/college-sports/2021/nil-deal-examples-1234633234/> and <https://bleacherreport.com/articles/2946352-the-biggest-and-most-notable-nil-deals-in-college-football-so-far>.

<sup>4</sup> See generally, <https://www.cbssports.com/college-football/news/inside-the-world-of-collectives-using-name-image-and-likeness-to-pay-college-athletes-influence-programs/>.

<sup>5</sup> <https://www.si.com/college/2022/05/03/task-force-to-big-money-boosters-nil-sanctions-could-be-coming>.

<sup>6</sup> <https://twitter.com/CharlieBatch16/status/1478860539606573060?s=20>.

<sup>7</sup> <https://legiscan.com/TN/bill/HB1351/2021?msclid=cb3c42d7cfaf11ecb65250dab076c263>.

<sup>8</sup> <https://wapp.capitol.tn.gov/apps/BillInfo/default.aspx?BillNumber=SB2392&GA=112&msclid=1e29fdcbcfbf11ecbead2911ce7be05>.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

# DOES IT HURT TO ASK?

## NEW TENNESSEE STATUTE PERMITS PERSONAL SOLICITATION OF CAMPAIGN CONTRIBUTIONS BY JUDICIAL CANDIDATES

Although it didn't get a song in his Broadway musical, Alexander Hamilton argued that the judicial branch would lose its "necessary independence" if judges are elected, not appointed. Thomas Jefferson disagreed, and most States have followed his lead, permitting at least some of their judges to be chosen or retained by election. Even when they hold judicial elections, however, many States prohibit judicial candidates from personally asking for campaign contributions. Although Tennessee was one of them, that appears to have changed.

On March 18th, the Governor signed House Bill 1708, which states that, "[n]otwithstanding any law to the contrary, a judicial candidate may personally solicit and accept campaign contributions." This act "takes effect upon becoming a law, the public welfare requiring it."<sup>1</sup>

One "law to the contrary" that the General Assembly may have had in mind is Rule 4.1(A)(8) of Tennessee's Code of Judicial Conduct, which provides that, except as permitted by law, a "judicial candidate shall not . . . personally solicit or accept campaign contributions other than through a campaign committee authorized by RJC 4.4."<sup>2</sup> A Comment later in the Code repeats this prohibition, without any exceptions: "Judges and judicial candidates are prohibited from personally soliciting campaign contributions or personally accepting campaign contributions."<sup>3</sup>

House Bill 1708 was introduced in January by (among others) House Majority Leader William Lambert, an attorney from Sumner County. After it passed the House, it was substituted for a Senate Bill with similar language. Nothing in the legislative history indicates what prompted either bill, and HB 1708 seems to have passed both houses without any debate.

The bill came to the attention, however, of Tennessee's Judicial Ethics Committee. On March 29th, the Committee issued an advisory opinion addressing whether the Code of Judicial Conduct still prohibits personal solicitation of contributions by a judge or judicial candidate now that the bill has become law. Advisory Opinion 22-01 concludes that judicial candidates are now permitted to personally solicit or accept campaign

contributions.<sup>4</sup> The Opinion notes that, by its terms, the prohibition in RJC 4.1(A)(8) applies "except as permitted by law." Given the new statute, personal solicitation is now expressly permitted by law.

The Opinion goes on, however, to caution judges and judicial candidates that other sections of the Code could be "indirectly implicated" by a judge's personally soliciting or accepting campaign contributions. The Opinion notes that the Code requires a judge to act at all times "in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary," and it prohibits a judge from being influenced in a case by a judge's political or financial "interests."<sup>5</sup> The Code also requires a judge to disqualify himself or herself "in any proceeding "in which the judge's impartiality might reasonably be questioned."<sup>6</sup>

These Code sections and others, the Opinion states, should guide judges and judicial candidates in deciding "whether or how" to personally solicit or accept contributions.<sup>7</sup>

The Judicial Ethics Committee's concern is understandable. One premise of the Code of Judicial Conduct is that, to maintain the dignity of judicial office, judge should avoid even "the appearance of impropriety in their professional and personal lives," and should aspire "at all times" to conduct that ensures "the greatest possible public confidence in their independence, impartiality, integrity, and competency."<sup>8</sup>

The Code also recognizes that, even conduct that is permissible for judges should not be done in a way "that would appear to a reasonable person to be coercive."<sup>9</sup> For example, the Code permits judges to solicit contributions or memberships for certain charitable or civic organizations. "[D]epending on the circumstances," however, "a judge's solicitation of contributions or memberships for an organization, even as

permitted by RJC 3.7(A), might create the risk that the person solicited would feel obligated to respond favorably, or would do so to curry favor with the judge."<sup>10</sup> A judge's solicitation of contributions for his or her own reelection campaign could very likely appear "coercive," especially to





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lawyers with cases pending before that judge.

The United States Supreme Court recognized these concerns when it upheld a similar prohibition on personal solicitation of contributions in Florida's Code of Judicial Conduct against a First Amendment challenge.<sup>11</sup> The Court found that the prohibition on personal solicitation of contributions by judicial candidates survives strict scrutiny because it advances the compelling interest of protecting public confidence in judicial integrity in a way that is not only narrowly tailored but "intuitive": "judges, charged with exercising strict neutrality and independence, cannot supplicate campaign donors without diminishing public confidence in judicial integrity."<sup>12</sup> "Simply put, Florida and most other states have concluded that the public may lack confidence in a judge's ability to administer justice without fear or favor if he comes to office by asking for favors."<sup>13</sup>

The Court explained that judges cannot campaign the way other public officials do. For legislators, "responsiveness to the preferences of their supporters is key to the very concept of self-government through elected officials."<sup>14</sup> In deciding cases, however, "a judge is not to follow the preferences of his supporters, or provide any special consideration to his campaign donors."<sup>15</sup> "The mere possibility that judges' decisions may be motivated by the desire to repay campaign contributions is likely to undermine the public's confidence in the judiciary."<sup>16</sup>

The Court recognized that Florida and other States permit contributions to be solicited by a judge's campaign committee, and even those solicitations could reduce public confidence in the integrity of the judiciary. But the personal-solicitation ban, to the Court, "aims squarely at the conduct most likely to undermine public confidence in the integrity of the judiciary: personal requests for money by judges and judicial candidates."<sup>17</sup> As the Court put it, "the identity of the solicitor matters, as anyone who has encountered a Girl Scout selling cookies outside a grocery store can attest."<sup>18</sup>

The Tennessee bench and bar now must decide how to respond to the new law. Many judges and judicial candidates may decline to solicit contributions personally, whether for their own campaigns or the campaigns of others, especially given the thorny recusal issues (not to mention tactical recusal motions) that personal solicitation may invite.

The Tennessee Supreme Court may determine that, to the extent it seeks to override a Rule of Judicial Conduct, HB 1708 infringes on the Court's inherent power to promulgate rules governing the judicial branch. Consider a hypothetical: if the legislature passed a law stating that judicial candidates may campaign by promising to rule a certain way in a particular case, presumably the Supreme Court could find the law an

unconstitutional breach of the separation of powers. HB 1708 may not present that sort of direct conflict between branches, however, especially since Rule of Judicial Conduct 4.1 prohibits personal solicitation of campaign contributions "except as permitted by law."

The Tennessee Supreme Court could also consider amending the Code of Judicial Conduct to restrict or regulate a judicial candidate's personal solicitation of contributions. Examples of such restrictions in States that permit judicial candidates to personally solicit contributions include limiting personal solicitations to requests made when speaking to groups of a certain size<sup>19</sup>; requiring personal solicitations to be in writing<sup>20</sup>; and prohibiting personal solicitations to lawyers or litigants with cases pending before the judicial candidate.<sup>21</sup>

Regardless of whether the Code is amended, the Tennessee Supreme Court and bar will doubtless be closely monitoring how HB 1708 affects judicial campaigns and the public's confidence in judicial integrity and impartiality. Elected or not, "judges are not politicians"<sup>22</sup> and it's important they not be viewed as politicians; on that, both Hamilton and Jefferson would agree.

*A judge's solicitation of contributions for his or her own reelection campaign could very likely appear "coercive," especially to lawyers with cases pending before that judge.*

<sup>1</sup> TN H.B. 1708.

<sup>2</sup> Tenn. Sup. Ct. R. 10, CANON 4, Rule 4.1(A)(8).

<sup>3</sup> Tenn. Sup. Ct. R. 10, CANON 4, Rule 4.4, cmt. 1.

<sup>4</sup> See Tennessee Judicial Ethics Advisory Opinion No. 22-01 (March 29, 2022). One Committee member concurred in the Opinion "in part." It's not clear which part. See *id.* at 2.

<sup>5</sup> Ad. Op. 22-01 at 2 (quoting RJC 1.2 and 2.4).

<sup>6</sup> Ad. Op. 22-01 at 2 (quoting RJC 2.11).

<sup>7</sup> Ad. Op. 22-01 at 2.

<sup>8</sup> Tenn. Sup. Ct. R. 10, Preamble 2.

<sup>9</sup> Tenn. Sup. Ct. R. 10, CANON 3, Rule 3.1(D).

<sup>10</sup> Tenn. Sup. Ct. R. 10, CANON 3, Rule 3.1, cmt. 4.

<sup>11</sup> *Williams-Yulee v. Fla. Bar*, 575 U.S. 433 (2015).

<sup>12</sup> *Id.* at 445.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.* at 446.

<sup>15</sup> *Id.* at 446-47.

<sup>16</sup> *Id.* at 447.

<sup>17</sup> *Id.* at 449.

<sup>18</sup> *Id.* at 450.

<sup>19</sup> In Minnesota, a judicial candidate may "make a general request for campaign contributions when speaking to an audience of 20 or more people." Minn. Code Jud. Conduct Rule 4.2(B)(3).

<sup>20</sup> In Missouri, a judicial candidate "may make a written campaign solicitation for campaign funds of any person or group, including any person or group likely to appear before the judge." Mo. Sup. Ct. R. 2-4.2(B).

<sup>21</sup> In New Mexico, "[c]ontributions" to a judicial campaign "from attorneys and litigants shall be made only to a campaign committee." N.M. Code of Jud. Conduct, Rul 21-402(E).

<sup>22</sup> *Williams-Yulee*, 575 U.S. at 437.



## HOW TO THRIVE IN LAW AND LIFE

By: Emily Heird, LPC/MHSP

Vantage View Coaching

# HOW TO REST WELL

“A decline in performance should lead to a search for its cause and to a focus on the quality of your recovery. Remember, often **doing less** is more powerful than training more.”

—Rountree Sage, *The Athlete's Guide to Recovery: Rest, Relax, and Restore for Peak Performance*

As a lawyer, you may not be an athlete performing herculean feats on the playing field, but you spend your days performing mental gymnastics. However, unlike athletes, most lawyers do not understand the importance of rest as part of their regimen for sustaining high performance.

Many lawyers treat their workdays and careers as sprints, not a marathon. A sprinter runs the race with full power, expending 100% of their energy from start to finish. The marathoner paces themselves, conserves energy, drinks water, and eats along the way to replenish energy and ensure they can complete the long distance.

Many of my client's days look like this when we start working together:

- Stressful morning getting everyone out the door on time.
- Arrive at work.
- Put head down and work 8-10 hours straight.
- Leave work.
- Tend to the kids/evening duties.
- Either work into the evening or try to zone out/distract before going to sleep and repeating the next day.
- Wait until vacation to disconnect.

The email notifications are still on at home, and their brain is preoccupied with work. Even if they've turned off email notifications, their brain is still thinking about work, or there is an underlying hum of anxiety about the to-do list or feelings of guilt for not working. They might work more hours at night to quiet the anxiety. They fall into the busyness and productivity trap: the belief that if you work hard, you will be successful. And when you are successful, you will feel happy. But most of the lawyers I work with realize they have success on paper but don't *feel* happy. They feel stressed, exhausted, and as though they are failing at work and home.

To thrive in law and life and build a sustainable career without burning out, take a page from athletes' playbooks—approach your days and career like a marathoner, not a sprinter. Athletes incorporate rest and recovery days as part of building strength, and you can build your mental strength and resiliency with rest and recovery.

I discuss two rest categories with my clients: 1. breaks and reset strategies throughout the workday and 2. rest and recovery activities outside of work. The first category helps release stress as you make it through the day, and the second category helps build a life outside of work that brings you happiness. Ironically, “The research says that being successful doesn't automatically make you happier, but being happier – being more positive – makes you more successful.” – Shawn Achor, Ph.D., former Harvard professor, psychologist, and leading expert on the connection between happiness and success.

While it may not feel like you have time for rest or time to do anything other than work, prioritizing rest and recovery will only enhance

your career. A few benefits of rest include: reducing stress, replenishing the brain's stores of attention and motivation, boosting creativity, improving productivity, improving sleep, boosting mood and immunity, and enhancing decision making.

There are seven types of rest we need:

1. **Physical rest:** Passive physical rest includes sleeping, napping, and Non-sleep Deep Rest (NSDR). Active physical rest is restorative to your body (yoga, stretching, getting a massage).
2. **Mental rest:** Your brain needs a break from processing information, problem-solving, and decision-making. Taking small breaks throughout the day gives your brain a mental break and recharges the attention battery. Taking extended breaks doing other activities in the evenings and on weekends allows your brain to synthesize information and come up with solutions to problems. You return to work with sharper focus and increased motivation.
3. **Sensory rest.** We live in an over-stimulated world. We need a break from the screens, the dings of notifications, and the background noise. Sensory rest includes closing your eyes for a few minutes at your desk, sitting in a quiet room for a while, and disconnecting from electronics.
4. **Creative rest:** When we tap into our creative side, it allows us to experience awe and wonder. Activities include being out in nature and appreciating the world's beauty or engaging with the arts. Taking a pottery class, dusting off that instrument you used to play, coloring, going to an art show, doodling, painting, going to a concert or theater performance, or writing are ways you can experience the arts.
5. **Emotional rest:** Everyone needs space to express themselves emotionally. Lashing out in anger because you hold everything in is damaging. The “I'm fine” or “I'm great!” response many lawyers give when the truth is they are not, results in people feeling isolated and lonely. Find people with whom you can be honest and trust you will receive support. Build friendships where you can be authentic and accepted for who you are.
6. **Social rest:** Many lawyers are people-pleasers and say “yes” to many engagements when they want to say “no.” Spend time around positive people who support you. Say no to activities you don't want to do and no to spending time with people who bring you down.
7. **Spiritual rest:** This is our ability to connect with something larger than ourselves and feel a sense of purpose, belonging, and love. Adding prayer, meditation, community involvement, or time in nature to your routine are ways to incorporate spiritual rest.

Prioritize rest as part of your strategy for thriving in law and life. Schedule these activities on your calendar. Vacations are great for an extended break, but you can't rely on those to recharge you for the other 50 weeks of the year. Changing your daily habits is the secret. After all, an NBA basketball player does not wait until the off-season to rest.



By: Paula Schaefer

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# REDEFINING THE UNAUTHORIZED PRACTICE OF LAW

When I moved to Knoxville in 2008, I had been practicing law for 12 years. I had been licensed in Missouri since 1996 and in Kansas since 1997. My new job was as a law professor at the University of Tennessee. I anticipated that I might sometimes receive requests for legal advice about professional conduct issues—especially about bar admission—from my future students and members of the legal community. I knew that if I gave that advice without being licensed in Tennessee, I would be engaged in the unauthorized practice of law. Here is the pertinent part of Tennessee's rule, which is patterned on Model Rule of Professional Conduct 5.5.

## **Tennessee Rule 5.5: Unauthorized Practice of Law; Multijurisdictional Practice of Law**

(a) A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.

(b) A lawyer who is not admitted to practice in this jurisdiction shall not:

(1) except as authorized by these Rules or other law, establish an office or other systematic and continuous presence in this jurisdiction for the practice of law; or

(2) hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction.

If I was going to sometimes give legal advice to clients in this jurisdiction from an office in this jurisdiction, I was going to need to be licensed in this jurisdiction. Were they going to be paying clients? No, usually not. But that did not change anything. My options were to be licensed here or to say no when asked for legal advice. While part c of the rule allows a non-Tennessee lawyer to practice here on a temporary basis in defined circumstances<sup>1</sup> and part d allows a non-Tennessee lawyer to work in the state as in house counsel or to practice Federal law here,<sup>2</sup> these parts of the rule did not apply to an attorney who had relocated to Tennessee and would provide legal advice to Tennessee clients.

So I filled out the Tennessee application for admission to the bar without examination. My application would be granted based on my prior years of practice, a character and fitness investigation, and a fee.

Were my future clients protected by that process? Or is there another way?

In April 2022, the Association for Professional Responsibility Lawyers (APRL) proposed a new Rule 5.5 for consideration by the states and the ABA.<sup>3</sup>

## **APRL's PROPOSED RULE 5.5: Multijurisdictional Practice of Law**

(a) A lawyer admitted and authorized to practice law in any United States jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may provide legal services in this jurisdiction, subject to the other

provisions of this rule.

(b) Only a lawyer who is admitted to practice in this jurisdiction may hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction.

(c) A lawyer who provides legal services in this jurisdiction shall:

(1) Disclose where the lawyer is admitted to practice law;

(2) Comply with this jurisdiction's rules of professional conduct, including but not limited to Rule 1.1

(Competence), and with the admission requirements of courts of this jurisdiction;

(3) Be subject to Rule 8.5 regarding the disciplinary authority and choice of law rules of this jurisdiction; and

(4) Not assist another person in the unauthorized practice of law in this, or any other, jurisdiction.

[proposed part d concerning foreign-licensed lawyers is omitted]

If adopted by Tennessee, this rule would allow an attorney licensed elsewhere to relocate to Tennessee and practice law here without being admitted in Tennessee. The attorney would need to be competent, of course, and comply with all professional conduct rules. They would need to seek admission to a court of the state before appearing there. And the attorney would be subject to discipline in Tennessee, which would typically result in reciprocal discipline in any licensing jurisdiction.

It is true that the attorney utilizing this new Rule 5.5 would not have to pass the Tennessee Bar Exam, but is that significant? The Tennessee Bar Exam (like the exams in 40 other U.S. jurisdictions) is the Uniform Bar Exam,<sup>4</sup> an exam focused on competency in general legal principles and skills and not Tennessee law. Surely an attorney admitted in another U.S. jurisdiction has demonstrated at least entry-level competence to practice law.<sup>5</sup>

While Tennessee allows admission by transferred UBE score<sup>6</sup> and admission by comity,<sup>7</sup> that does not mean there is not a need for APRL's 5.5. Those other avenues to bar admission require an application, time, and significant fees. The application process provides little more protection to Tennesseans than that provided by APRL's proposed rule 5.5. The proposed rule does not allow a bad attorney from another state to have a fresh start in Tennessee—the rule requires that the attorney is not disbarred or suspended. Whether licensed here or elsewhere, all attorneys—as fiduciaries—would have the same obligation to provide competent, diligent representation to their clients.

The proposed rule 5.5 also makes it relatively easy for a non-Tennessee attorney to practice in Tennessee on a temporary basis without fear of being disciplined for engaging in the unauthorized practice of law. It is crucial to understand that it can be difficult to know when an attorney is “practicing in” a state. Physically entering into the state (or not) is not determinative. Giving advice about a state's law is not determinative. Serving a client that is located in the state is not determinative. But the more connections to a state, the more likely a state is to find that an attorney is practicing law there. The question of

*continued on page 24*

**If you have an idea for Schooled in Ethics column, please contact Cathy Shuck at 541-8835.**

# barrister bullets

## MONTHLY MEETING

Plan now to attend the Barristers monthly meeting on Wednesday, May 11, starting at 5:15 pm at outdoor patio at The Firefly at the Hilton, located at 501 W. Church Avenue, Knoxville. Social time starts at 5:00 pm. Register by clicking May 11 on the event calendar at [www.knoxbar.org](http://www.knoxbar.org).

## VETERANS LEGAL ADVICE CLINIC

The Veterans' Legal Advice Clinic is a joint project of the KBA/Barristers Access to Justice Committees, Legal Aid of East Tennessee, the Knox Co. Public Defender's Community Law Office, the UT College of Law, LMU- Duncan School of Law, and the local Veterans Affairs office. This is a general advice and referral clinic which requires attorney volunteers for its continued operation. The next Veterans Legal Clinic will be held in person at the Knoxville Community Law Office on May 11. Sign up at <https://www.knoxbar.org/?pg=Upcoming-Legal-Clinics>.

## VOLUNTEER BREAKFAST COMMITTEE CONTINUES OPERATIONS

The Volunteer Breakfast is a recurring event on the 4th Thursday of each month at 6:15 a.m. at the Volunteer Ministry Center, located at 511 N. Broadway, Knoxville, Tennessee. The Barristers Volunteer Breakfast Committee always needs volunteers to serve food or sponsor. The cost is \$150 for sponsoring, and we need 4-5 volunteers. If you are unable to fund the breakfast, the Barristers will subsidize the cost of the breakfast. We meet at 6:15 a.m. and serve breakfast to approximately 30-40 individuals, generally leaving the site around 7:30 a.m. It's a great way to serve the community! Please contact either Matt Knable at (865) 360-5044 or Laura Wyrick at (865) 297-5511 with any questions and/or about volunteering.

## BETTER, continued from page 9

- 14 American Battlefield Trust, Antietam, Sharpsburg, <https://www.battlefields.org/learn/civil-war/battles/antietam>, last visited May 9, 2022.
- 15 American Battlefield Trust, Peninsula Campaign, <https://www.battlefields.org/learn/articles/peninsula-campaign-0>, last visited May 9, 2022.
- 16 Report of General Robert E. Lee, Peninsular Campaign, Seven Days' Battle, available at <https://www.battlefields.org/learn/primary-sources/robert-e-lees-report-seven-days-battles>.
- 17 Edward Steere, Early Growth of the National Cemetery System, *Quartermaster Review* (Mar.-Apr. 1951), available at <https://www.quartermasterfoundation.org/article/early-growth-of-the-national-cemetery-system/>.
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- 19 *Id.*
- 20 Steere, *supra* n. 17.
- 21 Camden Arciniega, Montgomery Meigs: Visionary & Patron of Arlington National Cemetery, <https://freetoursbyfoot.com/montgomery-meigs-visionary-patron-arlington-national-cemetery/>, last visited May 10, 2022.
- 22 *Id.*
- 23 *Id.*
- 24 *Id.*
- 25 Arlington National Cemetery, History of Arlington National Cemetery, <https://www.arlingtoncemetery.mil/Explore/History-of-Arlington-National-Cemetery#:~:text=Today%2C%20approximately%20400%2C000%20veterans%20and,the%20grounds%20of%20the%20cemetery.>
- 26 See Section 6, Grave 9572-NS.
- 27 See Section 60, Grave 8083, <http://www.arlingtoncemetery.net/dbhouck.htm>.
- 28 See Section 60, Grave 8076.
- 29 See Section 60, Grave 8079.
- 30 The Quartermaster Song, available at [https://quartermaster.army.mil/history/qm\\_song.html](https://quartermaster.army.mil/history/qm_song.html).

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By: Brad Fraser

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# THE EMPTY CHAIR

Trace Atkins has a song called “Empty Chair” about a small group of “old timers” hanging around a small-town diner.<sup>1</sup> The chorus goes like this:

Those guys were front-line brothers  
 Their lives depended on each other  
 They were soldiers long before they were men  
 Yeah, the ones that somehow survived  
 Came home, went on to build their lives  
 Never chargin’ us a penny  
 For the debt we owe to them  
 And you can almost smell the gun smoke  
 And the foxholes that they shared  
 On the days they raise their coffees  
 And toast the empty chair<sup>2</sup>

The chorus paints a nice picture of these guys honoring a colleague who died in the line of duty.<sup>3</sup> The video presents numerous soldiers who did the same.<sup>4</sup>

Although Trace Adkins’ “Empty Chair” is relatively recent release, the idea—musicians honoring a dearly departed person by noting an absence—is not new. In supergroup Traveling Wilburys’ hit single “End of the Line,” the music video paid tribute to a band member, Roy Orbison, whose vocals were featured on the track (recorded long before his unexpected death), by showing an empty rocking chair when his vocals were played.<sup>5</sup> The concept of a conversation with someone who is absent has even delved into political rhetoric; for example, you may remember the 2012 Republican National Convention, at which Clint Eastwood had an empty chair discussion with President Barack Obama.<sup>6</sup>

## “Empty Chair” in the Legal Context

Of course, lawyers frequently refer to the “empty chair” as a non-party in lawsuit who may be blamed at trial by a defendant for some or all of the fault. Specifically, Tennessee law addresses this concept in Tennessee Code Annotated Section 20-1-119, which allows a plaintiff to amend their complaint, in certain circumstances after the expiration of Tennessee’s one-year personal injury statute of limitation.<sup>7</sup> The amendment must be made within 90 days of the filing of the answer asserting the affirmative defense of comparative fault by the defendant.<sup>8</sup>

The statute has been litigated on numerous occasions and has been the subject of countless appeals.<sup>9</sup> The jurisprudence surrounding this concept has evolved several times since its inception. The purpose of the statute seems to be avoiding a trial with an “empty chair,” when possible.<sup>10</sup>

I had a very recent conversation with John Butler about a suit he had filed in federal court. I requested, and of course John graciously stipulated, to a 21-day extension to file an answer on behalf of my client, a defendant. He added the caveat that he would agree if I would agree to wait until after the expiration of his original statute of limitations before filing. Curiosity got the better of me, so I had to ask him why he would want me to wait to file the answer until the statute of limitations expired. He explained that Grant Mitchell in his office warned that if my client was to raise the comparative fault of another party in my answer, since the statute of limitations has not yet run, a plain reading of the statute

reveals that the 90-day extension would not be available if I filed the answer prior to the date the statute ran.

My interest piqued, I reviewed the language of the statute:

- (a) In civil actions where comparative fault is or becomes an issue, if a defendant... alleges in an answer or amended answer to the original or amended complaint that a person not a party to the suit caused or contributed to the injury or damage for which the plaintiff seeks recovery, **and if the plaintiff’s cause or causes of action against that person would be barred by any applicable statute of limitations but for the operation of this section**, the plaintiff may, within ninety (90) days of the filing of the first answer or first amended answer alleging that person’s fault, either:

(1) Amend the complaint to add the person as a defendant pursuant to Tenn. R. Civ. P. 15 and cause process to be issued for that person; or

(2) Institute a separate action against that person by filing a summons and complaint . . .<sup>11</sup>

The key language of the statute, emphasized above, was “if the plaintiff’s cause . . . of action against that person would be barred by any applicable statute of limitations.” That did not seem to make much sense to me, but rather than questioning that rationale, I went back to wondering why, particularly in this case, I would prefer to have an empty chair at trial. Although I was not immediately aware of anyone else that wasn’t already a party to the suit at whom I wanted to point the finger, I certainly could not think of a reason that I would want to exclude another defendant from the suit.

It is different in cases involving immune parties, as Tennessee courts allow fault to be assigned to a non-party government entity protected by the Governmental Tort Liability Act (GTLA).<sup>12</sup> Another example would be an immune party pursuant to expiration of a statute of repose.<sup>13</sup> However, this same reasoning would not apply to a party against whom fault may not be attributed, *e.g.*, fault cannot be attributed against an employer in a suit filed by an employee for negligence.<sup>14</sup> These parties cannot be placed on the jury verdict form for comparative fault purposes at trial.<sup>15</sup>

But other than in a case with an immune party, I struggle to see an advantage to defending a case with an “empty chair” party. Maybe it is just me, but I would prefer all the chairs be filled at trial—and, particularly, at mediation—with parties.

<sup>1</sup> Audrey Gibbs, Trace Adkins’ New Song “The Empty Chair” Honors Veterans, AMERICAN SONGWRITER, <https://americansongwriter.com/trace-adkins-new-song-the-empty-chair-honors-veterans/> (last accessed May 9, 2022).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> Marah Eakin, The Traveling Wilburys came to terms with death on “End Of The Line”, AV CLUB, <https://www.avclub.com/the-traveling-wilburys-came-to-terms-with-death-on-end-1798287543> (Dec. 21, 2015).

*continued on page 24*



## WELL READ

By: Kayla Morán

UT College of Law

Candidate for J.D., 2022

# THE RISE OF THE CREATOR ECONOMY AND HOW LAWYERS CAN BE A PART OF IT

In the last three to five years, the influencer marketing industry and the greater creator economy have exploded and transformed the way we consume, interact and connect. Several industries adjacent to influencer marketing have had a boom too, especially podcasts. There are new podcasts launching every day on topics ranging from pop culture commentary to health and wellness, to advice and resources on how to join the influencer industry most aligned with you, your interests, and skills. One such podcast is *Life with Marianna*,<sup>1</sup> hosted by Marianna Hewitt, a top influencer and co-founder of Summer Fridays. Weekly, she shares conversations with her network of friends, fellow founders, mentors, entrepreneurs, and executives from major companies across all industries, with the objective of inspiring those listening to discover their passions and give them the tools to achieve their career and life goals.

A common theme on *Life with Marianna* is stories about people in traditional roles who take their talents to social media and build business empires. In her interviews, her guests share their experiences and what they've learned along the way to encourage us to find ways to use our unique skills in the industry too. Marianna has yet to have a lawyer in the industry on her show, but several smaller podcasters with networks of their own, inspired by Marianna, have begun to share the stories of how people with law degrees have leveraged their expertise in the ever-changing social media landscape. It's a small group at the moment but as the rise of the entrepreneur continues, we should expect to see more lawyers enter the influencer industry.

There is much power in influencer marketing, as it touches everyone from doctors, to athletes, to the "average Joe" with its unique ability to encourage anyone to parlay their talents into the creator economy. As a law student, there has been no more obvious whitespace in the creator economy than for legal professionals to make their mark. These lawyers will be a new generation, led by law school classes comprised of millennial and Gen Z students entering the workforce in the coming years. These students grew up with social media at their fingertips, get their news from social media accounts on Instagram, Tik Tok, and from podcasts, and are seeing the innovation that is possible when they combine their social savvy with their classic legal education. This generation will encourage all generations of lawyers to join the influencer industry.

There are many ways that lawyers can be a part of this shift towards social media, both as traditional lawyers and as creators and influencers themselves. They can do so in traditional capacities, such as law firm practice groups dedicated to all areas of the social media marketplace like contracts, intellectual property, privacy, taxes, and business formation, or more modern ways like legal and management service companies. The need for legal and management teams is becoming more and more crucial for creators and influencers in the industry, and having lawyers supporting them in these roles, whether through a law firm or a lawyer-run management company, would provide influencers and creators

with the tools for better business management and representation in negotiations and public relations.

Often the influencers who are in search of this representation are the smaller, new creators who do not have access to more established teams at management companies and law firms. These are the creators that would most benefit from having lawyers educate them on the importance of having a contract, reviewing all contracts presented to them, and negotiating terms like perpetuity, exclusivity, and other licensing and usage rights. This need for education and information invites another role for lawyers in the creator economy: lawyers acting as creators themselves to provide their fellow influencers the access to information and resources about laws governing the industry through their own social media accounts.

Another way lawyers can provide this education, without being camera-facing on Instagram, Tik Tok or YouTube, is hosting their own podcasts. It is an easy and affordable way to get started and can be done as a hobby or passion project. Lawyers working in any traditional legal field with an interest in influencer marketing and the creator economy can provide commentary and industry news, for those in the space that are also lawyers or for creators who have not yet hired counsel of their own.

Similar to how in the latter half of the 20<sup>th</sup> century, the law and the legal industry adapted to navigate the impact of technology and the internet, a new era is upon the industry once again. With the rapid growth of social media and the creator economy, the legal industry is being shaken up and new practice areas are emerging. A revamp of the laws relating to social media including intellectual property, data privacy, contract, employment, and business law may be on the horizon to regulate and protect the creator economy.

As lawyers lead the way in these reforms, it is the lawyer influencers alongside the lawyers on an influencer's team who are equipped with that knowledge which is essential in educating the masses. It is time that legal knowledge is made even more accessible. We live in a world where everything we do online has legal implications, and getting a lawyer can be expensive, so why not share it on social media where a lawyer can still be compensated for their expertise yet serve a whole new set of clients.

The creator economy is a game changer for democratizing access to law and legal knowledge. Podcasts like *Life with Marianna* and others hosted by practitioners and industry experts will be on the front lines of providing the updates on industry standards, regulations, and tips and tricks for creators and legal professionals alike. Social media platforms and podcasts have become a new form of classroom, and it is an exciting time to break into the creator economy in any capacity, especially for lawyers.

<sup>1</sup> Life with Marianna, hosted by Marianna Hewitt, is on Apple and Spotify Podcasts <https://podcasts.apple.com/us/podcast/life-with-marianna/id1538242507> and <https://open.spotify.com/show/2AiBpnJg7jjGwHiomNjT1q?si=80f0a9ebd1924a0c>





# WELCOMING THEM TO THE TABLE: THE JOY OF MENTORING AS A TEACHING LEARNER

My first official mentor and I haven't spoken to one another in 3.5 years, but that is a relationship I miss even unto this day. In one week, my mentee, who has been with me for a year and a half, graduates. I grieve that relationship already, too, as she is off to accomplish great things in the Chattanooga Bar.

When the LMU-DSOL class of 2016 was coming up in the world, we were constantly reminded of how lucky we were to be given a seat at the legal table. We were from the new school, the school that initially didn't get accreditation, the school that had more study rooms than we had graduating students. But one firm picked me. I had never even remotely considered personal injury. I didn't dismiss it; I just didn't consider it. It wasn't on my radar until it was - until someone asked me to apply at that firm, offered me a clerkship, and told me the job - after graduation - was mine to lose (I wrote a response in opposition to a motion for summary judgment that blew them all away, including defense counsel).

I stayed there for six years, one year as a law clerk and five as an attorney. While some have goaded me, wondering why I became a "TV attorney," it was the perfect start for me. I had gone to law school as a second career. I was not interested in billable hours, literal stuffy shirts, or letting someone else take credit for my work. They gave me my start and made me the attorney that I am today, for better or for worse. My first firm, my opposing counsel, and the general Knoxville Bar mentored me to this seat that I have at the table today.

Somehow, I eventually became the mentor. It still makes me laugh when I think about it. Call it imposter's syndrome or sheer naivete as a new legal trainer, but my first law clerk was Isiah Robinson from UT and my heart still swells with pride thinking about him. Isiah has a knack for interpersonal relationships. He's a funny and relatable human who is an asset to the practice of law. I still miss him. Side note: Isiah, if you're reading this, you still haven't returned the book you borrowed from me.

Allison Cyrus-Walker came along a couple of law clerks later. I had to convince Tim to hire her; he wasn't sold initially. But by that point, I had proven my worth at selecting law clerks, and he took my word for it. I'm not sure she and I had much in common outside of being late-in-life female law school students. I was more a "Here I am, take it or leave it" type person. She was a nervous talker with big hair. As she talked, though, I spotted a diamond in the rough.

We hired her.

Since that day, I've wondered if I'm the mentor or the mentee. Sure, I've taught her about unnamed defendants and § 20-1-119 and how to "play dumb" during a fact-gathering phone call and how to locate a registered agent and what constitutes good service. I've taught her the mechanics of how to be a decent attorney.

In turn, she has taught me how to be a better lawyer and human. She's reminded me of that love you have of the law before you practice it every day and it beats the crap out of you. She's taught me about being confident in your position and not backing down. She's reminded me that being a real, listening, compassionate attorney is better than having the winning argument - it's best when you have both, though. She's taught me tenacity (driving back and forth from Soddy Daisy every day).

She told me a few weeks ago that she was nominated for the Lincoln Award for students who showed exemplary character. I immediately contacted Dean Lyon and told him I would write whatever letter was necessary to endorse her for such an award, because I know she's the most noble and worthy recipient of that award. I don't need

to meet the other nominees because Allison is everything we want new lawyers to be. She is smart, fearless, endearing, steadfast in her faith, and a little bit crazy.

Without getting too deep in the emotional weeds, please don't be afraid to be a mentor. Actually, you might not even know you're already a mentor. So, really, my request is this. The next time you see a "baby lawyer," don't think about how hard you're going to smack them in court. Don't ask them why in the world they want to practice law. Just think about the best advice you received when you were new and share it with them. Or just smile and welcome them to the Bar. They just might surprise you by teaching you a thing or two.

New graduates, if I have any advice, it is only to share what some of my many mentors taught me when I was coming up:

**Talk to your client.**<sup>1</sup> You are not smarter than them. They hold the key to your case; you just have to talk to them early and often. Further, nothing good comes from letting your case sit.

When you have no idea what the answer is, **call a more experienced attorney**<sup>2</sup> and ask.

When you have no idea of how to navigate client control and conversations, steal another lawyer's words. Paul Hogan should have received a commission for all my settlements in my first two years of practice, because I was writing (and later parroting) every single word he said in mediation.

**Have lunch with your peers.**<sup>3</sup>

**Grace can be more effective than punishment.**<sup>4</sup>

Don't be afraid to look at an attorney and **have the realization that you want to be the exact opposite of them.**<sup>5</sup>

**Things are different** if you're a female attorney. Sorry, it's just facts.<sup>6</sup>

**When in doubt, be nice.** You can always be a jerk later, but it's a lot harder to recover.<sup>7</sup> On the flip side, don't be too sensitive.<sup>8</sup>

**Be relatable.**<sup>9</sup>

**Wake up and pursue justice** each and every single day. It'll be okay - just **have another cup of coffee.**<sup>10</sup>



Allison Cyrus-Walker and her husband, Chase Walker, on their last day of 3L classes.

<sup>1</sup> Linda Betz, Esq., Marcos Garza, Esq.

<sup>2</sup> Terry Adkins, Esq., Dallas T. Reynolds, III, Esq.

<sup>3</sup> Michael Beehan, Esq., Jeffrey Gaspie, Esq.

<sup>4</sup> Judge Deborah Stevens.

<sup>5</sup> Names withheld to ignore the guilty parties.

<sup>6</sup> Timothy Elrod, Esq., Sarah M. Booher, Esq. By the way, this is my publication-appropriate phrasing.

<sup>7</sup> No comment.

<sup>8</sup> David Hollow, Esq. and I still joke about the first time we talked on the phone and I got all worked up wondering why he was being mean to me. For the record, that's just David and now he's one of my favorites.

<sup>9</sup> Isiah Robinson, Esq.

<sup>10</sup> Allison Cyrus-Walker, Esq.-To-Be.

whether an attorney is engaged in the unauthorized practice in a state can be difficult even under the seemingly liberal provisions of today's Model Rule 5.5(c) which allow temporary practice in a broad number of circumstances.<sup>8</sup> A Colorado attorney learned this the hard way when he helped his Minnesota in-laws negotiate terms for the payment of a judgment—and was found to have engaged in the unauthorized practice of law.<sup>9</sup> It did not matter that he never entered the state of Minnesota, was doing a pretty simple lawyering task, and was not paid for his work. The court found that he did not fit within any of the authorized temporary practice provisions of Minnesota's Rule 5.5(c).<sup>10</sup> APRL's proposed Rule 5.5 would eliminate this issue.

APRL's proposed rule recognizes the reality of modern practice. Licensed attorneys are capable of learning and practicing the law of any jurisdiction—on a temporary or permanent basis. Today's society is mobile. Moving across a state line need not disrupt a lawyer's career or require the delay and expense of seeking additional bar admissions. With modern technology, physical location of an attorney's office—once thought to be key in determining where an attorney is practicing—is not so important anymore. A recent ABA formal ethics opinion recognizes that lawyers can ethically practice law remotely from a state where they are physically located but not licensed as long as they do not hold themselves out as licensed in that state or practice in that state.<sup>11</sup> APRL's proposed Rule 5.5 would go a step further and recognize that being licensed in any U.S. jurisdiction is all that is required to practice anywhere on a temporary or permanent basis. The rule requires attorneys to provide clients with information about where the attorney is licensed, but ultimately allows clients to choose the attorney who will represent their interests. While there are issues that the states would have to debate and navigate in adopting this rule,<sup>12</sup> these issues are not insurmountable and do not outweigh the benefits of this new approach.

- <sup>6</sup> Travis M. Andrews, Clint Eastwood explains — and regrets — his speech to an empty chair, *THE WASHINGTON POST*, <https://www.washingtonpost.com/news/morning-mix/wp/2016/08/04/clint-eastwood-explains-and-regrets-his-speech-to-an-empty-chair/> (Aug. 4, 2016).
- <sup>7</sup> Tenn. Code Ann. § 20-1-119.
- <sup>8</sup> Tenn. Code Ann. § 20-1-119(b).
- <sup>9</sup> See, e.g., *Bidwell ex rel. Bidwell v. Strait*, 618 S.W.3d 309 (Tenn. 2021); *Moreno v. City of Clarksville*, 479 S.W.3d 795 (Tenn. 2015); *Nationwide Mut. Fire Ins. Co. v. Memphis Light, Gas & Water*, 578 S.W.3d 26 (Tenn. Ct. App. 2018).
- <sup>10</sup> See John A. Day, Donald Margolis, “‘Moreno’ and Unintended Consequences,” 52 TENN. B.J. 34 (Jan. 2016) (describing the impact of recent caselaw interpreting Tenn. Code Ann. § 20-1-119 and potential situations giving rise to “empty chair” defendants).
- <sup>11</sup> Tenn. Code Ann. § 20-1-119 (emphasis added).
- <sup>12</sup> *Carroll v. Whitney*, 29 S.W.3d 14, 21 (Tenn. 2000).
- <sup>13</sup> *Dotson v. Blake*, 29 S.W.3d 26, 30 (Tenn. 2000).
- <sup>14</sup> See *Troup v. Fischer Steel Corp.*, 236 S.W.3d 143 (Tenn. 2007); *Ridings v. Ralph M. Parsons Co.*, 914 S.W.2d 79 (Tenn. 1996). Of course, there are limited exceptions permitting an employee to assert claims against their employer, namely, when claims do not arise out of employment and thus are not subject to the exclusive remedy provision of workers' compensation law, such as claims brought pursuant to the Tennessee Human Rights Act (“THRA”). *Anderson v. Save-A-Lot, Ltd.*, 989 S.W.2d 277, 289-90 (Tenn. 1999).
- <sup>15</sup> *Troup v. Fischer Steel Corp.*, 236 S.W.3d 143 (Tenn. 2007); *Ridings v. Ralph M. Parsons Co.*, 914 S.W.2d 79 (Tenn. 1996).

<sup>1</sup> Tennessee RPC 5.5(c) provides, “A lawyer admitted in another United States jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may provide legal services on a temporary basis in this jurisdiction that: (1) are undertaken in association with a lawyer who is admitted to practice in this jurisdiction and who actively participates in the matter; (2) are in or reasonably related to a pending or potential proceeding before a tribunal in this or another jurisdiction, if the lawyer, or a person the lawyer is assisting, is authorized by law or order to appear in such proceeding or reasonably expects to be so authorized; (3) are in or reasonably related to a pending or potential arbitration, mediation, or other alternative dispute resolution proceeding in this or another jurisdiction, if the services arise out of or are reasonably related to the lawyer's representation of an existing client in a jurisdiction in which the lawyer is admitted to practice and are not services for which the forum requires pro hac vice admission; or (4) are not within paragraphs (c)(2) or (c)(3) and arise out of or are reasonably related to the lawyer's representation of an existing client in a jurisdiction in which the lawyer is admitted to practice.”

<sup>2</sup> Tennessee RPC 5.5(d) provides, “A lawyer admitted in another United States jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may provide legal services through an office or other systematic and continuous presence in this jurisdiction that: (1) are provided to the lawyer's employer or its organizational affiliates and are not services for which the forum requires pro hac vice admission; or (2) are services that the lawyer is authorized to provide by federal law or other law or rule of this jurisdiction.”

<sup>3</sup> APRL's proposal and letter to the ABA is available here: <https://aprl.net/aprl-asks-aba-to-revised-model-rule-5-5/>

<sup>4</sup> The Uniform Bar Exam states can be found here: <https://www.ncbex.org/exams/ube/>

<sup>5</sup> Tennessee might express concern that another state's bar exam passing score is lower than the passing score in Tennessee and should not result in a non-Tennessee attorney's the ability to practice here. There might also be concern that this rule would encourage a race to the bottom where states set their exam pass score low to attract bar applicants who can then practice anywhere if this rule is adopted widely. These are issues that can be navigated and that states can address when adopting and adapting a rule based on APRL's 5.5.

<sup>6</sup> Tennessee Rule 7, Section 3.05(b).

<sup>7</sup> Tennessee Rule 7, Section 5.01(a).

<sup>8</sup> See *supra* note 1 for Tennessee's Rule 5.5(c), which is based on Model Rule 5.5(c). In re Charges of Unprofessional Conduct in Panel No. 39302, 884 N.W.2d 661 (Minn. 2016).

<sup>9</sup> *Id.* at 666-69.

<sup>10</sup> ABA Formal Ethics Opinion 495 (December 6, 2020).

<sup>11</sup> For example, see *supra* note 5.

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# A DISH THAT STARTS WITH A VOL HAS TO BE GOOD

Our recent European adventure involved lots of food. I've told a number of people that, while we went on a WWII tour, we actually ate our way through Europe. We sampled the specialties in every region we visited. We ate the unusual—pigeon, snails, frog—and we ate the customary—French fries, Belgian waffles, macarons, crepes. But, no matter how delicious and imaginative the choices were, sometimes we needed plain old comfort food. We found it in La Gleize, Belgium, which played a key role in the Battle of the Bulge.

It is often said that if the Americans won the Battle of the Bulge at Bastogne, the Germans lost it at La Gleize. From the German point of view, their big push was concentrated in the northern Ardennes near the town of La Gleize. The spearhead of the offensive rested on the 1<sup>st</sup> Panzer Division commanded by the notorious Jochen Peiper. To oppose Peiper's army, the Allies sent several elite divisions, including the tanks of the 3<sup>rd</sup> Armored Division and the infantrymen of the 30<sup>th</sup> Division and later the paratroopers of the 82<sup>nd</sup> Airborne Division. Surrounded by American forces at La Gleize, 800 survivors of the 1<sup>st</sup> Panzer fled on Christmas Eve 1944, leaving behind 135 armored vehicles, including a 69 ton King Tiger tank, which still sits on the edge of the road through town. It is this failure that is considered today as the principal cause of Germany's defeat in the Battle of the Bulge.

Today, German King Tiger tanks have given way to fancy sports cars, motorcycles and bicycles. La Gleize is a quiet village that looks very much like the towns that surround The Dragon. It is an area known for its winding roads and beautiful scenery... and really good food.

We stopped for lunch at a roadside restaurant/inn, Le Vert de Pommier (Green Apple Restaurant). In operation since the early 1900s, they serve with traditional Belgian food in a warm, pub-like atmosphere.

The special of the day was vol-au-vent, which is French for “windblown” to describe the light puff pastry that forms the base of the dish. While vol-au-vent is generally an appetizer or small plate in France, it is a common main dish in Belgium that can be found on the menus of most restaurants and is nearly always filled with a combination of chicken, mushrooms, and (sometimes) small meatballs, served with either mashed potatoes or fries.

I had never had vol-au-vent (and frankly didn't know what it was) but decided to give it a try. Hugh described it as “something my grandmother would make,” and I thought it was a cross between chicken pot pie and chicken and dumplings. Trace just called it “delicious.”

During our meal, I told our guide, Erik, that I was going to make vol-au-vent when we got home. (What Volunteer would not make a dish that started with “vol”?!) Erick was skeptical, as he was unsure as to whether I could make the pastry that forms the base of the dish. I assured him that I could.

In France and Belgium, you can buy freshly baked vol-au-vent pastries from neighborhood bakeries. While that is not an option in the US, the availability of puff pastry in most supermarkets and the short

defrost time (about 20 minutes) make freshly baked vol-au-vent a viable option.

When we returned home, I found a recipe that resembled the vol-au-vent that we had in Belgium (and again in Paris) and decided to give it a try.

To prepare the vol-au-vent shells, you need 1 box of puff pastry and 1 egg yolk, slightly beaten. Defrost the puff pastry shell according to package directions. Place parchment paper on a baking sheet. Set aside. On a lightly floured surface, unfold the pastry and smooth it. You will need two round cookie cutters: one 3-4 inches in diameter and another 2 inches in diameter. Cut 12 large circles using the larger cutter. Take 6 of the circles and cut out 6 smaller circles from each. Place the large circles

without holes on the baking sheet. Brush with egg wash. Take the large circles with holes and place each carefully on top of the larger ones. Brush with egg wash. Refrigerate for at least 30 minutes to prevent the pastry from shrinking. Bake the vol-au-vents in a 350° preheated oven for 20 minutes or until golden brown.

For the filling, you need the following ingredients: 1 oz dried morel mushrooms, 1 oz dried porcini mushrooms, 2 cups plus 6 TBS crème fraîche, salt and ground white pepper, 3 TBS butter, 18 oz small white mushrooms, ¼ cup chervil leaves (French parsley), ¼ cup parsley leaves, 6 boneless and skinless chicken breasts.

To prepare the filling, soak the dried morel and porcini mushrooms in a large bowl of cold water for 1 hour. Lift the mushrooms out of the water and place in a colander over a bowl to drain. Then, carefully filter the soaking water to remove any dirt or sand; reduce over low heat to half

the original quantity. Incorporate 2 cups of the crème fraîche with the soaking water and reduce gently over low heat to a smooth, thick sauce. Season with salt and pepper; set the cream sauce aside.

Melt 2 TBS of the butter in a frying pan. Gently saute the morel and porcini mushrooms. Season to taste with salt and set aside.

Wash and finely chop the white mushrooms. Place in a frying pan with 1 TBS butter and cook for 15 minutes. Add the remaining crème fraîche and cook another 5 minutes. Stir in the chopped chervil and parsley, season with salt and pepper. Set the herbed mushroom mixture aside to keep warm.

Melt the remaining butter in a frying pan. Cook the chicken filets on both sides until cooked completely. Place the filets flat on a cutting board and cut each one horizontally into two pieces, using a sharp knife. Slice into ¾ inch strips.

Put the morel and porcini mushrooms into the cream sauce and bring to a boil. Add the chicken slices at the last minute. Bring the mushroom and chicken sauce to a quick simmer.

Place a hot vol-au-vent shell on a plate. Garnish with the herbed mushroom mixture and serve immediately.

While my vol-au-vent was not as good as that we had in La Gleize, it did not disappoint. Who can argue about a dish that starts with Vol?!





## WELCOME NEW MEMBERS

THE KNOXVILLE BAR ASSOCIATION IS PLEASED TO WELCOME THE FOLLOWING NEW MEMBERS:

### NEW ATTORNEYS

**Viridiana Carreon**

**Donald Warren Elliott, Jr.**

**James W. Friauf**

Law Office of James W. Friauf, PLLC

**Nicole A. Gross**

London & Amburn, P.C.

**J. Eric Harrison**

Wimberly Lawson Wright Daves & Jones, PLLC

**Phil Reed**

**John Roan**

Foster & Potter, P.C.

### NEW LAW STUDENT MEMBERS

**Klayton Anstine**

**Martha Dinwiddie**

**John A. Fansler**

**Robert Felts**

**Philip M. Gibson**

**Sarah E. Locke**

**Megan Lowe**

**James Pierce**

**Ally G. Richey**

**Victoria H. Small**

**David R. Turner**

## Address Changes

Please note the following changes in your KBA Attorneys' Directory and other office records:

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**By: Bill Ramsey***Neal & Harwell***By: Phil Hampton**

# INNOCN PORTABLE MONITOR

What do you do when you want to travel light with your laptop but still have access to multiple display monitors like you have in the office? You invest in a portable secondary monitor to stash in your laptop bag. That is exactly what we did when we purchased the 15.6" Innocn portable monitor. Innocn is a brand that we were not familiar with previously. The Innocn monitor is made by a Chinese technology manufacturer; and has a very high-quality OLED Full HD 1080P screen. We have used the monitor as an extension to our Windows laptop; but it can also be used to connect to a smartphone, MacBook, or tablet.

The 15.6" size of the monitor appears incredibly large, especially when we connect it to a laptop with a smaller screen. The monitor connects to a laptop or tablet via the included USB-C cable. You can also connect the monitor via the Mini HDMI port. The brightness and quality of the display is excellent.

There was no software to install; the monitor worked as either an extension or a duplication of the laptop desktop screen as soon as it was powered on. No power cable is necessary when the monitor is connected to the laptop USB-C port.

There are many uses for a portable monitor like the Innocn. Sometimes we like to work on larger documents, such as a busy Excel spreadsheet or a PowerPoint slide show, using the larger monitor while traveling away from our desktop computer. Other times we simply like to play a movie on the secondary monitor while "working" on something "important," like Facebook, on our laptop. One of the most convenient

uses for the Innocn monitor has been when making a presentation to a small group (2 or 3 people) over a conference table. Instead of dragging along a projector or trying to connect to a TV hanging on the wall, we will simply connect our Innocn monitor to our laptop and place it in front of the individuals we are meeting with. The monitor is large enough to see clearly the presentation we are displaying; but not too big to get in the way of the conversation.

The advertisements for the Innocn monitor tout it as being a "light weight;" but we're sure that is just relative to the weight of a full-scale desktop monitor. When adding the Innocn to our laptop bag, we certainly notice the extra weight in the bag. At just over 4.5 pounds, the monitor actually weighs more than our travel laptop. So, we elect to only bring along the Innocn when we know we need to use it for a presentation or for extended work.

The Innocn monitor also comes with an attached rubber covering that doubles as a protective covering for the display and can be folded underneath the monitor to form a convenient stand to hold the screen upright.

There is really nothing to not like about this secondary monitor (unless you want to get picky about the weight). We most frequently use it when collaborating within a small group while displaying a spreadsheet, slide presentation, or word processing document. The Innocn secondary monitor is a quality addition to our mobile office equipment.

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**KNOXVILLE BARRISTERS & KNOXVILLE BAR ASSOCIATION**

## 2022 Lawyers Link Up



**MONDAY, OCTOBER 24**  
**HOLSTON HILLS COUNTRY CLUB**

**ATTORNEY REGISTRATION: \$125****ATTORNEYS LICENSED SINCE 2017 & LAW STUDENTS: \$100**

**Register online @ [www.knoxbar.org/events!](http://www.knoxbar.org/events!)**  
**OR CALL: (865) 522-6522**

## BENCH AND BAR IN THE NEWS

*How to place an announcement: If you are a KBA member in good standing and you've moved, have property to rent, or received an award, we'd like to hear from you. Talks, speeches (unless they are of international stature), CLE promotions and political announcements are not accepted. Notices must be submitted in writing and limited to 100 words. They are printed at no cost to members and are subject to editing. Email your notice to Marsha Watson at [mwatson@knoxbar.org](mailto:mwatson@knoxbar.org).*

### KBA MEMBER SHOUT OUTS

As part of this year's focus on celebrating our bar association's diverse membership and exploring creative ways for members to connect, network, and experience fulfillment in the practice of law, we would like to highlight the accomplishments and contributions of KBA members who are making a difference in the legal arena and beyond. Send links to news to posts or articles, pictures, or just a blurb about what's going on to [membership@knoxbar.org](mailto:membership@knoxbar.org).

### FREE CLASSIFIEDS AVAILABLE

Did you know the Classified section on the KBA website allows you to add your resume if you are looking for a job or if you need to hire someone, you can post a job and search for candidates? Click on Public Resources and select "Career Classifieds" from the dropdown navigation. The Classifieds receive in excess of 8,000 page views each month so if you are looking for a job or a new position, make sure to check out this valuable resource.

### LEGAL HISTORY VIDEOS AVAILABLE

In 2012, the KBA's Archives Committee began interviewing senior members of the local legal community to capture their stories and perspectives on life and the practice of law. With funding provided by the Knoxville Bar Foundation, the KBA has been able to preserve this history for future generations of lawyers and other interested persons. It is important not to forget the contributions of those who built the local bar and sharing milestones and stories of great lawyers and judges provides new lawyers with historical perspective and inspiration. View the interviews online at [www.knoxbar.org](http://www.knoxbar.org) by clicking Member Resources and then Practice Resources.

### OFFICE SPACE AVAILABLE:

- Existing association of attorneys have available 1-2 office spaces in historical building 1816 Clinch Ave., across from Ft. Sanders Reg. Hospital to include parking spaces, conference room, reception area, receptionist, phone system, internet and Lexis access. Email [cburks@jnblawfirm.com](mailto:cburks@jnblawfirm.com) or call (865) 522-4964 for inquiries.
- 1520 Highland Avenue in Fort Sanders Available - The offices are \$1,000/month and includes a private office and access to a common area that includes a full kitchen, reception area, conference room and separate client meeting room, plus 1 free parking space in addition to free on street parking. The office is "Class A" space (there's even a fireplace in the meeting room!) and it would be a great office sharing arrangement for up to 4 people who are starting out. Rent includes utilities, alarm, and internet. Contact Perry Childress at (865) 803-2545.

### KNOXVILLE BAR ASSOCIATION

## Summer Office Hours



May 30 - September 2  
M-Th 8:30 am - 5:30 pm  
F 9 am - 12 pm



### Weekly Walk - Join us Tuesdays at 6 pm

The KBA Wellness Committee invites everyone to meet up for a group walk every Tuesday evening at 6 p.m. at Lakeshore Park to walk/run. All distances / levels (run/walk) welcome. Kids, spouses, friends, dogs also welcome.

### TurboSpin Class Set for June 11

Join the KBA Wellness Committee on Saturday June 11, 2022 at 10:30 a.m. for a group class at TurboSpin. Class fee is \$15, which includes bike shoes and towel. All fitness levels are welcome! Please bring your own water bottle. TurboSpin is a locally owned spin studio located at 215 Brookview Centre Way, Knoxville, TN 37919. Save the date and a link to register will be made available closer to the event date.

### August 19 Tennis & Pickleball Mixer

The KBA Wellness Committee is planning the KBA Tennis and Pickleball Mixers for Friday, August 19 at Cedar Bluff Racquet Club and the Pavillion of Pickleball. This is an event for all skill levels. We want this to be a great player experience and give members a chance to get to know each other in a fun and relaxed environment! The registration fee includes water, sports drinks, snacks during the tournament, and a post-tournament celebration featuring prizes and refreshments. To sign up, click on August 19 in the event calendar at [www.knoxbar.org](http://www.knoxbar.org).

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# HIDE IT UNDER A BUSHEL

As I sat down to write this month's installment of *Worthlessness: Mitchell's View*, I found myself surrounded with mounds of work and profoundly unmotivated to do any of it. These days, it's like pulling teeth to make any meaningful progress at work. In part, I thank my underlying but undiagnosed ADHD. I chalk the rest up to the fact that discovery projects dominate my current todo list.

Yep, discovery: heaps and piles of interrogatories to answer, requests for production to object to, and documents pore over. Put simply, discovery sucks, and second only to billing time, it's the bane of my professional existence.

Some of you—the “depraved,” if you will—enjoy discovery, and I can see why. It's a massive moneymaker. A national survey conducted by the ABA in 2018 estimated that document review consumed roughly 80% of all litigation spend, which equated to \$42.1 billion annually. Those numbers are staggering, but frankly, they check out. Even the pettiest of disputes command megabucks in discovery provided any aspect of the case includes electronic data.

Take the fictional case of Tom Petty's character in *King of the Hill*, Lucky. Lucky infamously slipped on “pee pee” at Costco and secured a \$50,000 settlement, which he commonly referred to as his “pee pee money.” Mike Judge didn't spell this out, but if I were guessing, Costco settled with Lucky on a cost-of-defense basis and to avoid, at least in part, the protracted and expensive discovery process. (After all, Costco's liability defenses seem pretty solid. As a dutiful suburbanite husband, I've been to Costco on many occasions, and while I've seen a lot of things on the floor, never pee pee.)

Not only is discovery costly, it's also intrusive. Nowadays, every lawyer wants every document (including, most importantly, emails) from every witness on every topic. Despite some reasonable guardrails baked into the Tennessee and Federal Rules of Civil Procedure (including, among others, that the requested material be proportional and relevant to the claims or defenses), my experience has been that courts err on the side of expanding the scope of discovery, not restricting it.

It's for these reasons (among others) that I'll never make pee pee money. I know how the sausage is made, and I'm keenly aware that the second I sue someone, the doors to my medical records and personal finances immediately open. Neither would reveal anything not readily apparent to the naked eye. My BMI is, well . . . excessive, and my bank account is, well . . . not. Still, the sense of personal shame I feel at the thought of being a litigant is enough to keep my name off the caption of my next pleading. (I've shared this before, but my anxiety is real. I'd just as soon cut off my arm than hand my secretary an itemized receipt from my post-deposition stop at Taco Bell.)

An un-litigious lawyer is no doubt enigmatic. It's like a Jehovah's Witness working at a blood bank or a vegan butcher. Neither is impossible, but both are perplexing. Yet, as Popeye says, “I yam what I

yam.”

To be clear, my own personal fears should not be viewed as me judging those who are willing to file suit, and by no means is this column intended to be an indictment of plaintiffs. I love litigation, and I both understand and appreciate its important role in society. In fact, I see just

how stupid it is that to conceal the mundane details of my life, I would pass on the fruits of litigation: i.e., money. It's totally unsensible, but it's my reality.

In fact, I've personally walked away from what I viewed as meritorious litigation to avoid the hassle and intrusion. Several years ago, for example, my wife and I bought our current home and were given a home warranty as a part of the “deal.” If you're unfamiliar, home warranties—like this column—are a perfect example of wasted space.

Three or so months after we closed but within our warranty period, our upstairs air conditioner went kaput. I promptly filed a claim with the home warranty company, and after several cancellations by their vendors, someone finally examined the unit a week or so after it stopped working (this was during the early part of summer, by the way).

Their vendor, who was a licensed HVAC repairman but hardly reputable, reported to my wife that the entire system (furnace and all) needed to be replaced because the system was too old to find replacement parts. He reported this to the home warranty company, which in turn sent a second vendor to “reassess.” This gentleman, who had recently escaped from Azkaban, disagreed with the other vendor's recommendation (shocker) and recommended, instead, that we only replace the evaporator coil. The home warranty company then offered \$800, which (in their opinion) covered the cost of coil and related labor. I went into orbit.

After I calmly floated back to earth, I drafted a lengthy and scathing “dynamite letter,” which threatened all manner of legal maneuvers and outlined what I saw as the relevant law and facts. My letter was a legal Monet: inspired, colorful, and detailed. Ever the gentlemen, my letter gave the home warranty company two weeks to respond. To show I meant business, I sent the letter via certified mail and included a return receipt. I'm sure the ground shook beneath them when they received it.

Meanwhile, I sat on pins and needles for the next two weeks, eating chicken tenders by the handfuls and plotting our escape to Canada in the event our home warranty company “jump sued.” Fully aware of the many objective reasons why our claims were meritorious, time got the best of me, and after the two weeks passed, I quietly and politely ate crow and accepted the home warranty company's paltry \$800 for the evaporator coil. In a last act of defiance, however, I signed the check “Under a Full Reservation of Rights.” Coward.

To conclude, (a) home warranties are crap; (b) I'm a complete wreck of a person; and (c) thank you for enduring.

*Nowadays, every lawyer  
wants every document  
(including, most  
importantly, emails) from  
every witness on every topic.*



## PRO BONO SPOTLIGHT

**By: Nathan Wallace**

*Pro Bono Law Clerk*

*Legal Aid of East Tennessee*

*3L LMU Duncan School of Law*

*Serving the Legal Community in Assisting  
Low-Income Persons To Navigate the Justice System*

# A STUDENT VOLUNTEER'S EXPERIENCE AT LEGAL AID OF EAST TENNESSEE DURING THE PANDEMIC

I am Nathan Wallace, graduating 3L at the Lincoln Memorial University Duncan School of Law, and current Pro-Bono Clerk at Legal Aid of East Tennessee. I have been incredibly fortunate to have gotten the experience I have at Legal Aid. The attorneys and staff I have collaborated with and shadowed are some of the most passionate, creative, and intelligent people to grace our legal profession. However, my path to service at Legal Aid was not a typical one. This path I believe merits sharing, in full, to show how important Legal Aid was to my development as a legal professional and how vital it is to the broader legal community.

I started volunteering with Legal Aid of East Tennessee in the fall of 2019. Back then, I was but a meager 1L trying to get his feet wet by helping with the veteran's legal advice clinic. Little did I know, the world was about to end. Primary schools are often dismissed early prior to severe weather events and growing up in West Tennessee meant getting a lot of storms. The process is always rushed and creates for the children a surreal feeling of excitement to get out of school early mixed with fear for the approaching storm. In March of 2020, that feeling returned. I remember sitting in the third-floor atrium discussing negligence rule blocks when we got the email. We would be transitioning to remote learning for the rest of the semester. We bid farewell to our classmates and to the concept of a traditional law school experience. Dark clouds were on the horizon, and we had no idea how long the storm would last.

My 2L coursework was delivered via multiple remote and hybrid formats with very little opportunity for in-person legal experiences. It was a truly "unprecedented" legal education experience. However, as the world coped with the unfortunate circumstances, I found comfort in a passage from one of my book series:

"I wish it need not have happened in my time," said Frodo. "So do I," said Gandalf, "and so do all who live to see such times. But that is not for them to decide. All we have to decide is what to do with the time that is given us."

—J.R.R. Tolkien, *The Fellowship of the Ring*

Looking towards summer, I wanted to get real experience before I graduated. I only had so much time in law school, and I wanted to make the most of it. I did not want practice-based classes, or remote research assignments, but actual attorney work. That was a tall order during the first waves of the pandemic. I was incredibly fortunate to find an open position with Legal Aid of East Tennessee for a summer externship. Not just any summer externship, but an externship with the possibility of in-court experience! Legal Aid was even gracious enough to offer me an office to work in during the externship, as many other clerks were remote that summer. I had my own office! After the shock wore off it was time to work.

Legal Aid has no deficit of work to be done. This observation is both obvious and an understatement. However, as many of the attorney readers may attest to, you must gauge an intern's ability before you hand them something challenging. With that in mind, the first week was mainly estate law and civil research. Not to offend any of my brothers and sisters working in probate, but that was a drag. I was 24 and ready to save the

world. Like the Commerce Clause in the eyes of Justice Thomas, I was ready to overreach.

Zachary Arnold, a managing attorney at Legal Aid, deserves recognition for his outstanding professionalism and patience, because I annoyed that man constantly regarding when the next court shadowing opportunity would be. Eventually, opportunities arose in the order of protection court and the detainer court. I loved it. I loved it so much in fact that I kept pestering other attorneys directly for more work. This process of annoying my way into opportunity took me to will signings in Maryville, amici curiae proceedings in Chattanooga, and even into a paid position as the Pro-Bono Clerk for our contract attorney program. Everywhere I turned I got to witness amazing attorneys plying their trade with skill and compassion. Not every case is a winner, but this does not stop the attorneys and staff at LAET from performing their jobs ethically and to the fullest of their ability.

My time volunteering at LAET began as a selfish need to grow my own legal knowledge, but it evolved into a passion for public service. I want to stand among the ranks of the skilled and impassioned legal professionals working in public interest law after I graduate. So few people in this life have the pleasure of working for a cause they believe in, and I was fortunate to work in an office filled with people who do it every day.

The COVID-19 pandemic had the potential to destroy my chance at being an attorney. Law school is hard enough without the additional hurdles of remote learning and plague. However, the volunteer opportunities made available to me by LAET sparked a passion in public interest that has carried me through the pandemic and into graduation. I would recommend volunteering with LAET to both students and attorneys. Passion is a scarce resource but serving your community is a great way to find more.

## 2022 Clinic Opportunities

**Email:** [CTorney@laet.org](mailto:CTorney@laet.org)

**Legal Advice Clinic for Veterans:** In person. Phone advice options available.

- Wednesday June 8th, July 13th Noon – 2pm

**Debt Relief Clinic:** In person.

- Saturday June 25th, September 10th,  
November 19th 9:00am – Noon

**Virtual Pro-Se Name Change Clinic:** Via Zoom.

Will serve clients across East Tennessee in partnership with law students from Belmont School of Law.

- Saturday August 20th, 10:00 AM – 1:00 PM



By: Jarrod D. Blue

*Strategic Partnerships Agreement Administrator  
UT-Battelle, LLC, Oak Ridge National Laboratory*

# PARENTAL QUESTIONS CAN SERVE AS A COMPASS

Last year, I was asked to serve on a panel through the Knoxville Bar Association (KBA) to discuss my career with current law students who may have an interest in working in government contract law. In preparation for the panel discussion, I began to think about the different twists and turns that my career has taken, and it has been the unexpected changes that have made my career journey exciting! Through the twists and turns, two questions have helped guide me along the journey: (1) Do you see yourself waking up in the morning doing this work?, and (2) Did you pray about it?

My lead-up to law school was not a traditional one. As many incoming law students prepare for the fall semester and watch the classics: *The Paper Chase* and *Legally Blonde*, I was preparing for interviews with a Fortune 500 Company. Even though I had applied to law school and accepted an offer to attend the University of Tennessee College of Law, I was not 100% certain that I wanted to pursue a legal career. During the spring and summer before law school, I spent countless time interviewing, completing company behavioral assessments, and preparing presentations for a corporate management program. After experiencing extensive interviews, a job offer was made a few weeks before starting law school.

I was excited about the job opportunity and the many perks of the job, but I was not sure if I wanted to accept the offer. I discussed the job and law school with my parents, and my father asked me the question: When you wake up in the morning do you see yourself working at this company or see yourself being an attorney? It was through this question and subtle advice to look beyond the here and now that it became clear that going to law school was the path I needed to pursue. I could see myself putting on professional dress clothes every morning and discussing agreements with clients. My father's question made me think about why I had initially begun my pursuit of going to law school, which was to be a positive force of influence to help others and make a difference.

My father's guidance to visualize myself has served me well thus far in my career as I have grappled with new opportunities and obstacles. Where I visualize myself in the morning has aided in my determination of the summer clerkships to pursue and jobs to accept along my career journey. It is through these visualizations that I have been able to find joy in the opportunities that life has presented.

Life can present many twists and turns some are expected and others are unexpected. After law school, I thought that my career would find me working at a law firm, but unexpectedly, life presented the opportunity to work in the field of federal government contracting. I have spent the last six-plus years working with domestic and foreign companies and universities to explore and develop legal agreements for the development of exciting research efforts. I certainly did not wake up one morning and anticipate that I would be working in the federal contracts field, but one opportunity led to another opportunity and more.

As I have applied for new opportunities, I patiently wait for even more opportunities to come my way. Words of my mother often echo in my mind and heart. "Have you prayed about it? My faith is very important to me, and it is my faith that has helped me stand when I have been knocked down and when others have considered me down for the count. It has been my faith in God that has helped me to weather the unexpected twists and turns of my career journey and assures me that whatever may come along my way that everything will be fine.

Many would say that I am still in the early years of my career, and I would agree. Thus, I am aware that there are many more exciting opportunities on my career journey, but I am grateful for the guidance that my parents have provided and my faith in God that will make the journey ahead exciting! I challenge you to think about what makes up your internal compass, as I am sure it will help you navigate the next career twist that presents itself.



## Mediator Profiles

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## Law Day 2022

Law Day is held on May 1 every year around the country to celebrate the role of law in our society and cultivate a deeper understanding of the legal profession. The KBA's celebration on April 29 showcased the outstanding work of the Knoxville Barristers, the Young Lawyers Division of the KBA. Barristers President Meagan Collver provided an update on Barristers' activities and encouraged members to continue cultivating young lawyers so that the KBA's strong legacy of involvement and service will be continued. The Barristers program also included an overview of the high school Mock Trial Competition from Bridget Pyman and Isaac Westling, the Co-Chairs of the Barristers Committee. Students from the Catholic and Farragut High School teams were in attendance. Richard Graves and Christine Knott, Co-Chairs of the Barristers School Outreach & Constitution Day Program, provided a preview of plans for Constitution Day this year. The highlight of the program was the presentation of the prestigious Law & Liberty Award to Maha Ayesh (see the profile on page 8). A panel discussion on Civility in Polarizing Times was moderated by Loretta G. Cravens, Cravens Legal, and included U.S. District Court Judge Charles E. Atchley, Jr., Professor Teri Dobbins Baxter, UT College of Law, and Rachel P. Hurt, a partner with Arnett, Draper and Hagood.

