

LAW MATTERS

2018 October

Volume XXX No. 6

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October 16, 2018

**Membership Appreciation CLE
One Hour General Credit CLE**



Failure to Diagnose Breast Cancer

BB King's Jazz Club

152 2nd Avenue North, Nashville, TN 37201

*Reservations must be made by close of business October 12th

Register Online at www.law-nashville.org/events

LAW CALENDAR OF EVENTS

- October 4, 2018** **6:00 pm— 8:00 pm**
Mentoring Lean In Circles
- October 7, 2018** **1:00 pm — 4:00 pm**
Practicing Parents Pumpkin Patch Outing
- October 9, 2018** **11:30 am—12:30 pm**
Board Meeting
- October 10, 2018**
Networking/Practicing Parents Breakfast
- October 16, 2018** **11:15 am—1:00 pm**
Monthly Membership Luncheon
- October 27, 2018** **7:00 am—10:00 am**
Alzheimer's Walk
- November 6, 2018** **7:15 am—9:00 am**
Annual New Admittees' Breakfast

[Click Here](#) for a complete listing of LAW events and registration details!

From the Archives



(From L) Wendy Goggin, Paul Ney, Past Presidents Brenda Dowdle and Libby Miller.

PRESIDENT'S MESSAGE

by Ashonti Davis



This month's past president's message features Brenda Measells Dowdle. I met Brenda a few months after I began practicing in Nashville, and I was struck by her kindness and passion. Brenda's work inside and outside the courtroom is inspiring, and I hope you enjoy reading her message as much as I did.



Past President's Message

Brenda Dowdle
1998-1999

Not long after the birth of my twin daughters about thirty years ago, I was hired by an independent adoption agency to represent birth mothers who wanted to place their child for adoption. My fees were paid by the prospective adoptive parents, but of course my ethical duty was to the birth Mother. One of my clients was living with her husband and three children in their van. They were in their early twenties and decided to place all of their children, ages 4, 2 and 4 months old for adoption with a family in Maryland. My job was to make sure they understood their legal rights. When we went to the courthouse to sign the surrender forms, the court clerks cried. After leaving the courthouse, I went home, hugged my 9 month old daughters very tightly and cried for a long time. I couldn't help but wonder how these parents could be so desperate that they were giving up their babies? As it turns out, they couldn't do it. About half way through the surrender period of 15 days, the Mother called me crying and said they wanted their kids back. I told her to immediately meet me at the courthouse where they could sign the revocation papers. The owner of the adoption agency was furious that I had not called her first to give her a chance to talk the parents out of their decision. My main concern was that the adoptive parents bring the children back to Tennessee from Maryland. I have often wondered what happened to this young family after they were reunited.

Not to my surprise, the adoption agency and I parted ways not long afterwards.

In another case, I volunteered through LAW's truancy program to try and help children who were habitually truant. I worked with a single mother who had a good job with the State of Tennessee, but was overwhelmed with caring for 5 children, with very little support. As hard as she tried, she just could not get her kids to school on time. It is these types of situations that make me passionate about a not for profit agency with which I am involved.

I, along with three other LAW members, Mary Walker, Jackie Dixon, and Tess Maniatis and many other doctors, social workers and community volunteers began working in 2014 to start A Step Ahead Foundation of Middle Tennessee, (ASAFMT). We are modeled after A Step Ahead in Memphis, TN. It was started by a retired Juvenile Court Magistrate after she spent 17 years hearing child support, dependency and neglect and other cases involving women and their children. As demonstrated by the examples from my practice, an inability to pay for birth control often leads to more unplanned births and distressed circumstances for families. Research indicates that "get it and forget it" methods of birth control or LARCS (long acting reversible birth control) are most effective in women being able to get "a step ahead" in their education, starting their career and planning

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LAW Matters is a monthly publication of the Lawyers' Association for Women, Marion Griffin Chapter, P. O. Box 210436, Nashville, Tennessee, 37221-0436. Voicemail: 615.708.1827; Fax: 888.834.7370; www.law-nashville.org.

To submit articles for the November issue, contact, Jennifer Lankford at jennifer.lankford@crackerbarrel.com.

their families. Access to LARCS in Colorado helped lower teen birthrates by 40% and abortion rates by 42% over a 6-year span. *The Times* called it a “startling success.”

ASAFMT began providing services to women in Davidson and 6 surrounding counties in May 2016. ASAFMT partners with 5 Neighborhood Health clinics to provide access to LARCS for women that might not otherwise be able to afford to plan their families. The majority of Neighborhood Health patients are uninsured or on TennCare/CHIP, or have income below the poverty level.

Although LARCS are more effective than other forms of birth control, they are initially expensive. The Mirena IUD, which lasts for 7 years, costs approximately \$300.00 not including the office visit, medical fees and any tests that need to be performed. ASAFMT will pay for any costs not covered by insurance and will also pay for transportation to and from the clinic. When patients served by ASFMT are ready to have children, ASAFMT will also pay for removal of their LARC.

From May 2016- June 2018, 531 women received LARCS with assistance from ASFMT. 41 % have been Hispanic, 33% Caucasian, 24% African American and 2 % Pacific Islander/Asian. On average, the women served already have 2 children and are 25.7 years old. The women we have helped include one 17 year old Mother and one 23 year old Mother of 5 children. The 23 year old had been using the pill as her method of birth control.

If you have ever been to a memorial service done by the NBA, you know that lawyers make a difference. I know that many LAW members are active in bar associations, providing pro bono services, or as volunteers with not for profit agencies. I am so proud of the contributions that LAW members make to our community in addition to practicing law. I learned many skills as a young lawyer years ago, when I was active with LAW, that have helped me with ASFMT. If you would like to learn more about ASFMT, please go to our web site, www.ASTEPAHEADMIDDLETN.org or contact info@ASStepAheadMiddleTN.org or talk to one of the LAW members involved with ASFMT that you know.

alzheimer's  association®

JOIN THE LAW TEAM

2018 Walk to End Alzheimer's—Nashville Walk

October 27, 2018

Walk of Fame Park

121 4th Avenue South

Nashville, TN 37201

Map It

Registration: 7:00 am

Ceremony: 8:00 am

Walk: 8:30 am

[CLICK HERE TO REGISTER OR DONATE](#)

UPCOMING EVENTS 2018

OCTOBER

Thursday, October 4, 2018

Lean In Mentoring Circles

6:00—8:00 pm

Neal & Harwell, PLC, 1201 Demonbreun Street, #1000

Nashville, TN 37203



Sunday, October 7, 2018

Practicing Parents Fall Get-Together

1:00—4:00 pm

Lucky Ladd Farms, 4374 Rocky Glade Road, Eagleville, TN 37060



Wednesday, October 10, 2018

Coffee/Breakfast Networking Event with Practicing Parents

7:30 am—9:00 am

Thistle Farms Café, 5122 Charlotte Pike, Nashville, TN 37209

Thursday, October 16, 2018
October Membership Meeting and One Hour CLE
“Failure to Diagnose Breast Cancer”



Robin Williams, MD
St. Thomas Medical
Partners



Brandon Bass, Shareholder
Law Offices of John Day, P.C.



Michele Marsicano,
Attorney
Wiseman Ashworth Law

11:15 am—Noon Registration/Buffer Opens

Noon—1:00 pm CLE

BB King’s Jazz Club, 152 2nd Avenue North, Nashville, TN 37201

Breast cancer is one of the most common forms of cancer among women in the U.S. and the second leading cause of death for all women. Because early detection is vital in successful cancer treatment, the failure to diagnose cancer at the outset may have dire consequences.

Preparing and trying failure to diagnose breast cancer cases requires both a thorough knowledge of the law and issues unique to cancer diagnosis and detection. This program will provide an overview of the medical and legal issues surrounding negligence in cancer misdiagnosis cases. Dr. Robin Williams, MD, Breast Surgery, will briefly discuss the diagnosis, prognosis and treatment of breast cancer and provide attendees with an understanding of the medical background necessary to handle these cases. Brandon Bass will present an overview of case selection, trial strategies and the art of explaining technical medical concepts to jurors. Michele Marsicano will present an overview on benefits and advance care directives that are available to breast cancer patients.

To register for these and all other LAW events go to www.law-nashville.org/events

Tuesday, November 6, 2018
Annual New Admitees' Breakfast

Music City Center Davidson Ballroom

7:15—8:00 am Registration and Coffee

8:00—9:00 am Program



Keynote Speaker: Chief Justice Jeffrey S. Bivins



Thursday, November 8, 2018

Health & Wellness Book Club

6:00—8:00 pm

8220 Chase View Court, Nashville, TN 37221

Balancing The Scales CLE: Featuring Sharon Rowen

By Tabitha Robinson

On September 21, over 80 LAW members gathered at Belmont University for LAW's annual Membership Appreciation CLE. The CLE featured renowned Atlanta trial lawyer Sharon Rowen. Ms. Rowen has practiced law for nearly 40 years. She is the founding partner of Rowen & Klonoski, a firm specializing in civil litigation. She has also been named as a preeminent woman lawyer by the Martindale-Hubbell Bar Register, an honor awarded to five percent of women lawyers in the United States. Ms. Rowen has been a filmmaker for over 20 years and focuses her documentaries on topics of social justice. At the CLE, members watched Ms. Rowen's documentary entitled, "Balancing The Scales."

"Balancing The Scales" chronicles the history of women in the legal profession while exploring questions such as "why has equality always been two steps forward and one step back?" The documentary features two decades of interviews of women attorneys. Interviewees include Supreme Court Justice Ruth Bader Ginsburg, civil rights attorney Gloria Allred, and various other women justices, partners, associates, and law students.

The documentary provides a comprehensive view of the pervasive discrimination that women experienced—and continue to experience—in the legal profession. The documentary begins by discussing the challenges women had in gaining admittance into law school and the challenges women faced thereafter. Justice Ginsburg detailed her experience at Columbia Law School, including taking hours-long final exams in buildings with no restrooms for women. Carol Hunstein, Justice for the Supreme Court of Georgia, explained how she was forced to "hang her own shingle" in law school because no one would hire her, despite her qualifications.



The documentary then examines the shift from blatant discrimination to covert bias. It surveys the pay gap between women and men lawyers and the overwhelming disproportion of women in partnership roles at law firms. The documentary also explores intersectional bias. It features women lawyers of color and their experiences with compounded bias based not only on their sex, but their race as well. The documentary also examines the stigmas against practicing parents and how some women lawyers are faced with choosing between their families and careers.

After the documentary, Ms. Rowen answered questions from the audience. Through the questions she received, Ms. Rowen further explored the myths and stigmas facing women in the legal profession. Ms. Rowen outlined some of the ways that firms and corporations can achieve equity for all lawyers. She also discussed some of the improvements that firms and corporations have already made. Through the final questions, Ms. Rowen discussed how to be the best version of yourself and "how to have it all" as a female lawyer.

LAW's successful annual Membership Appreciation CLE provided members with an opportunity to socialize and explore the current issues facing women in the legal profession. To learn more about "Balancing The Scales," please visit balancingthescalesmovie.com.



Tabitha Robinson is a 2018-2019 Newsletter Editor and is a member of the Legal Department of Nashville Electric Service.





What do you do all day?

Talking with Non-Lawyers about Your Practice.

By Callie Jennings

It's hard enough getting clients to understand and appreciate everything we do as a lawyer. But even with our friends and family, who love us and care about what we're doing, it can be difficult to give them an idea of what it is really like to practice law. If your non-lawyer friends are uncommonly curious (and very patient), they might be able to sit through a mini-lesson on [civil procedure, tax law, administrative law] to truly understand what made your day fantastic or exhausting. Otherwise, you might be inclined to describe your work like my dad did, when my brother and I were growing up. When we asked what he did all day, he would just say he "shuffled papers."

Now that I'm starting my own legal career, I am even more curious about how practitioners in different areas of the law view their work and the legal world. In my experience, most lawyers I've spoken with in Nashville seem genuinely excited about what they do. They enjoy answering questions, telling war stories, and talking about their perspectives on the practice of law. Of course, my experience may be the exception to the rule, considering the high rates of depression and unhappiness typically associated with the legal profession.¹ In fact, a recent survey published this year in the Harvard Business Review showed that a majority of lawyers ranked above average on a loneliness scale from the University of California at Los Angeles.² Participants indicated that they often experienced feelings described in statements like, "I have nobody to talk to," and "I feel as if nobody really understands me." *Id.* Although there are multiple reasons for these sentiments, the fact that most people do not understand the nature of a lawyer's job is probably one of them. As the authors poignantly noted, "[t]he solitude of the ivory tower seems to be a real phenomenon." *Id.*

Even though it can take some effort, I've found that it's worthwhile to invite friends and colleagues in other professions to meet you in your lonely ivory tower. After all, our society is fascinated by lawyers. They are the stars of numerous popular television shows, the heroes (and villains) in popular fiction, and the regular subjects of dramatic media coverage. Of course, as we all know, the lives of real world attorneys aren't nearly as glamorous as their fictional counterparts. But we have something more valuable to offer our audience: a peek behind the red curtain.

As an example, my partner (not a lawyer) recently started watching the show *Suits*. At first, I wasn't interested; who wants to watch a show about work on their break from work? I gave it a try, and I have to say it was... horrible. On the other hand, it was entertaining to pick out (and laugh at) all the wild inaccuracies. By explaining them to my partner, he also gained a little more insight into what practice is *really* like (at least for me).

I have also been surprised at the genuine curiosity (and patience) of my non-lawyer friends when it comes to conversations about my job. Especially as a newer attorney (admitted 2016), many of my achievements and struggles are not always obvious to a layperson. It takes more time, for example, to explain what a partial motion for summary judgment is and why it is exciting that I get to draft one, especially as a plaintiffs' lawyer. When I can take the time (and someone is willing to listen), discussions like this are immensely beneficial for me, as teaching is one of the best ways to solidify your own knowledge. Moreover, it reminds me that "thinking like a lawyer" is not the only way (and perhaps sometimes not the best way) to approach a problem.

I also like to think that these conversations help change the stereotypes and misconceptions about lawyers and law practice, at least on a small scale. After all, sometimes we do just shuffle papers all day. But if you're excited about that (or anything else you're working on) why not try to let your non-lawyer friends understand why? Even if it's not as dramatic as last week's episode of *Goliath*, it's real and meaningful to you, and that alone can captivate your audience.

¹Eaton, et al., J. Occup. Med. 1990 Nov; 32(11):1079-87

²<https://hbr.org/2018/03/americas-loneliest-workers-according-to-research>



Callie Jennings is an attorney at Branstetter Stranch & Jennings, PLLC and a co-chair of the Mentoring/Member Development Committee for 2018-2019.

SCALES OF STYLE

By Malaka Watson

“You should start a blog” was a phrase I grew accustomed to hearing whenever I’d bump into my former colleague Caroline Tippens. During these encounters, she would note that I was stylish, I could do it if other bloggers could, and a perk was that I could get free stuff. My initial response was a quick “no, no thanks.” And each time we talked, I would think of other reasons it didn’t appeal to me: I’m private; I’m not sure how it fits in the context of my legal career; I’m not stylish all the time; I don’t have enough clothes; I like to keep my personal opinions my own and don’t even use my twitter account; and so on. Yet, several months and conversations later, I surprised myself and decided to give it a try. After all, what was the worst that could happen? I let go of self-doubt, stopped worrying about how others might perceive it, what my wardrobe lacked, and realized that my appreciation of writing and style were enough to test the waters.

My first step was to come up with a name. Wanting something that reflected my passion for our profession and my passion for style, and with a little help from family and friends, [Scales of Style](#) was born. I didn’t want to focus solely on fashion and opted to cover a broader range of topics including women and men’s clothing, events, travel, and even social issues. Since launching at the end of 2016, I’ve done just that. I’ve written about Nashville happenings and events such as Nashville Fashion Week, the Symphony Fashion Show, and the Frist Art Museum’s Art Deco Affair. I’ve also touched on heavier topics such as the controversy surrounding the H&M advertisement picturing a young, black boy adorned in a t-shirt that read “coolest monkey in the jungle,” and I recently wrote a blog post discussing football, Colin Kaepernick, Nike, and counter-protesters. I also feature other people who inspire me, and I’ve found that my readers appreciate being introduced to new, interesting people.

I’ve slowed down on promoting random (and from what I found, sometimes poor quality) products, and for now, I’ve focused on connecting people to things and people that inspire me. I appreciate having the creative freedom to write about whatever I choose and a platform to communicate with people about lighthearted topics and other more complex topics that people are often afraid, or don’t know how, to talk about. Overall, blogging has been a great vehicle to channel my creativity, achieve balance, and share things that inspire me (writing, travel, food, style, culture, music, and adventure – the beauty we experience in normal everyday life). Lastly, I’ve found that having a creative outlet makes me a better lawyer and lawyering makes me a more balanced creative.

During the day, I am in-house counsel for HealthTrust (an HCA affiliate company). I counsel internal stakeholders on a variety of legal issues including contract, health, privacy, and security law and regulations.

If you would like to follow along, visit scalesofstyle.com, www.instagram.com/scalesofstyle/, or www.facebook.com/scalesofstyle/.



Malaka is a 2018-2019 Co-chair of the Program Committee. She is a Corporate Counsel at HealthTrust and blogger.

Sink or Swim (or Float)

Floatation Therapy and Attorney Well-Being

By Kristi Wilcox Arth

My civil procedure professor, Christopher Fairman, glanced down at his seating chart to pluck out some hapless soul who would be called upon to discuss the first case, in the first class, of my first day of law school. He looked up again—at me—and requested the court’s holding in *Gordon v. Steele*. And so it began.

Whether it is your first day of law school or your tenth jury trial as first chair, the adage that you must sink or swim permeates the legal profession. Given this intense pressure to perform, it is no wonder that a nationwide study of law students found that 17 percent suffered from depression, with one-sixth of that population being diagnosed after starting law school. J. Organ, D. Jaffe, & K. Bender, *Helping Law Students Get the Help They Need: An Analysis of Data Regarding Law Students’ Reluctance to Seek Help and Policy Recommendations for a Variety of Stakeholders*, *The Bar Examiner*, Jan. 2016. Similarly, 23 percent of law students suffered from anxiety, with nearly one-third of those cases being diagnosed after law school began. *Id.*

And once those law students finally don their hoods and become practicing attorneys, the numbers do not get better. Twenty percent of practicing attorneys in the United States are problem drinkers, compared with only 12 percent of highly educated workers across various professions. Alexia Elejalde-Ruiz, *High Rates of Alcohol Abuse, Depression Among U.S. Attorneys, Study Says*, *Chicago Tribune*, Feb. 3, 2016. The study, co-funded by the American Bar Association and the Hazelden Betty Ford Foundation, also found that 28 percent of practicing attorneys struggle with depression and 19 percent have anxiety. *Id.*

As you look to craft your own wellness practice, you should consider one unconventional, but effective, wellness modality: floating.

You Should Get Some R.E.S.T.

Restricted Environmental Stimulation Therapy (REST), or floatation therapy, involves lying in a sensory deprivation tank, where you are relieved from all sight and sound and even the pull of gravity. Because the water temperature of a float tank is kept at or near the average temperature of the human skin, you even lose your sense of touch, unable to feel where your body ends and the water begins. Needless to say, client calls and pre-bill deadlines are nowhere to be found.

The first iteration of a float tank “was invented in 1953 by neurophysiologists Dr. John C. Lilly and Dr. Jay T. Shurley at the National Institute of Mental Health in Bethesda, Maryland.” *Much Needed REST: The World of Sensory Deprivation Tanks*, *Psychology Tomorrow*, Aug. 3, 2014. In the 1970s, Dr. Lilly developed the first modern float tanks, and a Dr. Peter Suedfeld coined the term REST. *Id.*

Floatation converts today are widespread and even include New England Patriots quarterback Tom Brady, who practices floatation therapy as a regular part of his self-care routine and pre-game preparation. *8 Things to Know About Tom Brady’s Favorite Self-Care Ritual: Floatation Therapy*, *Floatation Locations Blog* (Jan. 31, 2017). When I decide to try out floatation therapy for myself, I am delighted to find that there are appointments for as late as 9:00 p.m. at Float Nashville—perfect for squeezing in a little wellness *and* a late night at the office. So after a particularly grueling (and long) day filled with three deadlines and rude opposing counsel, I am greeted by a sign outside Float Nashville promising that the floatation therapy will “Relieve Stress,” “Enhance Recovery,” “Ease Pain,” and make me “Feel Energized.” I sit in my car for a minute and watch as a client strides out with her wet hair spun up into a bun on top of her head.

Inside, I am greeted by the comforting reverberations of country chords being strummed on a six-string guitar by Mark Chesshir, one of the owners of Float Nashville, who is a manager, songwriter, producer, and also fancies himself a float enthusiast. The air is almost tangible, like the thick, humid air of a Costa Rican rainforest.

I sit down opposite Mark to chat about floating. After getting burned-out by the music industry in Nashville, Mark decided to turn his attention to running baseball camps with his young son. Umpteen million pitches later, Mark had thrown out his arm and sought the services of his now-business partner Amy Grimes, a licensed massage therapist.

“When Amy saw me, she said, ‘I could massage you, or I could help you,’” Mark relates. When Mark indicated that he would take the help instead, Amy brought him along to a float conference in Portland, Oregon. Pretty soon, the two of them decided to launch Float Nashville and began a two-year campaign getting the Nashville Metropolitan Health Department to approve a permit. “We even let some of the officials float, so they could see for themselves,” Mark says of the project. Now they have served over 40,000 floaters in the Middle Tennessee area, and I was eager to raise that number by one.

Leave Me Alone

“You’ve got 40,000 data points hitting your brain at any point in time—from the feeling of your shirt touching your skin to the sound of the fan in the background,” Mark tells me. “When you float, that all goes away.” The offer to reduce all that stimulation entices me. In the Netherlands, the University of Amsterdam and Leiden University conducted a meta-analysis of research on the value of floatation therapy, looking at 27 different studies published in 25 different articles or book chapters between 1983 and 2002. D. Dierendonck & J. Nijenhuis, *Flotation Restricted Environmental Stimulation Therapy (REST) as a Stress-Management Tool: A Meta-Analysis*, 20 Psych. Health 405–12 (2005). All together, the meta-analysis covered 449 participants, ranging in age from 20 to 45, and focused on the physiological, well-being, and performance benefits that floatation therapy offers. *Id.* at 405–07. The Dutch study indicates that “[c]ompared to other studies on stress and coping . . . the effects of floatation REST could even be considered high.” *Id.* at 410.

As a stress-addled and introverted lawyer, I am eager to give REST a try. Mark gives me a tour of a float room. “We have people who fall asleep in the tanks all the time,” he says. “But don’t worry. You can’t roll over because of all the salt.” “And you’ll play music when I’m supposed to get out, right?” I ask. “Yes, we’ll play soft, relaxing music to wake you up when your session is over. Some people are afraid that they won’t hear it, but don’t worry—we’ll play you some Jimi Hendrix or some Led Zeppelin if we need to.”

After thoroughly showering to remove all body oils, I smash thick blobs of wax into my ears to create a soundproof barrier, and I slip into the body temperature tank filled with 1,300 pounds of dissolved Epsom salts. I bob up to the surface like a fishing float and let out a deep breath. When I finally get up the nerve to turn off the single, low red light illuminating the room, it takes me a few minutes actually to relax in the utter darkness. My eyes dart about trying to see something. My ears strain for any noise. The thick, sauna-like air keeps the skin outside of the water the same temperature as the skin underwater, and I realize I cannot exactly feel where the bounds of my body end and the outside world begins.

Just as any lawyer, I am on high alert, looking for the next stimulus, the next email, the next thing in my environment that I will need to respond to. But there is nothing, and that is the point. As a clinical case manager for the Tennessee Lawyers Assistance Program reminded my bar association leadership group, “You are human beings, not human doings.”

As I slowly breathe and allow myself to just be here in the tank with nothing to do but rest, I begin seeing blooms of color that Mark described as “cognic visions” and others have described as the typical hallucinations of some float sessions. For me, they are mostly navy and inky petals that peel across my field of vision. Pretty quickly I also experience a dopamine dump. Better than a good glass of wine, it relaxes the tension in my neck and sinks me into that state of loopy happiness that you sometimes achieve right before the anesthesia kicks in.

Magnificent Magnesium

“The salts we use are Epsom salts, which really is not salt at all,” Mark tells me before the float. “It is magnesium sulfate. You receive magnesium when you are floating, which reduces inflammation, and inflammation is what makes us feel so bad.” When I ask Mark why floating is more restorative than sleep, in addition to the magnesium infusion, he touts the anti-gravity properties of the water and the meditative state that it induces in your brain. “And the pressure of the water against your skin is the perfect pressure to activate your lymphatic system,” he adds.

The Buddha Cheater

Jeena Cho’s and Karen Gifford’s wildly popular book, *The Anxious Lawyer: An 8-Week Guide to a Joyful and Satisfying Law Practice Through Mindfulness and Meditation* (Ankerwycke, 2016), extols the benefits of incorporating mindfulness and meditation into your legal practice. Cho and Gifford posit that a daily meditation practice can make you more resilient and mindful. *Id.*

And the benefits don’t stop there. One study conducted by the Department of Psychology and the Brain and Mind Institute at the University of Western Ontario considered the effect of a mindfulness and meditation practice for lawyers and determined that it increased job effectiveness by 6 percent, decreased stress by 32 percent, decreased anxiety by 30 percent, and decreased depression by 29 percent in the sample studied. John P. Minda, Jeena Cho, Emily Nielsen, & Mengxiao Zhang. 2017. “Mindfulness and Legal Practice: A Preliminary Study of the Effects of Mindfulness Meditation and Stress Reduction in Lawyers.” PsyArXiv. July 19. psyarxiv.com/6zs5g.

Cho is now pushing the limits of just how *little* meditation attorneys can do to still reap the benefits of mindfulness and meditation. Her new study, which ran from Friday, January 5, 2018, through Monday, February 5, 2018, required participants to spend just six minutes a day—0.1 in billable time—to their own meditation practice.

Even though there are legions of such studies plugging the benefits of meditation for lawyers, it is still hard, and most of us don’t take the time to do it. Enter floatation therapy.

I tell Mark that I'd read that floatation therapy is sometimes used to enhance or aid meditation. His gray hair sways about his shoulders as he nods. "I call it the Buddha cheater," he says. "Buddhist monks spend their whole lives practicing so that they spend 15 minutes a day in theta, achieving wisdom." Mark is referencing a state of mind during which the brain's theta waves predominate, which is a very deep state of relaxation and tends to occur only during REM sleep, hypnosis, or meditation (for very experienced meditators).

"Floatation helps you hit theta without all the work," Mark assures me. Those theta waves help us feel creative, inspired, and spiritual. ThetaHealing Theta Brain State, ThetaHealing, <https://www.thetahealing.com/about-thetahealing/thetahealing-theta-state.html>. Given these salutary effects on creativity, floatation therapy is gaining popularity in cities such as Nashville, which is bursting with musicians and artists. Mark sees people come into Float Nashville all the time to search for (and find) their muse.

As someone who has dabbled in meditation, mostly using guided meditations, I am curious about whether the float tank will help me "go it alone" in terms of meditation. A sense of quiet calm descends on me as the rest of the world is whisked away by the tank. While I have to repeat a mantra for the first few minutes to calm my mind, the mental chatter soon fades, and the majority of my time in the tank is spent in a meditative state that makes the time scurry by.

Stand a Little Taller

I am pulled out of my deep reverie before the promised soft music plays because I am suddenly and unexpectedly very cold. Goosebumps prick up all along my skin, and I am unable to go back to that meditative trance that I had been enjoying.

When the soft music finally does begin playing, I raise the lights and climb out of the tank. The blissful warmth of the hot shower surrounds me. As I huddle underneath, breathing in the rosemary mint of the shampoo, I am thankful for the relaxed and unhurried pace of the float spa. After hugging into a freshly-laundered towel, I realize that I have not brought any comfortable clothes to change into, unlike the girl with the wet bun, slipping across the parking lot in her yoga pants. So I pull on the black pants, pink blouse, and kitten heels that I had worn to work so many hours earlier. I step out into the sitting room, where the receptionist, Heather, explains that my sudden chill is actually a pretty common experience. "It's because your body temperature drops when you are in a deeply meditative state."

I peruse the spa's collection of hot teas, Dragon Pearl, Chamomile, Peppermint, and feel suddenly successful that I achieved such a deeply meditative state. I am making a decaf coffee and remarking on how my joints feel, when Heather nods and says that you often elongate after a float. "You can grow a half inch sometimes," she says. So if all the health benefits of floating described so far aren't enough, here is this: you can stand a little taller, too.

Floating requires somewhat of a commitment in terms of cash and time. Single sessions can cost about \$75, and most float sessions are scheduled for around 90 minutes. So while it may be hard to make floating a daily experience, it is a practice that you should definitely consider adding to your wellness toolkit. Repeat floaters stand to gain even more. The "effects of REST become stronger through repeated exposure." Dierendonck, & Nijenhuis, *supra*, at 410. The Dutch study concluded that "more sessions, taken over a longer period of time, are likely to give a better result." *Id.*

But even if you cannot make float sessions regularly, you should consider building them into your practice leading up to high-stress events such as an oral argument or a trial, where you will be expected to perform. The research indicates that REST may have a beneficial effect on performance in situations "where high arousal is detrimental for optimal performance," so you might try floating before any situation during which you will, once again, be expected to sink or swim.

Floating the Idea . . . of a Float

We all remember the joy that we felt as kids suspended in a backyard swimming pool and staring up at an expanse of blue sky, or splashing in the salty waves at our favorite beach. So why not harken back to that joy, that abandonment, that oblivion, and try out floatation therapy for yourself? And besides, if you get too lost in the experience, there is always Led Zeppelin.



Kristi Wilcox Arth practices business litigation and intellectual property law at Bradley in Nashville, Tennessee. She litigates cases in federal and state court involving trademark infringement, trade secret misappropriation, governmental tort liability, and contract and shareholder disputes, and she also handles trademark prosecution before the United States Patent and Trademark Office and the Trademark Trial and Appeal Board. She co-founded the Wellness Subcommittee of the DRI Young Lawyers Committee and was recently appointed to the DRI for Life Committee by DRI President John F. Kuppens.

The “What LAW Women Love...” Series Presents

Kimi deMent: Why I Love Adventure

How Embracing Challenge and Risk in the Great Outdoors

Makes Me a Better Lawyer During the Workweek

“Even though what the participants defined as “creative” was different for each person, the researchers said that whatever the activity was, it provided them with some form of self-expression and ability to discover something new about themselves. This type of experience can have implications beyond just relaxation after a hard day, but can actually help people with their day-to-day duties, like problem-solving.”¹

When LAW Women reached out to me and asked if I was willing to write about how my love of the great outdoors impacts my work as a female attorney, there was no hesitation. For me, outdoor adventure brings opportunities for quiet restoration and renewal, and yet simultaneously keeps my brain actively solving problems, assessing and managing risks, and thinking creatively, all while providing increased confidence, steadiness, and joy that keeps me going through even the craziest of workweeks.

Restoration and Renewal

Based on the e-mails I send and receive at all hours of the day, I am confident that I am not the only attorney who struggles to disconnect from the office when she goes home at the end of the workday. With my e-mail housed in my phone just inches away from my hand, and my laptop usually just a few feet farther than that, it can be tough to ever really disconnect. Beyond that, with groceries and errands and cleaning, and dogs that need walking, and friends and family who need attention, and social media to check, sometimes it can seem like even if I am able to disconnect from the office, my “second office” demands enough attention to swallow me whole. Sometimes called the cult of busyness, sometimes called the myth of multitasking, there is much research out there on the importance of intentionally (and seemingly selfishly) claiming time for quiet.²

For me, getting outside allows that much needed respite from the usual busyness of my everyday existence. At first, it took physically getting beyond the reach of cell service to achieve that necessary solitude and brain rest--otherwise I would find myself out on a kayak responding to client calls or on the top of a cliff checking emails for work. I found that if I did not actually force myself outside of the limits of cell service, I would not disconnect in the way I knew was needed. So I began to get outside. Get *really* outside. I began to prioritize time outside *each week* as my time for rest and renewal, and as time went on, I found myself growing increasingly eager for the moment when I got that first glimpse of tree coverage, was able to flip my phone into airplane mode, and could sink into a comfortable rhythm with nothing but my thoughts and my dog and a loose agenda to keep me company for the hours ahead.

Beyond simple digital detox, there is plenty of research out there on the positive benefits of being outdoors for managing the types of stress levels that characterize the legal profession. Just two nights in the wilderness has been shown to have a measurable reduction on stress and anxiety, and a walk in the woods outside the city or even just view of nature outside an office window have been positively correlated with lower stress and higher job satisfaction.³ Not only have I read the scientific studies, but I have empirically observed my own abilities to navigate particularly stressful workweeks directly correlate with the time I spend outside. For this reason, even when things get so busy that all I am able to carve out is a few hours for a bike ride on the Natchez Trace Parkway or run with my dog on trails a few miles down the road, I know that time invested in myself outdoors yields marked dividends in my work during the week.

Problem Solving, Confidence, and an Active Brain

An interesting dichotomy that I have observed about outdoor adventure is that while it offers time for quiet and for mental rest and restoration, it also requires me to constantly keep my brain engaged by actively solving problems, assessing and managing risks, and thinking creatively during my restorative time--and this cognitive exercise is also valuable in my work-life. Whether I am on a rock wall with a climbing partner double and triple checking our knots and processes to ensure safety, scanning for bears and wildlife on a backcountry trail, reading the water levels on a river to determine whether it is safe for me to paddle, learning how to fix a bike tire on the fly, or figuring out how to be more efficient in what I do and do not need when I set out on an adventure, my brain stays as active as my body when I am outside. By keeping my brain constantly active and exercised, it stays flexible and healthy and ready to go on Monday morning when work rolls back around. John Ratey writes about the research behind cognitive flexibility and fitness in his book Spark: The Revolutionary New Science of Exercise and the Brain (which I highly recommend). Ratey writes that “What makes aerobic exercise so powerful is that it’s our evolutionary method of generating that spark. It lights a fire on every level of your brain, from stoking up the neurons’ metabolic furnaces to forging the very structures that transmit information from one synapse to the next.”⁴ Notably, Ratey encourages that cognitive flexibility can be achieved through most aerobic exercise, so for those with wilderness apprehension, even a lunchtime run around the city can yield some of these same benefits.

Finally, I find that each new challenge that I encounter in the outdoors is an opportunity to learn something new about myself, and that lesson is not left behind when I return to the office on Monday morning. As my confidence increases outdoors, it does indoors as well. As an example: around this time last year, I decided to trail run the Maroon Bells Four Pass Loop outside Aspen, Colorado, in one day. This is a 30ish mile wilderness loop that typically takes an average backpacker four days to complete. As the date of our run drew closer, I became more and more nervous: “Did I bite off more than I could chew? Was I going to be able to make it?” The night before our run, one of my friends showed me former Navy Seal Jocko Willink’s video called “How to deal with failure” where he explained that the way he deals with failures, setbacks, and other unexpected challenges is to simply say to himself “good,” and think of the circumstance as an opportunity, not a setback. The next day’s run ended up being filled with many “good” challenges as I dealt with unexpected altitude sickness in the backcountry and unanticipated obstacles. When I finally finished the loop, I had learned invaluable lessons about myself and my own resilience. Although I flew back to Nashville tired and sore, I also flew back with a new confidence and energy that would permeate my work and personal life. And that “good” lesson from the trails? Well, that has come in incredibly handy during subsequent work and life setbacks, and I share Jocko’s video and message with friends and colleagues regularly. If you are unfamiliar with the video, I encourage you take a moment to watch it right now!⁵

Conclusion

Although hanging off cliffs, cycling through the desert, and backpacking through bear country may not be for everyone, I do think most lawyers can benefit from a bit more sunshine and adventure in their personal lives and carving out time to do the things they love. If you need encouragement or would like a fellow lady lawyer to help you plan an adventure outside, please feel free to reach out to me! I’ll see you on the trails!!

¹Alexandra Sifferlin, “Being Creative Outside of Work Makes You Better at Your Job,” TIME Magazine, *Journal of Occupational and Organizational Psychology*, April 17, 2014, <http://time.com/65487/being-creative-outside-of-work-makes-you-better-at-your-job/>

²Sherry Turkle, *Reclaiming Conversation: The Power of Talk in a Digital Age*, Penguin Press, 2015

³Scandinavian Journal of Forest Research, 2007; Environmental Health and Preventative Medicine, 2010; Japanese Journal of Hygiene, 2011; Biomedical and Environmental Sciences, 2012; Psychological Science, 2008; Journal of Affective Disorders, 2013

⁴John J. Ratey, *Spark: The Revolutionary New Science of Exercise and the Brain*, Little, Brown and Company, 2014

⁵Jocko Willink, “How to Deal with Failure,” <https://www.youtube.com/watch?v=6fUPH-035cE>



When not trailblazing, Kimi deMent is the Pro Bono Coordinator for the Tennessee Supreme Court, Administrative Office of the Courts.



New Member Spotlight

Misty Decker

Where did you grow up? Tell us about your path to practicing law: I grew up in Arkansas in a small town about an hour from Memphis. I attended undergrad in Arkansas focusing on accounting and then attended Ole Miss where my focus was a Masters in Tax. From college, I started out in public accounting in Memphis and then did a turnaround of an accounting department for a large non-profit while serving as Controller. My husband had already moved to Birmingham, Alabama so once the turnaround was complete, I headed that way. I interviewed with a small, niche litigation support boutique firm not knowing that this was a career path that accountants could have. Since then and for over 10 years, I have been working in the Litigation Support field providing expert witness testimony and consulting in the areas of accounting, finance, fraud and valuation.

Tell us about your family. My husband and I have 4 children. Typically, when I tell people that, they immediately want to know the gender mix and ages! We have an 8 year old girl, a 7 year old boy, a 2 year old boy and a 1 year old girl.

What do you do professionally and what is your favorite part of your job? I am a Director in Litigation Support and Consulting with Elliott Davis – a top 40 accounting firm. As a consultant and expert witness in the area of accounting, I am consistently surrounded by smart, innovative and driven people in the accounting industry and law profession. There's always challenging topics and no two days or issues are the same.

If you weren't in your current profession, what would you be and why? I've always wanted to do something creative. My husband jokes because I once said in a conference "maybe interior decorating (this admittedly would take a lot of work for me!) or baking", and he came up with the name for my future store – Drapes and Crepes! I think I should probably stick with accounting!

What is your favorite thing about being a LAW member? The networking opportunities are great. Being a part of an organization with like-minded women professionals is so important.

What do you like to do in your spare time (if you have any)? I have very little personal spare time, as I'm sure most of LAW members can identify with. At the end of a long day when the kids are all finally asleep, I steal a few minutes with Netflix. Otherwise, I'm chauffeuring the kids to activities and trying to find some time in the sun!

What books are you reading right now and what is the last book you read? I read a lot of Berenstain Bear, Dog Man, and Magic Treehouse books these days. I recently read *Smart Collaboration* by Heidi K. Gardner and *Mindset: The New Psychology of Success* by Carol Dweck as part of a Leadership Program. On my personal list, I have *Everybody Always* by Bob Goff on my nightstand. This is definitely one area I wish I had more time for.

What is your favorite quote, piece of advice, or a motto you try to live by? Abraham Lincoln — 'Folks are usually about as happy as they make their minds up to be.' Said in today's terms as 'You will be as happy as you decide to be.'

Any "fun facts" about you that other LAW members don't know? I took dance lessons for 11 years as a kid and I still have two left feet!

What woman most inspires you and why? I try to find inspiration and motivation in most women I meet. I enjoy talking with the women who have paved the way, even in small ways, for the business world today.

It's a Saturday in Nashville, what are you doing? Something fun with the kids! Most of the time it's easy stuff like a movie, swimming or playing in the yard together, but I always try to soak up as much time as possible with them on the weekends.

Welcome

The following new members joined LAW in September

Audrey Anderson

Jenny Hall

Britni Holland

Kimberly Ingram

Robyn Lee

Mary McAllister

Deborah Mumford

Joy Nguyen

Cynthia Podis

Jacqueline Scott

Lexie Smith

Teresa Street

Leigh Walls

About our Members

Congratulations to **Laura Heiman of Lieff Cabraser on her recent marriage to Leon Bellan.**

On the Move **Jennifer Lankford has moved from Thompson Burton to Cracker Old Country Store, Inc. where she has assumed the role of Senior Corporate Counsel.**

**Thank you to our Sustaining Members who support the programs,
mission and purposes of LAW above and beyond the Sliding Income Scale categories.**

Blind Akrawi	Sarah Hannah	Sara Anne Quinn	Helena Walton Yarbrough
Audrey Anderson	Laura Heiman	Phillis Ramsby	Amanda Young
Anne Arney	Lisa Helton	Sharon Ramos	Gulam Zade
Kristi W. Arth	Jessica Hill	Jimmie Lynn Ramsaur	
Katherine Austin	Leesa Hinson	Sally Ramsey	
Laura Baker	Jenny Howard	Candice Reed	
Rebekah Baker	Kyonzte Hughes-Toombs	Nathan Ridley	
Mary Balthrop	Lynne Ingram	Lisa Rivera	
Cindy Barnett	Jessica Jernigan-Johnson	Lauren Roberts	
Kathryn Barnett	Michele Johnson	Jennifer Robinson	
Margaret Behm	Judge Kelvin Jones	Linda Rose	
Jodie Bell	Judge Lynda Jones	Rachel Rosenblatt	
Sonya Bellanfont	Brendi Kaplan	Abby Rubenfeld	
April Berman	Anne Marie Kempf	Jennifer Rusie	
Julian Bibb, Jr.	Nina Kumar	Joyce Safley	
Judge Cheryl Blackburn	Ed Lanquist	Maria Salas	
Christen Blackburn	Lynn Lawyer	Julie Sandine	
Judge Melissa Blackburn	Robyn Lee	Carolyn Schott	
Chancellor Claudia Bonnyman	Gena Lewis	Cynthia Sherwood	
Jan Bossing	Haverly MacArthur	Dianna Shew	
Martha Boyd	Alexandra MacKay	Marietta Shipley	
Dewey Branstetter	Nancy MacLean	Emily Shouse	
Hunter Branstetter	Chambre Malone	Beth Sims	
Mary Katherine Bratton	Anne Martin	Liz Sitgreaves	
Lori Brewer	Peggy Mathes	Laura Smith	
Josh Burgener	Kelly McCarthy	Lucinda Smith	
Jean Byassee	Carol McCoy	Mary Dohner Smith	
Karla Campbell	Susan McGannon	Camille Steward	
Tracey Carter	Elise McKelvey	Mariam Stockton	
Margaret Casey	Lori Metrock	Grace Stranch	
Kay Caudle	Amy Mohan	Judge Jane Stranch	
Justice Connie Clark	Valerie Diden Moore	Allison Thompson	
Nancy Krider Corley	Marlene Moses	Scott Tift	
Carrie Daughtrey	Patricia Moskal	Elizabeth Tipping	
Judge Martha Daughtrey	Barbara Moss	Annie Tipps	
Ashonti Davis	Karen Neal	Martha Trammell	
Jackie Dixon	Leighann Ness	Judge Aleta Trauger	
Brenda Dowdle	Judge Alistair Newbern	Byron Trauger	
Sherie Edwards	Scarlett Nokes	Robert Tuke	
Amy Everhart	William O'Bryan, Jr.	Vanessa Vargas-Land	
Amy Farrar	Ashley Odubeko	Erica Vick	
Kimberly Faye	Tony Orlandi	DarKenya Waller	
Mandy Floyd	Janice Parmar	Emily Warth	
Shana Foncesbeck	Andrea Perry	Elizabeth Washko	
Victoria Gentry	Barbara Perutelli	Malaka Watson	
Jessica Gichner	Cynthia Podis	Bernadette Welch	
Elizabeth Gonser	Erin Polly	Susan Neal Williams	
Dana Haas			