

LAW MATTERS

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HISTORY WOMEN'S MONTH

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PRESIDENT'S MESSAGE

by Sara Anne Quinn



As many of you are aware, at the end of February, a group of state representatives introduced a resolution to the Tennessee General Assembly seeking to remove Chancellor Lyle from the bench based on their disagreement with a ruling she made in late 2020. Since then, and in part due to the widespread and immediate opposition to the resolution from the legal community, the resolution thankfully failed in subcommittee. While the resolution presented a dangerous threat to the independence of the judiciary, it presented an opportunity for the legal community to unify and rise to the occasion to defend a foundational principal of our government – the separation of powers. It also served as a reminder that the original

purposes and goals of LAW continue to be causes in need of active and zealous advocacy. And, it was a reminder to me personally of the passion LAW members have for this organization and for what they do.

One of LAW's original purposes, which continues to be a key mission of LAW, is "to advocate for increased numbers of qualified women on the bench and to work for improvement of the overall quality of the bench." As we celebrate the 40th Anniversary of LAW, we look at the federal and state judiciary in Nashville and – much to the credit of LAW members and past leaders – thankfully have so many well-qualified women on the bench. Many of us have looked around and gotten dangerously close to declaring "Mission Accomplished!" However, HR 23 has shown that the mission will never be complete. Even if the number of qualified women on the bench equal or even outnumber men, there will always be a need to maintain, protect and defend the quality of the bench and its independence. And, let me say, LAW rose to the challenge.

I was so impressed by how quickly a group of LAW members and leaders formed to not only make sure LAW took swift action on this matter but offered LAW support and assistance in doing that. Margaret Behm, Laura Baker, Christen Blackburn, Liz Sitgreaves, and our incoming president, Kimberly Faye, all immediately sprung to action and were such a great support in getting our statement out there. Thank you to each of you. And thank you for reminding me of the passion that LAW members bring to work toward each of its goals and for the community and support LAW members provide each other in that mission.

Save the Date

April 22, 2021 at 5:00 pm

40th Anniversary Celebration

and Annual Meeting

2020-2021 LAW BOARD OF DIRECTORS

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Shundra Crumpton/Blake Howell

Programs

Rachel Berg/Mandy Floyd

Corey Harkey/Elizabeth Moreton

2021 Marion Griffin Women's Symposium

Liz Sitgreaves/Kyonztè Toombs

40th Anniversary Celebration

Christen Blackburn

Executive Director

Melanie Gober Grand

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.

LAW STATEMENT IN SUPPORT OF CHANCELLOR ELLEN LYLE

The Lawyers' Association for Women – Marion Griffin Chapter (“LAW”) has a long history of advocating for the improvement of the legal profession and the independence of our state’s judicial system. Accordingly, LAW issues this statement in response to the resolution introduced recently in the Tennessee House of Representatives to remove Chancellor Lyle from the bench.

The resolution is in response to Chancellor Lyle’s decision to expand absentee voting during the COVID 19 pandemic. No judge in Tennessee’s history has ever been removed because the Legislature did not agree with a judge’s ruling. It is an unprecedented action that undermines the separation of powers.

Chancellor Lyle has served more than 25 years in Davidson County as a state court chancery judge. She was appointed in 1995 by Governor Don Sundquist and was most recently reelected in 2014. She has been recognized by her peers as one of the top judges in Davidson County and the state. She was also chosen by the Tennessee Supreme Court in 2015 to preside over the first business court and did so in a way which garnered respect from lawyers and clients from all persuasions as well as other judges and state officials.

To remove a judge, the Tennessee Supreme Court long ago held that it “implies some dereliction or general neglect of duty, some incapacity to perform the duties of the post, or some delinquency affecting the incumbent’s general character or fitness for office.” It cannot be based on “political bias or personal dislike.” The Judge cannot be removed because “[she] has declared unconstitutional a particular enactment of the legislature.” *McCulley v. State* (State Report Title: *The Judges' Cases*), 102 Tenn. 509, 53 S.W. 134, 137-39 (1899).

Furthermore, the judicial process itself provides a system for addressing decisions a party does not believe to be in line with the law. The Tennessee Rule of Appellate Procedure 3(a) provides a right to appeal “every final judgment entered by a trial court from which an appeal lies to the Supreme Court or Court of Appeals.” In addition, Tennesseans have other established methods of redress, including democratic elections and the Board of Judicial Conduct.

LAW is a non-partisan organization that staunchly believes in the importance of maintaining an independent judiciary regardless of whether or not its members agree politically with a ruling. To remove Chancellor Lyle based on the Legislature’s disagreement with her ruling is not only unprecedented, it would create a dangerous precedent eroding the separation of powers so fundamental to our government.



Kyonzte’ Toombs Appointed to Serve on the State’s Commission on CLE

LAW board member, Kyonzte Toombs, has been appointed by the Tennessee Supreme Court to serve on the state’s commission on Continuing Legal Education and Specialization. Her two-year term will begin January 1, 2022. Kyonzte is currently serving as a second year director on LAW’s Executive Board. Kyonzte is the deputy general counsel for the Tennessee Department of Health and serves as District 2 councilwoman on the Metro Nashville Council which serves, in part, Bordeaux, Buena Vista, Haynes Manor and Metro Center.

As the Lawyers' Association for Women—Marion Griffin Chapter celebrates its 40th anniversary this year, we are looking back on and honoring our past. As part of the celebration, we are highlighting a LAW founder and past president each month, finding out what drew them to LAW, what they remember most about their time as president, and their reflections on LAW's role in the community now and in the future.



Founder's Spotlight Wendy Goggin

What were you doing in your career when LAW was founded? I was working for the U.S. Department of Labor's Office of the Solicitor, which was, at that time, a regional office located in the Nashville Federal Courthouse. The trial attorneys in the office brought suit in federal district courts in Tennessee, North Carolina, and Kentucky to enforce the wage and hour laws, the Equal Pay Act, the Age Discrimination Act, federal laws involving migrant labor, and the Service Contract Act among others. It was trial-intensive and very rewarding work.

How did you become one of LAW's founders? Because my job with the Solicitors Office required so much travel, it was difficult to develop professional relationships outside of my office. Even more, my first job out of law school was with a small trial firm in East Tennessee, where I was the only female attorney actively practicing in the county. The work was great, and the bar was welcoming, but I really missed having other women lawyers to talk to and commiserate with. Moving to Nashville with relatively so many women lawyers was like a dream, and I was looking for ways to take advantage of that. Having an organization devoted to the professional development of women lawyers just made so much sense. I claim very little credit for the tremendous groundwork efforts behind getting this chapter started. I worked on a couple of committees, including one drafting the by-laws, but mostly I was just so excited to be a part of LAW.

What did you envision as the goal or purpose of LAW when it was founded? I saw LAW as an opportunity for women lawyers to interact on a professional and personal level and develop the networking opportunities that male lawyers have enjoyed so successfully. One of the key goals was to promote more women for the bench, as law firm partners, and in leadership positions in bar associations and other professional organizations. Nashville was so fortunate to have great pioneering women lawyers. LAW provided the structure for these amazing women to share their experiences and guide and support younger women lawyers.

What benefit did your membership in LAW provide for you? Membership in LAW lived up to my expectations and more. The value of personal and professional relationships with other women lawyers cannot be overstated. LAW provided an opportunity to meet women lawyers in other practice areas and learn so much from them. Members have been generous in sharing career opportunities and supporting efforts for advancement. At that time, there were very few female attorney role models, so to get to know and learn from women who had been practicing law and breaking down barriers for decades was truly inspirational.

Looking back, I think the benefit I value most from LAW membership was the support and friendship of other women lawyers. I will never forget when I was appointed in 1998 as the first female United States Attorney. LAW organized a celebration for my family and me (appropriately in Judge Cissy Daughtrey's chambers) to commemorate the milestone it was for Nashville women and me personally. The support and heartfelt good wishes are something I'll never forget.

What do you think LAW has provided to you that impacted your career? It has been one of my greatest joys to give women lawyers and aspiring lawyers support, guidance, and opportunities when I have been fortunate enough to be in the position to do so. I think membership in supportive organizations like LAW has inspired women to give back to the profession, and especially to women, in this way. As Chief Counsel, I increased the number of attorneys working for me from around 70 to almost 120. I always hired the best candidate for the position, and very often, the best candidate was a woman. This became increasingly true as we could attract outstanding women candidates because of opportunities for leadership, work/life balance, training, and a seat at the table.

How has the practice of law changed for women since L.A.W. was founded? Obviously there are so many more women practicing law in Nashville. And the number of women judges, partners in law firms, and in management and leadership positions have greatly increased. It is all very exciting. What has not changed, in my opinion, is the need to support each other, find career and promotional opportunities for qualified women, and to continue to push for more women lawyers on the bench and other elected positions. We also need to continue to find ways for women to be successful lawyers without sacrificing family life.



Past President's Spotlight

Ashonti Davis

2018-2019

Why (and how) did you first get involved in LAW? I became involved with LAW shortly after moving back to Nashville. One of my colleagues at the time was involved in LAW, and she invited me to join her at a monthly luncheon. The luncheon provided an awesome opportunity to meet other lawyers and get acclimated with the Nashville legal community.

What do you consider to be your greatest accomplishment while serving as president of LAW? Expanding the types of programs and topics covered during my time as president was very important as it engenders inclusivity and highlights new perspectives. Through partnerships with the Nashville Bar Association and the Nashville Public Library, we were able to produce programming on the RBG documentary that included an esteemed panel of judges, the work of the Black Panther Party and civil rights leaders in Nashville. Those programs stood out as unique and provided a platform for different voices.

What's your favorite memory from your time serving as LAW's president? Making the end-of-the-year video for the Annual Meeting and Banquet. That was the first time a video recapping the year had been created, and it was fun to document the board's accomplishments and memorialize some of LAW's history. I got to make the video with someone I love about people I love and capture some of LAW's story – an all-around win.

What has changed about LAW and/or the Nashville legal community since you first got involved in LAW? The Nashville legal community has grown tremendously and expanded to reflect a wider array of practice areas and types of lawyers living in Nashville.

What do you hope LAW's role is in the Nashville legal community going forward? I hope LAW continues to be at the forefront of pushing progress within the Nashville legal community and the City. At its inception, LAW organized women lawyers to break barriers within the practice of law, and that legacy can be a model of continuing to break barriers.

What woman inspires you and why? My mom. I realize a lot of people are inspired by their parents, but my mom demonstrates a quiet strength and perseverance that is sometimes overlooked and undervalued in a society of clamoring voices in search of attention. She pushes through every challenge with faith and humility, not seeking any recognition. I hope to emulate that – no matter the circumstances – doing consistent good that focuses on others rather than myself.

New Member Spotlight

Mel Gworek



Where are you from? Tell us about your path to practicing law. I recently moved to Nashville from Atlanta but am originally from Texas. Hook 'em horns! My exposure to law growing up was limited to watching Judge Judy with my mom. I was a junior in college when I first considered law school, which was sparked by a political science course on constitutional law and a subsequent research position that focused on the same. I have always loved research and writing, and it seemed like a good match for those skills. I thought about academia, but law seemed like a less opaque education/career path.

What do you do professionally, and what is your favorite part about your job? My background is in securities litigation. Currently, I am in-house counsel for a large financial institution and am part of a team that handles their retail customer arbitrations/litigation. My favorite part of my job is working with an amazing group of talented and nice attorneys. My second favorite part is when we win.

What brought you to Nashville? My current position. I was interested in moving in-house and was exploring options in a few different cities. The main requirements were that the job had to look interesting and the city had to be warm. Happily, I got both, and I absolutely love living here.

Tell us about your family. I am married to another attorney who jumped on board with my adventure to move to Nashville.

What are your hobbies? Anything outside—hiking, biking, camping, kayaking. I love it all.

What is your favorite quote, piece of advice, or a motto you try to live by? Never send emotionally-driven emails in the moment. There have been times in my career when I have had a compelling desire to send a seething email in response to some (actual or perceived) nonsense. In similar circumstances, my law firm mentor had the habit of typing up the response they wanted to send, sleeping on it, and then editing. I try to do the same. Most of the time, things seem less dramatic the next day, or I have the clarity to send an even more piercing (but probably far more professional) response.

What woman inspires you the most and why? Honestly, I was really inspired by a Rihanna interview that I read during law school where she talked about her long-term career and business goals. Maybe it was because she's closer in age to me than some of the famous trailblazers, or maybe I just really liked her music at that point. But at the bottom, I come from a background where there wasn't a lot of encouragement for women to have a career or a career plan. So it was incredible to read this article where someone my age had these pointed ambitions and a comprehensive vision for reaching her goals. And then she did it.

Creating Work-from-Home Setups to Last Beyond the Pandemic

By Hannah Kay Hunt Freeman

The pandemic forced many of us to create makeshift workspaces at home over the past year. While the vaccine news looks promising, many companies and attorneys alike are predicting that increased options for remote work will last beyond the pandemic. Not everyone has the luxury of a fully outfitted home office, but there are ways to create do-it-yourself work setups in smaller, tucked-away spaces at home. Below is a breakdown of the desk-meets-storage space I designed and built in my own home, as well as a similarly organization-friendly setup that fellow L.A.W. board member Elizabeth Moreton built for her work-from-home station.

Maximizing Vertical Storage



My goal was to make full use of a relatively small corner space with high ceilings. Although work files and documents will hopefully return to the office once we've made it past the pandemic, most of us, myself included, will still need a place at home to store miscellaneous files and records for our families. I set out to create a desk setup that was affordable, took advantage of vertical storage, required minimal floor space, and had some degree of design aesthetic. Plus, making room for extra under-desk space gave me a great excuse to add a dog bed, now that I'm getting to spend all this extra WFH time with our dog! Though it seems obvious, IKEA was the best choice, but not just because of the prices. IKEA offers a ton of furniture that can be mixed and matched to custom-fit the needs of your space.

Kallax bookshelves and Linnmon desks are the central pieces of my setup, which includes roughly the following items from IKEA:

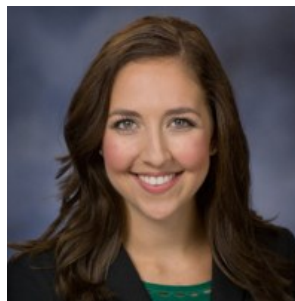
- A corner Linnmon desktop and a rectangular Linnmon desktop;
- Adils legs for the desktops;
- Three 2x2 Kallax bookshelves stacked on top of three 2x4 Kallax bookshelves (all affixed to the wall);
- Linnmon connecting hardware to attach the desktops to the bookshelves;

- A variety of Kallax-compatible cubes, drawers, doors, and other storage options installed inside many of the Kallax bookshelves' cubbies;
- An Alex desktop organizer affixed to the top of the corner Linnmon desktop (facing the window);
- Kvissle file racks affixed to the open side of the stacked Kallax bookshelves;
- Skadis pegboards and accessories;
- Alex filing cabinets; and
- Brackets to support where the two Linnmon desktops connect (from Lowe's).

Swapping Desk Legs for Storage



Another way to make the most of desk space is to substitute file cabinets for desk legs, which is what Elizabeth Moreton did for her WFH space. IKEA's Linnmon tabletops come in several sizes and are made so that they can be placed on top of two Alex filing cabinets in lieu of legs. If you're wanting to customize the size of the desktop even more, there are lots of helpful tutorials on blogs and Pinterest.



Hannah Kay Hunt Freeman is a 2020-2021 Newsletter Editor. She is an attorney with Butler Snow LLP, where she is a member of the Commercial Litigation Practice Group, as well as the Appellate Group and Construction Law Task Force.

Recaps of Recent CLE Programs

By Hannah Kay Hunt Freeman

“The Impact of COVID-19 on Remote Work”

On February 10, L.A.W. hosted a virtual CLE on the impact of the pandemic on in-house legal departments and how their needs from outside counsel have been impacted by remote work. Mallory Acheson of Nelson Mullins moderated the panel, which was comprised of Laura Smith, General Counsel at Nashville Electric Service; April Knox, Senior Employment Counsel at Asurion; Rachel Rosenblatt, Senior Employment Counsel at Postmates, Inc.; and Jennifer Lankford, Senior Corporate Counsel at Cracker Barrel Old Country Store, Inc. The panelists reflected on the direct and indirect impacts of the huge shift to working from home over the past year. Indeed, Laura Smith explained how many companies that previously viewed remote work as impossible—or simply out of the question—have benefitted from being forced to modernize internal processes, upgrade technology, and learn how to become largely paperless. Panelists were optimistic that this progress, as well as more flexible schedules and empathetic leadership, would continue once the pandemic is behind us.

Much of the discussion centered on ways to effectively lead internal legal teams and to communicate with outside counsel, all while such a substantial number of these attorneys continue working from home. Because boundaries between work and personal lives can easily dissipate during remote work, the panelists explained how they have taken intentional steps to support their teams in order to mitigate the negative effects of so much isolation. For example, Jennifer Lankford described how she makes a conscious effort to communicate to her team that there is no expectation that they respond to her after-hours emails and that she makes sure to turn on her camera during internal calls, as the rest of her team usually then follows suit. The panel agreed that video calls, rather than just phone calls, are integral to remote work because they support personal development, connection, and mental health. To that end, April Knox discussed the importance of outside counsel asking clients whether they prefer calls via video or phone, as many clients have developed strong preferences about the format of these communications. Rachel Rosenblatt added that she has seen in-house legal departments rely much more on outside counsel to manage litigation during the pandemic because of the increased volume of internal work that corporate counsel has taken on. Overall, the discussion provided thought-provoking insights into how in-house legal departments are managing

“What Is Being Done to Change the Criminal Legal System in Tennessee”

LAW held a CLE on February 16 about current efforts to change the criminal legal system in Tennessee. Rachel Berg of Polsinelli moderated the panel, which was made up of four activists: Dawn Deaner, Founder & Executive Director of Choosing Justice Initiative; Wesley Dozier, Equal Justice Works Fellow at Just City Memphis; Travis Claybrooks, CEO of Raphah Institute; and Rahim Buford, Nashville Community Fund Manager and Director of Unheard Voices Outreach. During the session, the group described their experiences combatting systemic challenges within the justice system that disproportionately impact minorities and low-income individuals, such as the panelists’ work to ensure the continuing availability of the Nashville Community Bail Fund and to bring suit to better prison conditions in light of the health risks posed to inmates by COVID-19.

The panelists discussed pressure points within the justice system where underprivileged groups all too frequently fall through the cracks, including widespread policing issues and the detriments caused by a culture of indigent criminal defendants taking plea agreements. The group commented on the particular problems posed by public defenders’ difficulties managing such high case volumes comprised of these defendants. The session closed with the panelists reflecting on the benefits of restorative justice as a vehicle to support healing, frequently through facilitated communications fostering relationships and empathy between convicted individuals and victims of their crimes. The program was thought-provoking and challenged attendees to rethink their views of the criminal legal system.

Please Update Your Website Profile

Contact information
Practice areas (members refer business to members)
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LAW Files Letter in Support of Nashville Bar Association's Petition to Modify Tennessee Supreme Court Rule 21

Many thanks to Legislative and Litigation Committee Co-Chairs Jessica Lim, Judea Davis and Caroline Spore in preparing the letter.



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March 2, 2021

James M. Hivner, Clerk of Appellate Courts
Tennessee Supreme Court
100 Supreme Court Building
401 Seventh Avenue North
Nashville, TN 37219-1407
Via e-mail: appellatecourtclerk@tncourts.gov

Re: Lawyers' Association for Women, Marion Griffin Chapter, Letter in Support of Nashville Bar Association's Petition to Modify Tennessee Supreme Court Rule 21 (Docket No. ADM2020-0115)

Dear Mr. Hivner and Justices of the Tennessee Supreme Court:

The executive board of the Lawyers' Association for Women, Marion Griffin Chapter ("LAW"), submits this letter in proud and unequivocal support of the Petition of the Nashville Bar Association ("NBA") to Modify Rule 21 of the Rules of the Tennessee Supreme Court to require attorneys to complete two (2) hours of continuing legal education ("CLE") annually in diversity, inclusion, equity, and elimination of bias.

LAW was formed on February 24, 1981, in Nashville, Tennessee to emphasize and address issues facing women within the legal profession. Among other core mission focuses, LAW strives to promote the efficient administration of justice and the constant improvement of the law, promote the participation of women and minority attorneys in the legal profession and on the bench, promote diversity in the workplace and within the legal profession, and to foster public dialogue about unjust societal discrimination and bias.

LAW has been and remains committed to identifying, discussing, addressing, and dismantling all forms of discrimination, including systemic racism. The proposed modification to Rule 21 supports LAW's mission. It is a small, but tangible, step toward eradicating discrimination and racism within the legal profession and justice system.

Racism and discrimination include bias, even unconscious or unintentional, often called "implicit bias." Implicit bias is grounded in a basic human tendency to divide the social world into groups of "us versus them." Because these biases manifest involuntarily, it is difficult to recognize them even as they continue to influence decisions made in every facet of society. Studies have shown that while more than 85 percent of all Americans consider themselves to be unprejudiced, researchers have concluded that the majority of people in the U.S. hold some degree of implicit racial bias. Moreover, implicit bias is not limited to race. It affects thoughts and behaviors about gender, age, people with disabilities, etc.

Although bias, discrimination, and racism permeate every facet of our lives, they are especially harmful in the legal profession and justice system. A 2019 study showed that while women comprise close to 51% of law school students and about 47% of law firm associates, women of color are about 24% of female associates and 14% of all law firm associates.¹ LGBTQI+ individuals of all genders are about 4% of all law firm associates, and persons with disabilities are less than 1% of all associates.² As they progress in their careers, the gap widens even further for women and other diverse attorneys in the struggle to gain partnership and leadership roles. Women are about 31% of non-equity law firm partners, with women of color comprising about 17% of the women non-equity partners and 5% of all non-equity partners.³ Of all law firm equity partners, women make up about 19% in 2019.⁴ The overwhelming majority of women equity partners are white, with women of color representing about 13% of female equity partners and about 3% of all equity partners.⁵

The lack of opportunities and progress for women, minorities, LGBTQI+, and people with disabilities in the legal profession can be attributed at least in part to bias and discrimination.⁶ In one striking example, a study showed that law partners perceive black lawyers as having subpar writing skills in comparison to their white counterparts.⁷ When law firms distributed a research memo from a hypothetical third-year litigation associate, with half stating the associate was black and the other half stating the associate was white, the partners on average found more grammar errors, technical writing errors, and factual errors in the “black” associate’s memo. The “black” associate’s memo averaged a 3.2 out of 5.0 rating, while the exact same memo averaged a 4.1 rating for the “white” associate.

As members of an organization for women in the legal profession, we understand that any additional requirement to practice law in the State of Tennessee can be particularly burdensome on women and other diverse lawyers. NBA is not advocating for an increase in the annual CLE credit hours, however; it is asking the Court to require CLE topics on diversity, inclusion, equity, and elimination of bias as part of the currently required fifteen (15) hours. The overwhelming benefits to women lawyers, diverse lawyers, and the legal profession would far outweigh any perceived difficulty in merely substituting two (2) hours in another area for two (2) hours of racism, diversity, inclusion, or equity training.

¹ Destiny Perry, *2019 Survey Report on the Promotion and Retention of Women in Law Firms*, WWW.NAWL.ORG, file:///C:/Users/IE02JCL/Downloads/2019%20NAWL%20Survey%20Report.pdf (last visited February 2, 2021). This includes Black, Asian/Pacific Islander, Hispanic/Latinx, Native American/American Indian, Middle Eastern/North African, and multiracial women.

² *Id.* These numbers may not be completely accurate. About 8% of responding firms explicitly indicated they do not collect data on LGBTQI+ individuals, and 27% indicated they do not collect data on persons with disabilities.

³ *Id.* The same study showed that LGBTQI+ individuals of all genders are 2% of non-equity partners, and persons with disabilities are about 1% of non-equity partners.

⁴ *Id.*

⁵ *Id.* LGBTQI+ individuals were about 2% of equity partners, and persons with disabilities were less than 1% of all equity partners.

⁶ For a roundup of statistics and studies regarding bias and discrimination in the legal profession, see Bienias, Costales & Lynch, et al., *Implicit Bias in the Legal Profession*, Intellectual Property Owners Association, <https://ipo.org/wp-content/uploads/2017/11/Implicit-Bias-White-Paper-2.pdf> (last visited February 2, 2021).

⁷ Dr. Arin N. Reeves, *Written in Black & White: Exploring Confirmation Bias in Racialized Perceptions of Writing Skills* (Nextions, Yellow Paper Series 2014-0414), https://www.ncada.org/resources/CLE/WW17/Materials/Wegner%20_%20Wilson--Confirmation%20Bias%20in%20Writing.pdf.

As shown by the current requirement in Rule 21 for attorneys to attend three (3) hours of ethics and professional training annually, the purpose of the CLE is not merely to gain knowledge and skills in specific practice areas. Tennessee Supreme Court Rule 21, Section 5.01(a) and (b), states that the primary objective of a CLE should be to “enhance the participant’s professional competence as an attorney.” This broad standard includes education on “substantive law, the practice of law, professional responsibility or ethical obligations of attorneys.” Our duties and ethical obligations extend beyond specific practice areas to protecting and furthering the practice of law and the legal profession. Attorneys cannot denounce racism in the law and acts of racial injustice if they cannot recognize it. Studies show that education and training can help attorneys recognize their biases and effect how they act on them.⁸

From the Birmingham jail on April 16, 1963, Martin Luther King, Jr. wrote that the

great stumbling block in the stride toward freedom is not the White Citizen’s Council-er or the Ku Klux Klanner, but the white moderate who is more devoted to “order” than to justice; who prefers a negative peace which is the absence of tension to a positive peace which is the presence of justice; who constantly says, “I agree with you in the goal you seek, but I can’t agree with your methods of direct action”; who paternalistically feels he can set the timetable for another man’s freedom; who lives by the myth of time and who constantly advises [people] to wait until a “more convenient season.”

Shallow understanding from a people of goodwill is more frustrating than absolute misunderstanding from people of ill will. Lukewarm acceptance is much more bewildering than outright rejection.

If we say we are against racism, we as lawyers cannot uphold our oath to conduct ourselves with “honesty, fairness, integrity and civility to the best of [our] skills and abilities” unless we actively seek to recognize, acknowledge, and dismantle the systemic discrimination and unfairness that continues to pervade in our society, the legal profession, and the justice system.

For those reasons, LAW respectfully asks the Tennessee Supreme Court to adopt the Petition of the NBA to Modify Rule 21 and require attorneys to complete two (2) hours of annual CLE in diversity, inclusion, equity, and elimination of bias. Please do not hesitate to contact LAW if you have any questions about this letter or if we can provide any other information to assist you in your consideration of this proposal.

⁸ See, e.g., *You Can’t Change What You Can’t See: Interrupting Racial and Gender Bias in the Legal Profession*, American Bar Association Commission on Women in the Profession and Minority Corporate Counsel Association (2018), <https://www.mcca.com/wp-content/uploads/2018/09/You-Cant-Change-What-You-Cant-See-Executive-Summary.pdf>; Kathleen Nalty, *Strategies for Confronting Unconscious Bias*, 45 *Colorado Lawyer* 45 (May 2016), <https://ncwba.org/wp-content/uploads/2016/11/Strategies-for-Confronting-Unconscious-Bias-The-Colorado-Lawyer-May-2016.pdf>.

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