

LAW MATTERS

February 2020

Volume XXXI No. 10



Building a Diverse Team

February 18, 2020

11:15 am—Registration

Noon—1:00 pm Dual Credit CLE

Past LAW President, Candice Reed, will moderate a panel of past LAW presidents, Donna Roberts, Joycelyn Stevenson and Nikki Smith-Bartley as they discuss how to build a diverse team (large or small) and why it is so important!

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PRESIDENT'S MESSAGE

by Christen Blackburn



This month, LAW celebrates its 39th Anniversary! On February 24, 1981, the Lawyer's Association for Women was formed with the goal of addressing issues of concern to women in the legal profession. One of the biggest challenges faced by women lawyers in 1981 (and we continue to face today) is establishing diversity and inclusion in Nashville law firms and legal departments.

This week, I spent time at the downtown branch of the Nashville Public Library reviewing LAW's archives as we prepare our archives to be shared with future generations. From these records, it is

clear that LAW has a well-documented past of identifying and challenging the lack of diversity in our legal community. For example, in 1984, many women in the legal community were disappointed by the insensitive and "anti-minority" sentiment contained in Vanderbilt Law School's student publication, DICTA. This publication, at the time, had produced sexist articles about Vanderbilt female professors. LAW also weighed in on Court of Appeals Judge James Parrott's comments, contained in the University of Tennessee Law School's publication, which expressed views that women do not belong in a courtroom. LAW contacted not only the Deans of these schools, but Judge Parrott himself, to express their opposition to the articles' sexist slant. In keeping with our mission to support women individually and collectively, our founders reached out to offer their support to the female faculty and women's law student organizations. Also, as I reviewed the archives, I was fascinated to learn that even in its early years, LAW took an active role in challenging the lack of diversity in Tennessee courts. In those early days, LAW leaders promoted the inclusion of women on the bench by urging the Governors and US Senators to appoint women lawyers to fill vacancies on the bench and identifying a number of qualified candidates for appointment. In addition, as early as 1985, LAW has monitored the diversity of Nashville law firms, providing statistics and highlighting the lack of diversity in the ranks of our biggest firms, which I believe, has in turn led to an increase of qualified women hired and promoted to partner.

Today, 39 years later, we have made so much progress in large part due to the efforts of our early members. Nevertheless, our work is not done. The statistics would show that while women are, indeed, more represented than decades before, we are still underrepresented especially in firm leadership and partnership and our legal institutions still have work to do to foster a culture of inclusion. So, we must continue the mission created by our founders to address these issues by educating our members on how to achieve diversity and inclusion in our firms and legal departments. This month, at our membership meeting and CLE on **February 18**, we will discuss how to develop a diverse legal team from four of LAW's past presidents: **Donna Roberts**, VP of Human Resources at Cracker Barrel; **Nikki Smith-Bartley**, VP of Diversity and Inclusion at Asurion; **Joycelyn Stevenson**, Executive Director of TBA; with the discussion moderated by **Candice Reed** of Latitude. This CLE will take place at Asurion, a recognized corporate leader in diversity and inclusion. Then on **February 25, 2020**, our Member Development Committee will host our quarterly Mentorship Committee's Lean In Circles with **Michele Bendekovic**, Director of Diversity and Inclusion for Bass Berry & Sims, who will discuss **Implicit Bias**, those unconscious attitudes or stereotypes that affect our understanding, actions, and decisions.

I look forward to seeing you at these upcoming events where we will explore how we can continue to address one of the biggest challenges still facing diverse lawyers.

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UPCOMING EVENTS

2020

February 20, 2020

February Networking Committee

Wine Tasting

**City Winery
609 Lafayette Street**

February 25, 2020

Legislative Breakfast with WPCTN

7:00 am—8:00 am

**Bone McAllester
511 Union Street, 16th Floor**

February 25, 2020

Lean In Circles

6:00 pm—8:00 pm

**Waller
511 Union Street, 26th Floor**

March 10, 2020

Health and Wellness Book Club

6:00 pm—8:00 pm

Venue TBA

March 31, 2020

**Community Relations—Serve Dinner
Nashville Rescue Mission Women's
Campus**

4:30 pm—6:30 pm

For more information and to register for all LAW events, go to www.law-nashville.org/events

A Prescription for Justice: Legal Responses to the Opioid Crisis at Federal and Local Levels

By Brooke Coplon

For LAW's February CLE Event, LAW Members, Debi Tate, Executive Director, Tennessee Administrative Office of the Courts and Tricia Herzfeld, attorney with Branstetter, Stranch & Jennings, PLLC discussed how the opioid epidemic has impacted the legal system both through the strain on the court system and ongoing litigation.

Tennessee is one of the hardest hit states of the opioid epidemic. Approximately four people die every day from opioid overdoses. The opioid epidemic is a symptom of larger addiction and mental health issues in America and can touch all facets of life. One of the biggest barriers for people seeking help for opioid addiction is the stigma associated with being an addict.

Debi Tate spoke about the widespread effect the opioid epidemic has on courtrooms in Tennessee. It affects more than criminal cases and can touch bankruptcy, foster care, and child custody cases. Recently, the National Judicial Opioid Task Force put together tools, like a resource dictionary of medical and drug use terms, in order to assist judges and courtroom professionals in coping with the increasing presence of opioids in their courtroom. (<https://www.ncsc.org/opioids>) For example, courtroom personnel must be aware of the risks of exposure to fentanyl and other drugs that may be used as exhibits. Fentanyl is so toxic that extended physical exposure to the drug can cause opioid toxicity. In addition, courtrooms, and even some law firms, have begun stocking Narcan, a drug that reverses the effects of an opioid or heroin overdose.

Tricia Herzfeld spoke about several cases Branstetter, Stranch, and Jennings, PLLC has filed against pharmaceutical companies under the Tennessee Drug Dealer Liability Act ("DDLA"). The DDLA, Tenn. Code Ann. § 29-28-101, became law in 2005. It was initially enacted to combat the crack epidemic and was created as a civil remedy to complement criminal remedies.

In September 2019, in *Effler v. Purdue Pharmaceuticals, Inc.*, the Tennessee Court of Appeals held that District Attorneys had standing to pursue DDLA claims on behalf of the political subdivisions within their districts as district attorneys best know the drug markets of their regions. Further, opioid makers can be sued as drug dealers and that District Attorneys have the right to hold opioid makers financially responsible for the opiate epidemic. Judge D. Michael Swiney wrote, "The common perception of a drug dealer may be that of the street dealer, but the DDLA does not make that distinction." Sellers of opioids could be civilly liable under the DDLA whether their headquarters "is an office building or a back alley."

Due to its wide-reaching effects, we are sure to see even more developments in this area of law in the next few years as local and state governments look for more tools to combat the opioid epidemic.



Brooke is a 2019-2020 Newsletter editor. She is an Associate at Wiseman Ashworth Law Group, PLC where she practices in personal injury, employment, civil rights litigation, nursing home litigation, healthcare law, mental health law, and premises liability.



2020 LAW AWARDS

Nominations are now open for the 2020 Judge Martha Craig Daughtrey and Rising Star Awards.

Nomination forms can be obtained on the home page of the LAW website at

<https://www.law-nashville.org>.

Nominations are due by midnight March 1, 2020.

Awards will be presented at the Annual Meeting and Awards Banquet Thursday evening, April 23, 2020.

The Cherished Hearts Court: A Unique Response to Human Trafficking

by Bre Miller, Becky Bullard, and Judge Ana L. Escobar

January is Human Trafficking Awareness Month and it was so wonderful to see so many organizations call attention to this complex crime. Many people think that human trafficking occurs in foreign lands or only happens to teenagers picked up by creepy, windowless vans. However, it is more common to see abusers who are known or become known to victims through intimate relationships, family relationships, and social media. In fact, the National Human Trafficking Hotline 2018 Annual Report cited intimate partners and family members as the most common sex traffickers. Traffickers most commonly control victims through methods of power and control similar to those seen in domestic violence situations, and trafficking can occur in a place as seemingly safe as a victim's home.

When we look at human trafficking in this way - as a form of abuse, we can easily recognize that human trafficking is occurring in Nashville, Tennessee today and has been occurring here for decades. In this article, we hope to expand understanding of human trafficking while highlighting what Nashville is doing to help combat this crime.

To start: what is the difference between prostitution and human trafficking? Prostitution is when the participant is willingly and freely involved in the sale of sex. Yet, in one study, 89% of individuals engaged in prostitution indicated they would leave the Commercial Sexual Exploitation Industry if they had another viable options. Sex trafficking, a form of human trafficking, differs from prostitution in that there is typically a third party involved that benefits from the sale of sex – the trafficker.

There is no “silver bullet” indicator of someone who is being trafficked. Every trafficking situation is distinct and the relationship to the trafficker varies. The following indicators can be helpful for practitioners and the community to increase sex trafficking identification: change in personal appearance, malnourishment, unexplained physical injuries, untreated illnesses, scripted or inconsistent stories, abusive relationships, substance use disorder, lack of control of finances or housing, few personal possessions, and for some they may have branding or a tattoo indicating ownership by the trafficker.

In Nashville, the Cherished Hearts Court utilizes this understanding to identify victims of sex trafficking who have cases in the criminal justice system and to support them in addressing the issues that come from their traumatic experience. This Court was started by two prosecutors who found that women who were clearly being trafficked were often forced by their traffickers to commit crimes or plea to crimes that benefited the trafficker. They applied for a three-year grant to address this issue that they were ultimately awarded in 2016.

The Court is a trauma-informed treatment court held once a week. Unlike traditional courts, a treatment court model allows for setbacks or mistakes by the participant. Instead of immediately sending the participant to jail, the team discusses what can be done to encourage the participant to progress.

There is an all-female multidisciplinary team made up of a prosecutor, public defender, program director, probation officer, case managers from both the Office of Family Safety and End Slavery, a representative from the Mental Health Co-op, a trauma specialist, and an addiction specialist. In order to reduce anxiety, the Judge sits at the courtroom table and does not wear a robe. Both the team and the participants sit together around a table while each participant is reports on her week.

The Court concentrates on addiction, trauma, and independence. Our grant supports inpatient and outpatient treatment programs for the participants and provides a therapist. In addition, they must attend AA/NA meetings three times a week and a weekly psychotherapeutic group. Case managers are available for support at any time. By the end of the program, the participants are expected to be working, maintain sobriety, and have independent housing.

Every day each participant of Cherished Hearts teaches us something new. We are in the last year of our funding, and we hope to be renewed. As a team, we keep learning and improving the program. Participating with the program is both heart-breaking and incredibly rewarding. The most beautiful thing that comes out of the experience is hope. These women have hope and that keeps all of us striving for success and gratitude.

“Healing Enslaved and Repressed Trafficking Survivors”



Breanna Miller, MSW, MPH is the Inmate and Trafficking Coordinator for Metropolitan Government of Nashville and Davidson County.



Becky Owens Bullard is the Senior Director of Programs for Metro Nashville Office of Family Safety.



Judge Ana Escobar is a LAW member and presides over Division III, General Sessions Court for Metropolitan Nashville & Davidson County.

If you believe you have encountered someone who is being trafficked you can call the Tennessee Bureau of Investigation Human Trafficking Hotline at 1-855-55-TNHTH or the National Human Trafficking Hotline at 1-888-373-7888.



Diversity 2020 // Setting the Vision for Diversity within the Legal Profession is a collaborative effort of members of the Tennessee legal community designed to bring attorneys together from across the state to set concrete goals and create actionable plans for increasing the number of diverse lawyers hired, retained, and promoted across business types. Diversity 2020 will specifically focus on the importance of moving beyond achieving diversity in numbers toward the higher goal of inclusion and equity within the workplace.

For more information and to register go to nashvillebar.org/Diversity_Summit_2020.

Our Trip to Disney: Disney Novices Turned Disney Enthusiasts

By Laura Baker and Liz Sitgreaves

Recently, these best friends traveled to Orlando to visit Disney World along with Laura's husband JT and almost four-year-old Claire. This was Laura's first trip in her almost forty years, and Claire's first too! Reflecting on our fun-filled five days, we want to share our favorite memories from the trip.



Cinderella's Royal Table is a must for your princess-obsessed little girls (or boys). As an aside, Laura has made peace with her daughter's love of all things princess. She has come to the realization that being a feminist doesn't mean abandoning things just because they are girly, and she has found virtue and power in all of the princesses (except Sleeping Beauty/Aurora...she still can't figure out what she did other than be prettier than Maleficent). Back on topic: Many of the princesses make appearances and visit each table individually for a personal meet and greet while diners enjoy their meal. Claire was so excited to meet the princesses and we got some great photos!



Before we went to Disney, our planner secured Fast Passes for us at many of the rides in the parks. When Laura saw that the planner had booked Claire on a couple of roller coasters, she was a little scared, but much to her surprise, and delight, Claire loved the roller coasters (probably more than the princesses!). The moment that Seven Dwarfs Mine Train took off from the station, Claire's eyes widened, and she naturally shot her arms up above her head (as though she'd been riding roller coasters for years). She was thrilled and excited and loved every minute of it (even if Laura had some minor panic attacks and fretted over whether Claire was strapped in correctly).



At Epcot, we made good use of our hotel being a stop on the monorail to visit Epcot for dinners. Since we never quite knew when we might want dinner, we utilized the very easy to navigate Disney World app to book reservations when we had a better idea of our timing each day. It was a great way for the adults to have some great dinners. Our favorite dinner was in the San Angel Inn, which while inside, makes you feel like you are dining outdoors.



The margaritas certainly helped us relax as well. And lastly, Liz would be remiss if she didn't mention the amazing offerings that she stumbled upon on her last day visiting Epcot during the International Festival of the Arts, which in addition to having art displays, also had several pop-up restaurants with unique and beautiful dishes. Liz was able to sample a glitter beer and lobster chips (homemade potato chips with a lobster bisque cheese sauce, pickled jalapenos, and citrus cream). She was unsurprisingly in heaven.

Lastly, you cannot leave Disney without some sort of souvenir, and do not worry, Disney, will make sure you see them with many rides creating an actual "parent trap" and dumping you out post-ride into a store filled with many a tempting toy. Laura and JT had to borrow an extra suitcase to transport all of Claire's new treasures home to Nashville. Liz, on the other hand, escaped relatively unscathed with two pairs of Disney ears (because obviously she needed both a rose gold pair and a leopard pair).

We highly recommend making the trek to Disney World. Definitely plan to spend at least three days so that you have time to experience all of the magic!



Laura and Liz are both Past Presidents of LAW and work at The Law Offices of John Day.

Dopesick: Dealers, Doctors, and the Drug Company that Addicted America

By Jane Salem

If you're short on time and don't feel like reading this entire review, I'll cut to the chase: This is an excellent book and an important read if you care about the opioid problem, which you should. Five out of five stars.

In 1996, Purdue Pharma introduced OxyContin, a narcotic painkiller, heralding its ability to provide "smooth and sustained pain control all day," which "simplifies and improves patients' lives."

However, OxyContin had the potential for addiction and excruciating withdrawal symptoms: nausea, vomiting, diarrhea, body aches, anxiety and an intense craving for the drug. Apparently, being "Dopesick" is something you'll never want to experience, so you take that next dose.

Drug representatives advocated Oxy not only to doctors treating the terminally ill but also to pain-management specialists and family practitioners treating patients suffering from chronic but less severe pain. Patients became addicted, and accidental overdoses became commonplace.

Dopesick gives the following stark statistic, which I can only assume has worsened since the book's 2018 release:

"Drug overdose had already taken the lives of 300,000 Americans over the past fifteen years, and experts now predicted that 300,000 more would die in only the next five. It is now the leading cause of death for Americans under the age of fifty, killing more people than guns or car accidents, at a rate higher than the HIV epidemic at its peak."

Oxy is a prescription drug but also the chemical cousin to morphine and heroin. Some addictions begin with the prescription pad, and when the pills run out, the addicted patient seeks more, be it from his or her grandparents' medicine cabinet, "doctor-shopping," or the black market. Other times, teenagers and young adults are either over-prescribed the drug after wisdom teeth extractions, sports injuries, etc., or perhaps they take the drug seeking the high. Not long afterward, they realize that heroin is cheaper and easier to acquire.

This is happening nationwide, in small and large towns, and across every race and social class. Think about it: we all know someone who has a personal story on the topic.

Breaking an addiction to pills or street drugs is difficult:

"The latest research on substance use disorder from Harvard Medical School shows it takes the typical opioid-addicted user eight years—and four to five treatment attempts—to achieve remission for just a single year. And yet only about 10 percent of the addicted population manages to get access to care and treatment for a disease that has roughly the same incidence rate as diabetes."

Wow.

So, why should a lawyer in Tennessee read this book?

Many reasons. For starters, it's in our backyard. Appalachia is among the hardest-hit areas of the nation for the opioid crisis. But also, as a workers' compensation court staff attorney, I see many cases where injured workers are prescribed narcotics. I like to think that by now, their doctors know about the potential problems associated with this, but I can't help but worry. I'm sure many other practice areas have seen the effects of the opioid crisis as well.

Further, I'm a parent of a teenager and a young adult. This book offers advice for parents, namely, make and enforce your rules, pay attention to your kids, and for goodness sake, throw away anything in your medicine cabinet that shouldn't be there. Old medications go in the trash with coffee grounds not down the drain. (My daughter had her wisdom teeth out a week ago. Tylenol, and Advil, ice cream and Netflix were sufficient to get her through.)

This book isn't necessarily an indictment on big pharma, nor is it overtly political or preachy. And thankfully, in addition to thoroughly framing the problem, she also offers some solutions, although this isn't going to be an easy fix.



Jane Salem is a frequent contributor to LAW Matters. She is a staff attorney with the Court of Workers' Compensation Claims in Nashville.

Board Member Spotlight
Rachel H. Berg
Co-chair Mentoring/Member Development



Where are you from, and what brought you to Nashville?

I am a lifelong New Yorker who moved to Nashville two years ago because of my husband's work. He is an entrepreneur who raised money to buy a business called eCard Systems in Brentwood, Tennessee, which he now runs. They manufacture electronic gift cards (which look like credit cards) and process gift card transactions for small merchants around the world. Nashville has been very good to us so far.

What do you do professionally, and what is your favorite part of your job?

I am a commercial litigator at Polsinelli. My practice focuses on the payments industry, representing financial institutions and payment processors in complex business litigation across the country. My favorite part of my job is drafting significant motions—particularly figuring out how to present complex issues in a straightforward and persuasive manner. I also greatly enjoy Polsinelli's collegial and collaborative culture and my colleagues in the Nashville office and others around the country.

Who has been a major influence in your legal career and why?

I have had the privilege of clerking for federal judges (one in Honolulu and four in Nashville) who have all influenced my short legal career greatly. In particular, Judge Kay taught me to be very thorough in my legal analysis and to apply a "common sense" approach. Judge Richardson taught me that being precise on the small things is just as important as being precise on the big things. I am so grateful for the opportunity I had to work for these judges.

It's a Saturday night. What are you up to?

Date night with my husband at one of the great restaurants in Nashville. Our favorites are Rolf & Daughters, Husk, and Emmy Squared.

What is your favorite movie? T

hat's a really tough question. A few of my favorites are Legally Blonde, The Devil Wears Prada, Annie Hall, and Dallas Buyers Club.

New Member Spotlight

Lauren Higbee



Where are you from? Tell us about your path to practicing law.

Chattanooga, Tennessee and went to both college and law school in Washington, DC. My first inkling of interest in the law was during a political science class in high school. In college, I took Constitutional Law I and II as electives and found that briefing and discussing cases was not as terrifying as I had feared. I graduated from law school in 2018, and my first post-law school job was a fellowship with the D.C. Commission on Human Rights.

What brought you to Nashville?

Going to school in D.C. was a blast. Where else can you watch a Supreme Court argument, go to class, and then visit a museum all in one day? When you're in college that is; law school was quite different. I was ready to be closer to home so I could see family and friends more often.

Tell us about your family/pets.

My parents are still in Chattanooga with our family dog, Randi. I claim her as "mine" whenever I go home.

What is your favorite book and favorite movie?

My favorite books are Malcolm Gladwell's books; I can't choose just one. He challenges readers to think more critically about how our world works. My favorite movie is *RBG*. Feminism, dry humor, true love, legal prowess – it has everything.

What woman inspires you most and why?

Misty Copeland, the first African-American principal dancer with the American Ballet Theatre. Misty did not start ballet until she was 13. She had been told she had "the wrong body for ballet." She was the only black woman out of eighty dancers when she joined the ABT corps. Her odds of dancing professionally, much less in one of the world's most prestigious companies, were astronomical. But she went after what she wanted and made it happen.

Are there any fun facts you would like to share about yourself?

I have jumped back into ballet since moving to Nashville. I danced from ages 8-18 but could not fit it into my schedule during college or law school. It was a different kind of homecoming to be back in a studio again, getting lost in the music and movement and beauty.

Diversity Committee Happy Hour

By Mariam Stockton, Diversity Committee Co-Chair

The LAW Diversity Committee Co-Chairs, Mariam Stockton (Neal & Harwell) and l'Ashea Myles-Dihigo (Bone McAllister), teamed up with the Napier-Looby Bar Association to host a law student membership drive and networking event at the Flying Saucer in Downtown Nashville. Students from Vanderbilt University Law School, Belmont University College of Law and Nashville School of Law were invited to meet with seasoned attorneys and judges to learn more about these two great organizations. Attendees enjoyed an evening of food and libations while sharing stories of the practice of law and the benefits of joining an association dedicated to increasing diversity and inclusivity in the legal profession. LAW is pleased to announce that 38 new student members joined the organization at the event. LAW would also like to extend thanks to Napier-Looby President, Arrin Richards (Neal & Harwell), for co-hosting the event.



Networking Committee Distillery Tour

By Will Hicky

On Thursday, January 30, LAW hosted its monthly networking event at Nashville Craft Distillery in the Wedgewood-Houston area. Approximately 20 lawyers and 10 Belmont Law students attended. Bruce Boeko, owner, led the group on a tour of facility while giving an educational background on the history of how alcohol is produced (CLE credit pending though unlikely).



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

Audrey Anderson	Jason Gichner	Margaret Myers	Kate Stauffer
Anne Arney	Jessica Gichner	Karen Neal	Joycelyn Stevenson
Kristi W. Arth	Madeline Gomez	Leighann Ness	Mariam Stockton
Katherine Austin	Elizabeth Gonser	Judge Alistair Newbern	Grace Stranch
Catie Bailey	Elizabeth McCoyd Greer	Scarlet Nokes	Judge Jane Stranch
Laura Baker	Shellie Handelsman	William O'Bryan, Jr.	Scott Tift
Cindy Barnett	Sarah Hannah	Ashley Odubeko	Elizabeth Tipping
Kathryn Barnett	Corey Harkey	Larry Papel	Martha Trammell
Margaret Behm	Laura Heiman	Casey Parker	Judge Aleta Trauger
Sonya Bellafant	Lisa Helton	Rebekah Parkhurst	Byron Trauger
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Kimberly Clark	Lauren Lamberth	Rachel Rosenblatt	Gulam Zade
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Nancy Krider Corley	Jessica Levine	Maria Salas	
Chelsea Curtis	Courtney Leyes	Julie Sandine	
Cynthia Moon Cutler	Haverly MacArthur	Caroline Sapp	
Judge Angie Dalton	Alexandra MacKay	Elizabeth Scaglione	
Judge Martha Daughtrey	Nancy MacLean	Carolyn Schott	
Rebecca Demaree	Chambre Malone	Maria Scott	
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Jason Epstein	Chancellor Carol McCoy	Judge Marietta Shipley	
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Amy Farrar	Laura Merritt	Judge Jennifer Smith	
Doreen Farthing	Amy Mohan	Laura Smith	
Judge Mark Fishburn	Brianna Montminy	Melissa Smith	
Alex Fisher	Valerie Diden Moore	Nikki Smith-Bartley	
Mandy Floyd	Marlene Moses	Mary Dohner Smith	
Shana Foncesbeck	Chancellor Patricia Moskal	Leslie South	
Grace Fox	Barbara Moss	Abby Sparks	
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