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# Photo Ops

## New Lawyers Section Program

“Judges’ Tips for New Attorneys” was held on March 9 and featured Magistrate Robin Gunn and Judge Greg McMillan. The event was held at Monkey’s Bar and was sponsored by Paine|Tarwater|Bickers, LLP.



## Barristers Volunteer Breakfast

Thanks to Eldridge & Blakney, P.C. for sponsoring the January 26 breakfast and to the members of the UT Law Christian Society for preparing and serving the breakfast at Volunteer Ministry Center.

Thanks to the members of Bernstein Stair & McAdams who sponsored, prepared, and served the breakfast at the Volunteer Ministry Center on February 23.



## Law Student Discussion Groups - Don't Say No to Change

On February 22, the program at the UT College of Law included Jamie Ballinger, John Ganem, Eboni James, James Snodgrass, and Shelby Ward.

On March 9, Sarah Booher, Mariel Bough, Oscar Butler, Kaitlyn Pack, and Sanjay Raman participated in the panel at the LMU Duncan School of Law.



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**狄塔**

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

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# Section Notices

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

## Alternative Dispute Resolution Section

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

## Bankruptcy Law Section

The Bankruptcy Section plans CLE programs and helps coordinate volunteers for the Pro Bono Debt Relief Clinics. The next Pro Bono Debt Relief Clinic will be held on May 13, and volunteer registration is available at [www.knoxbar.org](http://www.knoxbar.org). If you have a CLE program topic or speaker suggestions, please contact the Bankruptcy Section Chairs **Tom Dickenson** (292-2307) or **Greg Logue** (215-1000).

## Corporate Counsel

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

## Criminal Justice

The KBA Criminal Justice Section represents all attorneys and judges who participate in the criminal justice system in Knox County. If you have suggestions for CLE topics, please contact Section Chairs **Joshua Hedrick** (524-8106) or **Sarah Keith** (931-260-5866).

## Employment Law

The Employment Law Section is intended for management and plaintiffs' counsel, in addition to in-house and government attorneys. Join the Employment Law Section for the upcoming CLE program "From the Board Room to the Courtroom: Preparing for and Trying Employment Law Cases Before a Jury" on April 25. If you have a program topic or speaker suggestions, please contact the Employment Law Section Chairs **Howard Jackson** (546-1000) or **Tim Roberto** (691-2777).

## Environmental Law

The Environmental Law Section provides a forum for lawyers from a variety of backgrounds, including government, corporate in-house, and private firm counsel. If you have suggestions for CLE topics, please contact Section Chairs **Catherine Anglin** (525-0880), **Kendra Mansur** (771-7192), or **Jimmy Wright** (637-3531).

## Family Law Section

The Family Law Section has speakers on family law topics or provides the opportunity to discuss issues relevant to family law practice. Join the Family Law Section for the upcoming CLE program "Sex, Lies and Videotapes: Avoiding Ethical Issues in Family Law" on April 13. If you are interested in getting involved or have suggestions for CLE topics, contact Section Chairs **Jo Ann Lehberger** (539-3515) or **Steve Sharp** (971-4040).

## Government & Public Service Lawyers Section

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

## Juvenile Court & Child Justice Section

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

## New Lawyers Section

The New Lawyers Section is for attorneys within their first three years of practice, and any KBA member licensed since 2021 will automatically be opted-in to the section. The New Lawyers Section is hosting "Don't Say No to Change" on Wednesday, April 26, from 5:00 – 6:30 PM at Barrelhouse by Gypsy Circus (621 Lamar St). **Mitchell Panter** (Lewis Thomason, P.C.) and **Katie O'Neal** (Explore Industries) will speak to the group about general tips and insight into what kinds of things young attorneys should consider when making decisions about potential early career changes and will provide a general framework for how to go about making those decisions. Tennessee Law Lab, Inc. is sponsoring the program and generously providing drink tickets to attendees. If you would like to get involved in planning Section activities, please contact Section Chairs **Kathryn Haaquist** (525-0880) or **Nicole Turbinton** (221-7542).

## Senior Section

The KBA Senior Section will meet next on Wednesday, April 19, 2023, at Calhoun's on Bearden Hill. The program will feature **Georgiana Vines**, of the Knoxville News Sentinel. Ms. Vines will discuss her book, "East Tennessee Newsmakers: Where Are They Now?" including Knoxville politics and lawyers she has covered throughout her career. The luncheon will be held from 11:30 a.m. to 1:00 p.m. The price includes a buffet lunch. If you have suggestions for speakers, please contact Chair **Wayne Kline** at (292-2307) or **Sam Rutherford** (659-3833).

## Solo Practitioner & Small Firm Section

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

# Event Calendar

## April

- 1 Group Hike - Wellness Committee
- 4 Law Office Tech Committee
- 7 Diversity in the Profession Committee
- 11 Professionalism Committee
- 12 Barristers Meeting
- 12 Veterans Legal Advice Clinic
- 12 Wellness Committee
- 13 Judicial Committee
- 13 Family Law Section CLE
- 18 Decisis CLE
- 19 Senior Section Luncheon
- 21 Real Estate CLE
- 24 Archives Committee
- 25 Employment Law CLE
- 26 New Lawyers Section Program
- 26 Board of Governors Meeting
- 28 Law Day Luncheon & CLE

## May

- 2 Law Office Tech Committee
- 5 Diversity in the Profession Committee
- 9 Professionalism Committee
- 10 Wellness Committee
- 10 Barristers Meeting
- 10 Veterans Legal Advice Clinic
- 11 Judicial Committee
- 12 Chancery Court Bench Bar CLE
- 18 Estate Planning CLE
- 23 CLE Committee
- 21 Access to Justice Committee
- 24 Board of Governors Meeting
- 25 Barristers Volunteer Breakfast

## SAVE THE DATE:

Annual Law Day Luncheon & CLE  
April 28

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



# REFLECTION ON CONNECTION

As I write this President's column, the sky is gray and rain is drizzling outside my window. I am a few days post-trial and have just moved offices. I still need to finish unpacking, resolve technology transfer issues, send changes of address, and update a dozen other things. I am frustrated and tired, and disturbingly, I have also just come to the realization that I have apparently developed a habit of talking to myself out loud. Clearly the pandemic and almost five years of working as a solo practitioner have taken a toll. As I try to redirect my focus to get back on task, a random playlist streams through my ear buds. I hear these lyrics sung by Ben E. King:

When the night has come  
And the land is dark  
And the moon is the only light we'll see  
No, I won't be afraid, oh, I won't be afraid  
Just as long as you stand, stand by me  
So darlin', darlin', stand by me, oh, stand by me  
Oh, stand, stand by me, stand by me  
If the sky that we look upon  
Should tumble and fall  
Or the mountains should crumble to the sea  
I won't cry, I won't cry, no, I won't shed a tear  
Just as long as you stand, stand by me.

It made me stop and think. We all need connection. That is a fundamental and universal human truth. We all need a support system. We all need a brain trust on whom we can rely to brainstorm ideas, air our grievances, have a laugh, or break down the losses and celebrate the victories. One cannot survive in a vacuum, and regardless of practice area, a lawyer is not most effective in isolation.

In my reflection, I recalled an episode of a podcast I listen to regularly entitled *On Purpose with Jay Shetty*. In this particular episode, he posited that there are four types of people that every person needs in their life. He classifies these four types of people as 1) The Cheerleader, 2) the Character Builder, 3) The Mentor, and 4) The Challenger.

The Cheerleader is the person who is always in your corner, excited with and for you, always, celebrating your victories and cheering you on regardless of circumstance. This is the friend who always leaves you feeling better about life.

The Character Builder is your moral compass, the person of high character, integrity, honor, that sets the example for how you want to live your life and simultaneously keeps you grounded.

The Mentor is the person in your life who traveled the road before you, has more experience than you do, and accordingly more wisdom that they readily share. They are happy to guide you, make introductions for you, share their war stories, and teach you from their successes and failures. They are honest and compassionate with you and temper the fear of navigating a path alone.

The Challenger is the tough love friend, who will push you forward, past your perceived limits, into and beyond your fears. They love you but will not hesitate to call you out. They want you to open your eyes and to achieve greatness ... and they'll force your eyes open if they must.

I've been blessed to have various iterations of each of these type of people in my life over the years in many different aspects of my life. In

my professional life, I can assure you, this is also true. Maybe I've been lucky. Maybe I've been blessed. Maybe it is because as soon as I began my legal career, I was directed to the Bistro for the one Wednesday a month meeting of the Knoxville Barristers, and expected to attend. Some of the strongest relationships I have ever developed began in those meetings, and in service to the community through the many then, and even more now, projects of the Barristers. In a professional sense, we grew up together, now we work together, lead together, and serve the bar together. We face personal and professional challenges together and we watch the world grow and change together. We have come to play the roles of the four people we need in life as described by Mr. Shetty for each other and for others.

So, now as I sit at the end of the day on which I wrote this message (albeit two sentences at time) the sun has appeared, some of my technology issues have been resolved, I have helped a couple of people this day, and I have reconnected with former colleagues and hopefully made progress in building relationships with new ones. I am grateful. I feel connected. I feel at home.

I hope you will take a few minutes to reflect on who in your life are your cheerleaders, your character builders, your mentors, your challengers. Let them know you appreciate them, knowing that someone else also appreciates you.



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**WELL READ**

**By: Cathy Shuck**  
*East Tennessee Children's Hospital*

# WHAT IF YOU STOPPED TRYING TO DO EVERYTHING?

Back in January, did you resolve to be more efficient and productive? Did you resolve to stay on top of your inbox with Inbox Zero, or to implement the Pomodoro System, or start collaborating with Hive-Slack-Teams-Monday? I make some version of a productivity resolution every year, but no matter what new system or tool I adopt, I always end up feeling like I'll never catch up. So that's why these words on the cover of Oliver Burkeman's book *Four Thousand Weeks*<sup>1</sup> caught my eye:

"What if you stopped trying to do everything?"

As lawyers, we are self-selected to be hard-working perfectionists, and to believe that we can (and should) always take on one more thing: one more client, one more project, one more commitment. We have been conditioned to believe that if we just put the big rocks in the jar first, and if we are strategic with the rest of the rocks, we can fit everything in the jar.

The problem of course, is that the jar is finite. But the things we could possibly fill it with are infinite. That's why, according to author Burkeman, the real key to time management is to choose which rocks *not* to put in the jar. In other words, to stop trying to do everything.

In *Four Thousand Weeks*, subtitled, "*Time Management for Mortals*," Burkeman begins by pointing out that the rough amount of time the average person has to spend in this life, on this planet, is ridiculously short: about 4,000 weeks for the average person. (By the time you grow up, go to college, and finish law school, you're down to about 2,800 weeks.) Therefore, he says, "time-management, broadly defined, should be everyone's chief concern."<sup>2</sup>

However, Burkeman says, the problem with most time-management advice is that it does not take into account the hard truth that your time is finite. Instead, time-management strategies promise that you really can get everything done if only you find and follow the right system. And so we download the apps and buy the planners and adopt the systems, year in and year out, because we don't want to accept our limits. Time-management tools allow us to believe that we don't have to rule anything out, and we can keep all of our options open. In other words, Burkeman says, "[w]e implement time-management systems that promise to make time for everything, so that tough choices won't be required."<sup>3</sup>

But after years of trying to find the optimum strategy for Getting Everything Done, Burkeman finally had an epiphany: it's simply not possible.

Rather than continuing to chafe against the finitude of time, and of life, Burkeman decided to embrace it. He turns typical time-management advice on its head, positing that the challenge "isn't about how to get everything done," but rather, "how to decide most wisely what *not* to do, and how to feel at peace about not doing it."<sup>4</sup> As a self-described recovering productivity junkie, Burkeman describes the failure that he always felt after implementing any strategy to become more efficient and productive: the faster one "clears the decks," the more quickly the decks seem to refill.

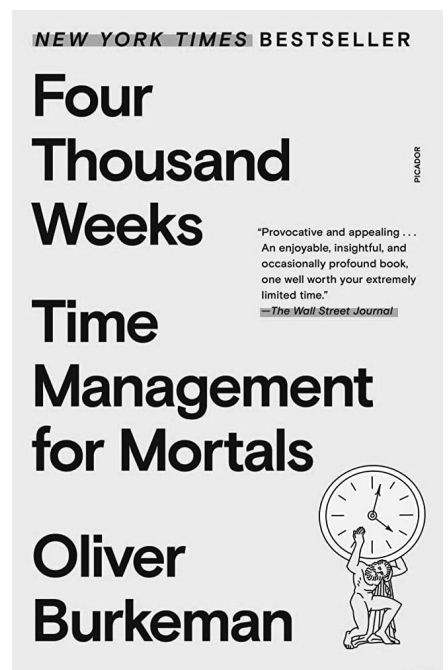
We are all familiar with the problem of work expanding to fill the available space. We have also surely all experienced what happens when you become keenly focused on clearing off your desk, or your inbox,

or your to-do list: you end up spending an inordinate amount of time on things that really don't matter, just in the name of checking them off the list. Steven Covey famously described a closely-related problem in his four quadrants of productivity: we tend to spend too much time in Quadrant 3, "urgent but not important" and Quadrant 4, "not urgent and not important."<sup>5</sup>

So the first task is to simply accept that there will be things that don't get done. The next task is to consciously decide what those things are, so that you can minimize the amount of time you spend being distracted by them or worrying about them. Burkeman's real thesis is that to accept and make peace with your limits, you have to truly accept that your time is finite. And that brings him to the well-plowed ground of urging his readers to Be Here Now, and live in the moment.

As much as his argument above living in the present can seem unoriginal – since it is foundational to many philosophies and religions – he does have what seemed to me to be a somewhat original take on it: You are always living in the moment, whether you choose to acknowledge it or not. There is literally nowhere else you can be. He explains, "[t]o try to live in the moment implies that you're somehow separate from 'the moment', and thus in a position to either succeed or fail at living in it."<sup>6</sup> And if you can accept that this moment is all you have, then you can consciously choose how to use it.

*Four Thousand Weeks* really resonated with me, due to the confluence of good advice, good writing, and being at a point in life where I am more aware every day of my own limits. If you find yourself feeling overwhelmed by your to-do lists or expectations, I highly recommend the book. Because at the end of the day, Burkeman's message is hopeful. By letting go of the idea that we will ever be all caught up, we can be at peace with the present. We can stop focusing on some future state that will never arrive and direct our attention to the present. And even though we have limits, those limits are the very things that bring meaning to the choices we make.



<sup>1</sup> Oliver Burkeman, *Four Thousand Weeks* (Vintage Books 2021).

<sup>2</sup> *Id.* at 4.

<sup>3</sup> *Id.* at 30.

<sup>4</sup> *Id.* at 71.

<sup>5</sup> See, e.g., <https://resources.franklincovey.com/franklincovey-blog/choice-1-act-on-the-important-dont-react-to-the-urgent>.

<sup>6</sup> *Id.* at 140.



# EMPATHY: THE MEDIATOR'S SUPERPOWER

*"Empathy is being interested rather than interesting."*<sup>1</sup>

In preparation for writing this piece, I spoke with local attorneys about their mediation experiences. I asked for examples of things mediators had done which seemed to directly contribute to the success or failure of mediation. I repeatedly heard comments suggesting that mediators are talking about themselves more than listening to parties. One attorney even described a mediation in which the mediator initiated contact with her client by arrogantly listing his courtroom accomplishments. She said her client understandably shut down, refused to cooperate with the mediator, and the mediation failed.

This was somewhat shocking to me – I have been fortunate to participate in mediations that were, for the most part, quite successful and do not recall feeling like a mediator failed to adequately listen to my client. This led me to ask myself what is it about the mediators that I choose to work with that is different? I listed attributes to see if a pattern emerged: younger, older, male, female, newer, more experienced, lawyer, not-lawyer ... I tried determining if they had all been trained to mediate by the same folks. No. A lot of variety. I began to think it must be something harder to pinpoint or less tangible. Extrovert vs. Introvert? Nope. Seemed about evenly split. Then, I went back to what the attorneys I polled told me: the mediators they remember in a negative light were talking about themselves instead of listening. The lightbulb went off: I choose good listeners!

Now how I define a good listener might be a bit different than the typical person. To me, a good listener is someone who not only listens for the words being said but also that which is not being said and also picks up on what is being felt. They do not force their beliefs on others, nor do they judge others for their thoughts, feelings, perspectives, or beliefs. I choose mediators who use non-judgmental acceptance and active, empathic listening.

With that said, let's go over a quick checklist of important points when utilizing empathy in the form of non-judgmental acceptance and empathic listening in our mediation practice:

**UNIQUENESS:** Prior to beginning every mediation, take a moment to remind yourself that: each of us involved the mediation – parties, attorneys, and mediators alike – has a unique outlook on life due to our individual experiences, education, and upbringing. This outlook brings with it a mixture of prejudices, attitudes, and all sorts of preconceived notions about the world around us as distinctive as our fingerprints such that no two of us are exactly alike.

**ACCEPTANCE:** Make the conscious choice of nonjudgmental acceptance. Each of our unique outlooks cause us to see the world through a different lens than everyone else and this is a great thing! It makes us each interesting and independent. Remind yourself that, though the parties' and attorneys' outlooks on life and lenses through which they view the world are different than yours, so, too, are the outlooks and lenses of everyone that you admire or love. You do not always agree with the perspectives of your loved ones, but you allow those folks to have their own opinions – just as you should with the parties involved in mediation.

**RECOGNITION:** Thank the parties and their attorneys for

trusting you with their matter. Recognize their bravery in being open and honest throughout the mediation and thank them, in advance, for their willingness to share what may very well be one of the most difficult and traumatic events of their lives with you. Explain that you are there to help facilitate a solution and that you are not there to evaluate or judge either of the parties or their attorneys.

**QUIET LISTENING:** Be still. Quiet all distractions. Close the door. Silence your phone and your watch. Silence your mind, as best as you can. Put down your pen and **JUST LISTEN**. Make eye contact with the person speaking and allow yourself to naturally mimic their facial expressions, when appropriate. Be patient and refrain from doing things that would indicate you are trying to hurry the speaker along, such as looking at your watch or a clock or stepping towards the door. Do not interrupt.

**PARAPHRASING/REPHRASING DIRECTLY:** When the party comes to a natural end to their speaking, paraphrase the content of what they have disclosed and reflect the feelings and emotions they have conveyed in a nonjudgmental manner. This not only builds trust between mediator and party, but also conveys understanding and reduces defensiveness. If the party interrupts to correct a misunderstanding, paraphrase and reflect again on that subject. Always be conscious of tone and posture during rephrasing and reflecting. For example, crossing your arms or rolling your eyes is advised against as both demonstrate contempt, but tilting your head and nodding conveys thoughtfulness and understanding.

**PARAPHRASING/REPHRASING INDIRECTLY:** Most of us use "shuttle" mediation, going back and forth between parties, so rephrasing the other parties' statements can be a great tool for the empathetic mediator. When re-stating the other side's position, especially in highly contentious cases, the mediator should choose their words carefully. Keep the parties' "sore spots" in mind and reframe with a goal of moving parties forward towards resolution. Always focus on how parties are more similar than they are different, how they both care about the same things, and how they want similar outcomes.

Empathic listening and non-judgmental acceptance are skills that I absolutely believe we all – mediators and non-mediators alike – can and should work to develop because empathy benefits everyone. A recent study found that when leaders in the workplace demonstrate empathy, employees exhibit higher levels of job satisfaction, retention, creativity, innovation, engagement, and feelings of inclusion with less burnout.<sup>2</sup> However, developing empathy is not always easy for everyone. As noted philanthropist Alfred Benjamin said, "Genuine listening is hard work; there is little about it that is mechanical. We hear with our ears, but we listen with our eyes and mind and heart and skin and guts as well."<sup>3</sup>

<sup>1</sup> *Empathy: The Art of Listening*, The Relationship Foundation, <https://therelationshipfoundation.org/empathic-listening/>.

<sup>2</sup> *The Power of Empathy in Times of Crisis and Beyond*, Tara Von Bommel, PhD, <https://www.catalyst.org/reports/empathy-work-strategy-crisis>.

<sup>3</sup> <http://cultureofempathy.com/References/Quotes/Listening.htm>.



## HELLO MY NAME IS

**By: Jennifer Franklyn**  
*Realty Trust Group, LLC*

# NICOLE M. TURBINTON



The featured attorney in this month's "Hello, My Name Is..." column is Nicole M. Turbinton, who is a solo practitioner at her law firm, Turbinton Law Firm, PLLC. Most of Nicole's work involves being a parent's attorney or a guardian ad litem in custody and child abuse cases. Nicole attended her undergraduate education at Southwestern University in Georgetown, Texas, where she majored in Political Science and minored in Sociology, and she graduated from the Lincoln Memorial University Duncan

School of Law in May of 2021. Although she is relatively early in her career, Nicole is already involved in the KBA and is the Co-Chair of the New Lawyers Section. She is also active in the Hamilton Burnett American Inn of Court and the American Bar Association.

### Why did you decide to go to law school?

When I was in the fifth grade, I was a Sunday school teacher. I knew then that when I grew up, I wanted to work with children. During my undergraduate education, I worked as an intern for the Attorney General's Office in the Child Support Division and worked alongside many attorneys and decided then that I wanted to be one. However, it was not until I was an employee of Child Protective Services, in which I worked alongside a guardian ad litem that I realized I wanted to work in juvenile law.

### What brought you to Knoxville?

I was born and raised in Vallejo, California. I decided to go to Georgetown, Texas, for my undergraduate education because I wanted to gain some independence and grow as a person. My mother, who is one of my biggest supporters, moved to Tennessee in 2016 to be closer to family, and I decided to follow her. When I decided to move, I had not gotten into law school yet, but I took a leap of faith and still decided to move from Texas. Originally, I planned to live in the Nashville area to be closer to my mother. But when I was accepted to the LMU Duncan School of Law, I decided to move to Knoxville, and I am so glad that I did.

### How do you practice self-care, and how do you handle particularly stressful days?

Every morning, I start my day off with a Bible study. It starts my day off on the right foot. Also, Sundays are strictly meant for me. Sundays are my chance to go to church in the morning, hang out with friends and family, and relax for the day. If I have had a particularly stressful day at work, then I will unwind by watching reality tv, playing video games, or taking my dog, Marble (a Chihuahua Dachshund), on walks at World's Fair Park.

### What is the best advice you have ever received?

"Not every case is your case." I received this advice when I was still working in Texas as a Child Support Officer. It was not until I became an attorney that I realized how useful this advice was. Not every case that comes across my desk is meant to be mine, and it is perfectly okay saying no to a case. When I turn a case down, it is usually for the best.

### What is one statement about yourself that you would say now, but you could not say ten years ago?

"I have more courage and tenacity than I could ever have imagined." I have a tattoo of the phrase "Nevertheless, She Persisted." When I got this tattoo, I knew I was resilient enough to get through law school, but it was not until I started my own practice that I realized the weight of this statement. Starting a business as a young lawyer is incredibly daunting. Ten years ago, I would have never thought I would be doing it on my own and while it has not been easy, it has been rewarding to watch myself grow and stretch.





By: Shelby R. B. Ward

Adjunct Professor

University of Tennessee College of Law



# REFLECTING ON THE PAST TO BUILD A SUSTAINABLE FUTURE

The tall oak trees bear witness to the community that rests beneath them. Tombstones and burial markers leave a record of those that came before me. These ancestors at rest in Odd Fellows Cemetery built a future for Knoxville's black residents. I come to visit the grave of William Francis Yardley, the first black lawyer in Knoxville who was admitted to practice law in 1873.<sup>1</sup> My magenta and white flowers are a tribute to him and his work. He committed his life to public service.

As an environmental lawyer, I answered the call to work toward solving problems of public interest. When I was a second grader, I learned about the endangered species crisis. It was at that time that I knew I was supposed to work in the environmental field in some capacity. I dedicated myself to understanding environmental issues and solutions through my undergraduate studies focusing on aquatic ecology, my law studies, and my graduate work in ecology.

In my career, I served as in-house counsel for environmentally-focused nonprofits addressing water pollution, recycling, and other sustainability matters. Now, as a state attorney, I support the implementation of regulatory programs designed to manage solid waste, hazardous waste, underground storage tanks, and remediation. I also provide legal support to advance the state's development of sustainable practices and policy planning. As an adjunct law professor, I make space for law students to explore environmental justice concerning Indigenous communities.

Do I feel privileged to be a lawyer every day? No. Law practice can be challenging and at times it feels like the weight of the world is on my shoulders due to the nature of my practice area. Environmental problems are some of the most immense issues of our day. Climate change, pollution, deforestation, access to clean drinking water, biodiversity loss, nature deficit disorder, and managing hazardous wastes are multifaceted challenges that can feel overwhelming. Even so, through my legal expertise and the legacy of lawyer forebearers like Mr. Yardley, I am an agent of change to make the world a better place.

It is a privilege to do work that has statewide significance. Tennessee is a hotspot of biodiversity.<sup>2</sup> As one of the most biodiverse states, there are more than 325 fish, 89 mammal, 61 reptile, 70 amphibian, and 340 bird species known to inhabit or migrate through Tennessee. Over 2,300 varieties of plants call Tennessee home as well. In my role as a state attorney, I act to be a steward of the natural environment and to enhance the quality of life for Tennessee residents. Regarding specific areas of emphasis advancing environmental stewardship, the draft state budget for fiscal year 2023-2024 includes:

- \$70 million to clean up state superfund sites, Oak Ridge Reservation, and all 47 known dry cleaner sites;
- \$6.3 million for the Rural Brownfields Investment Act to revitalize 175 known brownfield sites, creating a new state-administered grant and technical support program for remediation and economic development of existing brownfields;
- \$4.7 million in grant funding to improve local water quality by optimizing wastewater treatment plants, collaborating with agricultural partners to practice best management principles and supporting cities with reduction of nutri-

ents in stormwater; and

- Over \$156 million to enhance public lands such as the Cumberland Trail, Natchez Trace Recreation Area, and Wolf River Greenway.<sup>3</sup>

Additionally, the Infrastructure Investment and Jobs Act provides \$3.5 billion for cleaning up Superfund sites located across the United States. These places are in need of remediation from legacy pollution.<sup>4</sup> The Environmental Protection Agency has dedicated over \$109 million to National Priorities List sites in Tennessee. These sites include Smoky Mountain Smelters (\$4 million allocated) and the Chattanooga Southside site (\$87.7 million allocated).<sup>5</sup> As a government attorney, I have the opportunity to support these strategic developments to address legacy pollution, update infrastructure, improve water quality, and enhance public lands. These measures can be restorative to the natural world. They can also help provide clean land, air, and water for present and future generations of Tennessee residents.

It is a privilege to serve others through my legal work. In my past nonprofit work, I often assisted individuals that felt unheard and had less expertise navigating the complexities of environmental law. Whether it be local residents facing water pollution impacting their families or protecting Tennessee forests and streams from contamination, it was a privilege to have people trust me enough to help with some of their worst problems. I have also served on the boards of environmental nonprofits with missions like equipping young people for green jobs and promoting civic science to address environmental issues that affect people. Working in community to improve environmentally-related outcomes was personally rewarding and beneficial to others.

It is a privilege to be able to continue the work of my ancestors in the field of public service. During his career, Mr. Yardley represented black residents in cases where they may not have received good legal counsel otherwise and served in political leadership as an alderman. He strived to help create an inclusive community for all. Mr. Yardley, like other early black lawyers, often knew their work was not just about them—it was transformative for all members of the black community. These activities provided access for lawyers, like me, who followed him.

Mr. Yardley's tombstone documents his birth and transition to ancestorhood. It is humbling to reflect on his legacy. I hope that my work continues to make a positive impact on the world in my particular field of environmental protection.

<sup>1</sup> W. Eugene Thomas, *Squire William Francis Yardley (1844-1924): Knoxville, Tennessee's First African American Lawyer*, Powell, TN: Thomas Publishing Press, 2014.

<sup>2</sup> Tennessee Wildlife Resources Agency, *Tennessee Wildlife Action Plan Information* <https://www.tn.gov/twra/wildlife/action-plan.html> (accessed online March 10, 2023).

<sup>3</sup> Office of the Governor. *Gov. Lee Delivers 2023 State of the State Address – "Tennessee: Leading the Nation,"* February 06, 2023. <https://www.tn.gov/governor/news/2023/2/6/gov-lee-delivers-2023-state-of-the-state-address-tennessee-leading-the-nation.html> (accessed online March 8, 2023).

<sup>4</sup> H.R. 3684 - Infrastructure Investment and Jobs Act, <https://www.congress.gov/bill/117th-congress/house-bill/3684> (Accessed online March 10, 2023).

<sup>5</sup> *Naturally Tennessee: 2022 Annual Report*, <https://www.tn.gov/content/dam/tn/environment/documents/annual-reports/tdec-annual-report-2022.pdf> (Accessed online March 10, 2023).



## TOP TEN LIST

By: Jason Long  
Lewis Thomason, P.C.

# WORST MOVIE LAWYERS

Last month I tried to list the top ten movie lawyers of all time. Shortly after *DICTA* went to print, I found myself up late at night rewatching *Judgment at Nuremberg*. I could not believe that I failed to include Maximilian Schell, as defense counsel Hans Rolfe, on my list of best attorneys in film. He probably makes my top three. For those unfamiliar, *Judgment at Nuremberg* is the semi-fictionalized account of the Judges' Trial at Nuremberg in 1947 which sought to convict Nazi-era judges for war crimes. Rolfe is a great example of a lawyer doing the job well, regardless of the people and causes he or she must represent. Schell is so good in the role, there is doubt as to whether the judges will be convicted in the end (spoiler – they were). It is all the more impressive when you consider that Schnell, an Austrian born actor, actually fled from the Nazis as a child and was raised in Switzerland during the war.

In addition to Rolfe, I would, in retrospect, add Sandy Stern, played by Raul Julia, in *Presumed Innocent*. Stern is charged with defending a former District Attorney accused of murder and his cross-examination of the state's forensic pathologist is a masterclass. Also, I think I would have to include Elle Woods played by Reese Witherspoon in *Legally Blonde*. First, there is a dearth of strong attorney roles like this one written for women. Second, Elle is a great lawyer (student lawyer) because of her enthusiasm, optimism, and native intelligence. You can't help but cheer for her to succeed in this feel good movie for lawyers.

Having made my apologies for my failures last month, I thought I would bring balance to the column this month by presenting the top ten worst movie lawyers of all time.

10. Both lawyers (Henry Drummond played by Spencer Tracy and Matthew Harrison Brady played by Frederich March) in *Inherit the Wind*. I love this movie, but not for the lawyering on display. The attorneys make impromptu speeches before the jury and seem more interested in witty banter than in developing actual evidence. Also, what kind of lawyer calls opposing counsel as a witness and, more importantly, what kind of lawyer is fool enough to accept that challenge?

9. Frank Galvin, portrayed by Paul Newman, in *The Verdict*. Paul Newman is an icon to me. Still, he is a terrible lawyer. He loses his expert witness, he is drunk throughout 80% of the movie (never a good look for lawyers), and he turns down a settlement offer without even telling his client about it. In the end, he is saved by a good closing argument and the fortuitous appearance of a surprise witness.

8. Arthur Kirkland, played by Al Pacino, in *And Justice For All*. Passionate and well intentioned, Kirkland makes a mockery of the courtroom ("I'm out of order? You're out of order! This whole courtroom is out of order!!"). He reveals client confidences and will probably end up disbarred and in jail.

7. John Gibbons, played by Austin Pendleton in *My Cousin Vinny*. A speech impediment does not make one a bad lawyer. However, attorneys presented with such a challenge (in Mr. Gibbons the challenge is severe) probably need to find a workaround when giving an opening statement. Mr. Gibbons does not. Also, with the one witness he cross examines, he asks questions he clearly does not know the answer to, resulting in devastating testimony.

6. All of the lawyers on *The Social Network* (John Getz as Sy, Denise Grayson as Gretchen, and Rashida Jones as Marilyn). Does anyone else have a problem with the fact that the lawyers appear to be deposing their own clients through much of the film? Also, how is Marilyn a first-year associate who specializes in jury selection? How many trials has she even seen at this point in her career?

5. Lieutenant Dave Spradling played by Matt Craven in *A Few Good Men*. Spradling wants to hang a Signalman First Class from a yardarm because he bought and smoked a dime bag of oregano. This feels a bit

like prosecutorial overreach.

4. John Milton, played by Al Pacino in *The Devil's Advocate*. Terrible overacting aside, John Milton is literally the Devil incarnate, come to earth as a lawyer . . . because of course.

3. Fletcher Reede played by Jim Carrey in *Liar Liar*. More overacting but Fletcher makes this list because he plays into the awful stereotype that lawyers cannot do their jobs without lying.

2. Al Capone's defense attorney in *The Untouchables* played by Will Zahrn. This character is such a bad lawyer he doesn't even have a name in the script. He represented the wealthiest and most influential member of organized crime in the history of the mafia. Still, his only defense is to rig the jury. When Elliott Ness catches on and blackmails the judge into switching juries in the middle of the trial, this lawyer, without consent of his client, immediately changes Capone's plea to guilty. No argument for mistrial? No request for a continuance or even a moment to confer? Nope.

1. Danny Snyder played by Dustin Hoffman in *Sleepers*. At least Snyder admits his incompetence. He doesn't want the case. It is too much pressure. He is addicted to drugs and pills. He knows this is above his capacity. Nonetheless, he takes the assignment. He is told what to say by opposing counsel and nearly screws that up. At the end of the day, he wins acquittal for his clients, but it was a lot closer than it should have been, given that the prosecution was actively working toward the same end.

That's it. My list of the ten worst movie lawyers. Feel free to tell me I'm wrong.



## Judicial Profiles



[WWW.KNOXBAR.ORG/COURTS](http://WWW.KNOXBAR.ORG/COURTS)

Learn more about Knoxville judges & how to be most effective in their courts!

- Judicial Advice
- Courtroom Decorum
- Schedule Changes
- Inclement Weather Policies
- Biographical Information
- Courtroom Practices
- Courtroom Expectations
- CLE handouts

Log in as a KBA Member and click "View Profile" under the photo of each judge to view their complete profile.



# KNOX COUNTY PUTS NEW MENTAL HEALTH COURT IN MOTION

You see them in a lime green jump suit, shuffling down the back hallways in shackles. With no means for bail, they remain in the custody of our Sheriff until their case is resolved. That these defendants suffer from some type of mental health issue is rarely in dispute. The problem is figuring out what to do with them. Even when there is a diagnosis, the criminal justice system is simply not set up to either locate services or connect these services with persons with mental health issues.

Until now. Knox County Mayor Glenn Jacobs has appointed an exploratory committee to study the feasibility of a mental health court in Knox County. “Sadly, mental health issues often play a role in perpetuating the cycle of incarceration. Not only will [a mental health] court allow us to identify individuals in need and connect them with services that will help them, but disrupting that cycle of incarceration means less crime and fewer victims,” he said.

What exactly is a mental health court? Mental Health Courts are specialized court dockets designed for individuals with serious mental illnesses and other related psychiatric disorders that utilize a problem-solving model as opposed to the traditional criminal court processing. These courts are designed to serve as an alternative to incarceration by addressing the underlying issues that led to an individual’s arrest through judicially supervised treatment plans developed by a team of court staff and mental health professionals.

Using dedicated case workers and treatment providers, these courts offer a better alternative to traditional criminal justice methods. “I have seen multiple examples of people whose mental illness was so severe that they were catatonic and covered in bugs and feces only to be able to watch them lead productive, happy, and healthy lives when given appropriate medical care and treatment,” says Knox County Public Defender Eric Lutton.

By stabilizing and safely extricating defendants with diagnosed mental health issues from the Knox County Jail or Detention Facility, the burden and disproportionate cost of these high-need inmates is lifted from our Sheriff and County. “Research continuously shows that U.S. prisons and jails house a disproportionate number of people with mental health issues. . . . [T]hese facilities are not equipped to treat or support incarcerated individuals in a way that reduces the likelihood they’ll return to jail,” points out Mayor Jacobs.

They also stand to make our community safer, notes Knox County District Attorney Charme Allen. “A mental health court has the potential to provide better access to resources and services to individuals who need them and provide prosecutors with additional tools to help maintain public safety.”

Mayor Jacobs continues, “I once heard someone describe the criminal justice system as a highway leading people toward incarceration. Following that analogy, the Mental Health Court acts as an exit ramp of sorts by connecting justice-involved individuals living with mental illness and community-based treatment and support services that encourage recovery. Ultimately, the Mental Health Court seeks to reduce the frequency of arrests and duration of incarceration for people with mental

illness, which should improve court operations, minimize strain on our facilities, and increase public safety and quality of life.”

Spearheaded by Knox County Clerk Mike Hammond and his office, the Mayor’s exploratory committee was made up of court stakeholders: judges, our District Attorney and Public Defender, and the local bar, as well as highly trained and experienced employees of Helen Ross McNabb. The group researched successful courts in other jurisdictions and had conversations with mental health court administrators and judges from various jurisdictions, including Nashville, New York, Miami, Chattanooga, and Bradley County.

The Court will be primarily funded by the State, which has already extended an initial contract, recently approved by the Knox County Commission. The exploratory committee has transformed into an Advisory Board and is now working on submitting to the Tennessee Department of Mental Health & Substance Abuse Services its budget proposal for 2023-2024. One major task remaining for the Advisory Board is to develop the referral process and treatment services component for the Court.

Once the procedure is finalized, the Court will begin accepting referrals to the program. Knox County General Sessions Judge Chuck Cerny, who has faithfully served our Recovery and Veterans Treatment Courts for many years, will also preside over the Mental Health Court. Judge Cerny is committed to providing structure and accountability for all participants, acknowledging that each requires individualized case management and care. “First and foremost, the Mental Health Court will treat participants with dignity and compassion,” he says.

The Knox County Mental Health Court is an ambitious project, but one that stands to bring a measure of fairness to citizens suffering from severe mental illness, ease the burden these cases add to our courts, reduce the cost of incarceration, and make our community safer. Perhaps one day we’ll no longer need the lime green jumpsuit.

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## AROUND THE BAR

**By: Bridget Pyman**

*Arnett, Draper, and Hagood, LLP*

**Isaac Westling**

*Spicer Rudstrom, PLLC*

# HIGH SCHOOL MOCK TRIAL COMPETITION

The High School Mock Trial Competition occurred during the last weekend of February. One hundred forty-nine competitors comprised fourteen teams from eleven high schools representing Tennessee Districts 2, 3, and 4. The competing teams included Farragut (Blue), Farragut (Gray), Jefferson County, Knoxville Catholic (Gold), Knoxville Catholic (Green), Fulton, Bearden, L & N STEM Academy, Powell, Sequoyah, Sequoyah (Chiefs), Lakeway Christian Academy, Sevier County, and Webb School of Knoxville.

All fourteen teams participated in four preliminary rounds. The Knoxville City County Building hosted the competitors, their coaches, friends, and families on February 24th and 25th. The students competed in the courtrooms that the Knox County Judiciary members generously made available for the event. We extend our gratitude to Judges Deborah Stevens, Jerome Melson, Greg McMillan, Scott Green, Hector Sanchez, Steven Sword, Chuck Cerny, Judd Davis, Patricia Hall Long, and Andrew Jackson, VI, for permitting us to use their courtrooms and providing the competitors with an enriched and realistic mock trial experience.

During the preliminary rounds, the following competitors stood out among their peers and were recognized for their exceptional mock trial skills:

- Caroline Snyder (Jefferson County) as Best Advocate for the Plaintiff;
- Samantha Garner (Farragut Gray) as Best Advocate for the Defense;
- Alexander Medlyn (Knox Catholic Gold) as Best Witness for the Plaintiff; and
- Rayne Smith (Powell) as Best Witness for the Defense.

After the preliminary rounds concluded, Farragut (Blue) and Jefferson County prevailed as the competition frontrunners and advanced to the District Championship held on February 26th at the Lincoln Memorial School of Law.

The Championship featured a highly qualified panel of scoring judges comprised of attorneys Bill Waters, Nate Ogle, Cullen Wojcik, Dillon Zinser, and Mari Jasa, each of whom evaluated the competitors' performances as advocates and witnesses during the mock personal injury trial. The Honorable Suzanne Bauknight presided over the Championship as Farragut Blue advocated for the Plaintiff and Jefferson County for the Defendant.

Farragut Blue triumphed at the District Championship. Both Farragut Blue and Jefferson County earned a spot to compete in the State Mock Trial Tournament slated to take place on March 17th and 18th in Nashville.

Without our roster of dedicated volunteers, it would have been impossible to make this great event a reality. Thank you, again, to the judges, attorneys, and law students who served as presiding judges, scoring judges, and bailiffs, and to those who were willing to lend a helping hand whenever the need arose.

We likewise thank Judicial Clerk Esther Roberts and the staff of the Public Building Authority for their assistance in arranging and securing the Knoxville City-County Building facilities; Andrew McRee and Lincoln Memorial University School of Law for hosting the Championship round; and Marsha Watson, Bridgette Fly, and the KBA Staff for all the support they provided us over the past several months as we all worked to ensure a smoothly run competition. We are genuinely privileged to boast such an involved and supportive bar association.

We leave you with one final sentiment with the intent to provide insight into

the impact that your participation in this event has on the student competitors; in the words of a coach, "Our kids are still on cloud nine and our school is buzzing about how well our kids represented us as a student body. I certainly cannot say we don't care about the scores: our kids wanted to do well and represent our teams with pride. We left, though, with so much more than with what we came. Every single one of our students said they are already looking forward to next year's competition."

*...in the words of a coach,  
"Our kids are still on cloud  
nine and our school is  
buzzing about how well  
our kids represented us as a  
student body."*

### Attorney Volunteers

Courteney Barnes-Anderson	Mari Jasa
Hon. Suzanne Bauknight	Matt Knable
Hon. Sharon Bell	Devin Lyon
Kim Burnette	Hon. Gregory McMillan
Jodie Bush	Nate Ogle
Chris Caldwell	Kayla Rask
Melissa Carrasco	Sean Roberts
Meagan Collver	Brian Sableman
Terri Daugherty	Ashley Salem
Michael Deel	Chuck Sharrett
Robert DeBusk	Jimmy Snodgrass
Darrius Dixon	Micalah Soileau
David Eldridge	Mike Stanuszek
Andrew Firkins	Alaina Tolbert
Federico Flores	Nicole Turbinton
John Ganem	Bill Waters
Hon. Robin Gunn	Paul Wehmeier
Kathryn Haaquist	Erin White
Trey Hamilton	Cullen Wojcik
Mandy Hancock	Broderick Young
Emily Horton	Dillon Zinser
Rachel Hurt	



**Law Student Volunteers**

- |                  |                    |
|------------------|--------------------|
| Jordan Allen     | William Jones      |
| Amy Anstey       | Brett Jones        |
| Joshua Armetta   | Corey Lee          |
| Jackson Barton   | Hunter Lepper      |
| Haden Blair      | Sharon Leveron     |
| Gregory Bohannon | Elizabeth Luminoso |
| Shelby Brackin   | Rachel McKellar    |
| Dedra Brown      | Jordan Meddings    |
| Micah Brunet     | Geran Minor        |
| Morgan Bryant    | Holly Nehls        |
| Nickolas Bryant  | Kara Potts         |
| Davis Capps      | Sonsirez Robles    |
| RaDonna Gaddis   | Jean Sholar        |
| Austin Gergen    | Kimberly Trotter   |
| Corey Grayson    | Willow Van Skyhawk |
| Thomas Gutwein   | Alyssa Ward        |
| Lindy Harlow     | Hank Warren        |
| Jennifer Hughett | Carly White        |
| Nicole Imhof     |                    |





**Nominees should:**

- strive to foster and maintain good relationships between the legal profession and the community
- work to advance the understanding of the law and legal processes in the non-legal community
- set an example of good citizenship
- give time for volunteer work, both within the legal profession and otherwise
- evidence high professional standards in his or her occupation
- express concern for the safeguard of personal, political, civil, and religious liberties;
- be someone whose work is not normally recognized

Nominees do not have to be attorneys. Please consider those individuals in your firm, local civic and religious organizations, or in the community who have worked to improve our legal system and protect our civil liberties.



**Nomination  
Deadline: April 10th**

Nominations can be sent to Committee Co-chairs **Christine Knott**  
(christineknott@knottlaw.org)  
or **Richard Graves** (rgraves@fmsllp.com).



We are excited to announce Barnes Law Firm  
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By: Shelby R. B. Ward

Adjunct Professor

University of Tennessee College of Law



# MAKING A SPLASH: TENNESSEE WATER INFRASTRUCTURE DEVELOPMENTS UNDER THE AMERICAN RESCUE PLAN ACT

Over fifty years ago, Americans officially celebrated Earth Day for the first time. Since that time, Earth Day has become Earth Month in communities and institutions raising awareness about pressing environmental concerns. Water — quality and quantity — is one such pressing environmental concern. Recent developments in water-related infrastructure funding under the American Rescue Plan Act (ARPA) protects water in Tennessee by helping to address vital needs.

## *Water in Tennessee*

Tennessee waters, from rivers to underwater aquifers, make life itself and life enhancements possible for all of the state's residents. Tennessee residents rely on water for drinking, agriculture, transportation, and recreation. People in Tennessee rely on surface water and groundwater as drinking water sources. Under the Tennessee Water Quality Control Act of 1977, the state holds the waters of Tennessee in public trust for the people of the state. Tennessee's public policy is that the people of Tennessee have a right to unpolluted waters.<sup>1</sup> Demand for water in Tennessee will increase as the state's population is projected to double in the next fifty years.

## *State Water Infrastructure Needs*

Tennessee is in need of updates to drinking water systems, wastewater infrastructure and stormwater infrastructure. From the present time to 2040, Tennessee requires between \$5 billion to \$15 billion for water infrastructure investments.<sup>2</sup> Improvements need to address the following: (1) Aging water distribution and collection lines which are vulnerable to costly leaks, (2) Outdated treatment facilities at or near capacity, and (3) Limited financial resources for needed for maintenance, upkeep, and expansions.<sup>3</sup>

## *ARPA Funds: Local and State Mechanisms*

In March 2021, Congress passed the American Rescue Plan Act (ARPA), also called the COVID-19 Stimulus Package, to promote economic recovery and public health in light of the COVID-19 pandemic.<sup>4</sup> ARPA includes \$365.9 billion in direct funding for state, local, tribal, and territory infrastructure systems through State and Local Fiscal Recovery Funds (SLFRF).<sup>5</sup>

Local governments within the state of Tennessee will directly receive \$2.28 billion from the federal government. The City of Knoxville and Knox County made specific designations of SLFRFs to address water infrastructure which will be discussed below.

ARPA provides the Tennessee state government with over \$3.7 billion. Of the state's \$3.91 billion, the Tennessee Department of Environment and Conservation (TDEC) will distribute \$1.35 billion to support water projects in communities throughout the state.<sup>6</sup> TDEC is disbursing ARPA funds through a noncompetitive grant process, state-initiated priority projects, and competitive grants. Funded projects will improve drinking water, wastewater infrastructure, and stormwater infrastructure. Funds from ARPA must be obligated by December 31, 2024 and expended by December 31, 2026.

## *Funding for Knoxville, Knox County & other East Tennessee communities*

ARPA funds have been awarded to communities across the state,

including locales in East Tennessee.

The City of Knoxville plans to use a portion of funds directly received from the federal government for water infrastructure. The city's proposed allocation directs money to Knoxville Utilities Board (KUB) and city stormwater projects. KUB will receive \$5 million for water system projects, such as replacing older galvanized water pipes throughout the city. The city allocated \$3.5 million for stormwater projects including:

- \$1.5 million for updates to drainage infrastructure (including \$1 million for the Bluegrass Lake Flooding Remediation Project, in partnership with Knox County),
- \$800,000 in order to inventory and prioritize maintenance and repair of stormwater pipes,
- \$700,000 for dilapidated pipe remediation, and
- \$500,000 for restoration of creeks and streams.<sup>7</sup>

Knox County's planned expenditures will address internally managed stormwater projects and eligible water and sewer infrastructure projects handled by local utility providers. The county plans to allocate \$4 million to stormwater projects managed by the Knox County Engineering and Public Works Department, over \$13.8 million to drinking water transmission and distribution projects, and over \$28 million is to decentralized wastewater projects. The county's projects will increase the availability of clean drinking water to rural areas and provide additional infrastructure necessary for the construction of affordable housing needed within Knox County.<sup>8</sup>

Recipients of ARPA funds through TDEC managed grants include Bluff City (\$747,874), Carter County (\$7,478,770), City of Elizabethton (\$2,431,279), Town of Farragut (\$1,721,566), City of Gatlinburg (\$403,670), City of Harriman (\$3,191,759), Johnson City (\$7,817,569), Town of Jonesborough (\$1,005,596), City of Kingsport (\$6,955,642), City of Loudon (\$1,094,581), Morgan County (\$5,084,639), Town of Rogersville (\$1,864,744), and Town of Surgoinsville (\$826,137).<sup>9</sup> These locales have various plans to improve water-related infrastructure. For example, the Town of Farragut will use its ARPA funds to support stormwater projects. The town's projects will improve stormwater quality and drinking water conservation through best management practices.

## *Reflect and Build Together*

The COVID-19 pandemic added additional pressure to our communities already facing environmental problems. ARPA and other recovery responses from governments and the public are forces seeking regeneration of economies, public health, and our communities as a whole. This Earth Month, Tennessee can celebrate its progress toward water infrastructure development under ARPA. Federal, state, and local partnerships nourish collaborative building of a more sustainable future for Tennessee in the realm of water.

1 See Tenn. Code Ann. § 69-3-102(a).

2 Tennessee Deployment of American Rescue Plan Funding: Water Infrastructure Investment Plan. Tennessee Department of Environment & Conservation: March 8, 2022, at 9, available at <https://www.tn.gov/content/dam/tn/environment/arp/>

*continued on page 26*

# COPYRIGHT AND ARTIFICIAL INTELLIGENCE - WHO OWNS WHAT?

> Tell me a story.

*Once upon a time, there was a young boy named Jack who lived in a small village at the foot of a great mountain. Jack loved to explore and often spent his days climbing trees, wandering through the fields, and playing with his friend.*

*One day, Jack decided to climb the mountain that loomed over his village. He set out early in the morning with nothing but a water bottle and some food in his backpack. As he climbed higher and higher, the air grew colder, and the wind grew stronger...*

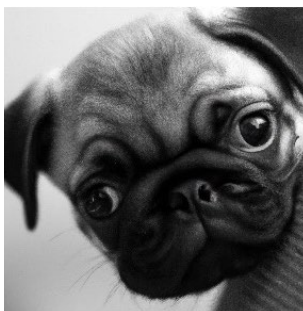
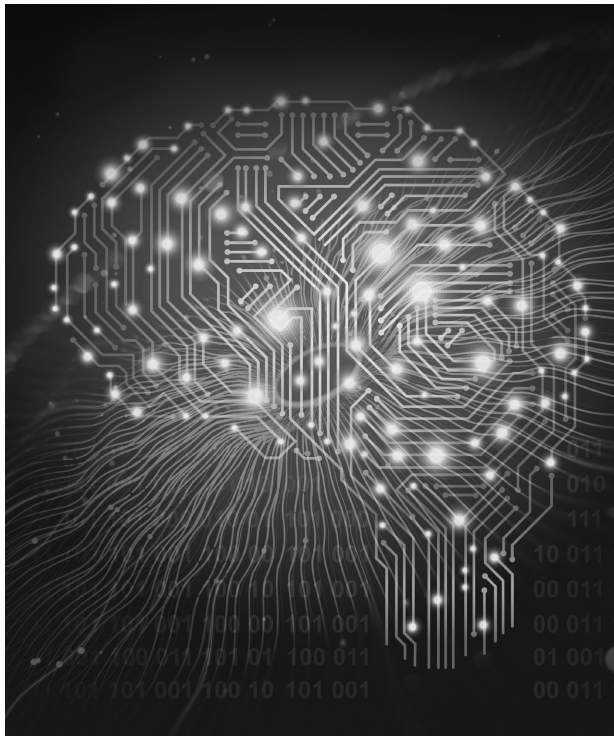
The previous two paragraphs were the beginning of a story written by Artificial Intelligence (AI) in response to the prompt “Tell me a story.” Since the public release of the artificial intelligence engine (or “bot”) ChatGPT,<sup>1</sup> there has been a flood of users tapping its strength for a myriad of uses such as writing letters, solving problems, having conversations, and more<sup>2</sup>. One ingenious user even connected the output to a 3D printer, attached a pen to it, and programmed it to “write” his homework. In a less-ingenuous use of the technology, a university utilized the chatbot to send a condolence message.

There are also AI engines that produce graphics such as Dall-E 2 which purports to “create realistic images and art from a description in natural language.”<sup>3</sup> The prompt “generate a cute pug puppy with sad eyes in black and white” led to the creation of four choices, one of which included this little guy pictured here.

Given the flood of interest, uses, emerging concerns, and media coverage, the number of articles that address AI seems to grow at an exponential rate.

The challenge we have now is how to deal with works created by AI. Who owns these works: the author of the query that set the bot to churn out the story, the author of the stories that the bot based the work on, or the bot itself as the not quite masterful but virtual bard of the story?

In assessing the work created by an AI engine, we must answer three fundamental questions: first, is the work original; second, who created



it; and third, is the work subject to copyright protection?

## Is the Work Original?

The Copyright Act protects original works of authorship.<sup>4</sup> One important fact is that AI engines like ChatGPT draw upon millions of works fed into it (usually, but not necessarily) from the internet. It assimilates this material to respond to the prompts created by the user and purportedly learns over time. This article begins with the prompt “tell me a story.” While an incredibly vague prompt that offered absolutely no guidance as to type of story, length, voice, genre, or anything for that matter, ChatGPT dutifully responded. Unfortunately, the AI engine did not provide any insight as to where its “inspiration” came from. We know it draws on numerous sources but it provides no citations, no references, and no indication of what it used to generate

the story.

Researchers have shown that the AI engine will “make up” resources even to the point that it will reference real authors for papers that do not exist, and it will reference real journals and fake articles. To be fair, the AI engine never claims to be accurate and yet it presents responses that are written in such a way as to appear authoritative.

Interestingly, the “story” it told at the beginning of this article was strikingly similar (although not identical) to many paragraphs contained in a version of Jack and the Beanstalk that can be readily found on the web. This begs the question: is my (and I use the term “my” very loosely) version of the story original? Or put another way, is my story different enough (transformative enough<sup>5</sup>) that it might be considered original or at least non-infringing under the Copyright Act? If it is different, but not “different enough”, then it might be considered a “derivative work.”<sup>6</sup> I would say the answer is a bit of a toss-up. When examining cases where copyright holders sued other creators, challenging facts seem to go both ways. Fortunately, the answer to that question is well beyond the scope of this article. Let’s assume for the moment that my story is, in fact, transformative, does not infringe on someone else’s work, and therefore is potentially subject to copyright protection. Given these assumptions, we have to move to our second question.

## Who Created the Work?

For a work to have copyright protection it must be created by a



By: Sydney A. Beckman

Professor of Law  
LMU Duncan School of Law

person.<sup>7</sup> I think we can all agree that ChatGPT is not a person. But... did I create the story? It would take a seriously long stretch of the imagination to argue that I created it. I also asked it to create a nursery rhyme involving monsters. It created a delightful little rhyme. Again, I gave it very little direction. However, the more detail I put into the prompt, the more influence I have on the outcome, thereby making the outcome more unique.

Consider this, have you seen those artists who tie a paint can to a string, punch a hole in the bottom, and let it swing over the canvas? After the paint is drained, they tie a can with a different color over the canvas and repeat the process. All the artist does is pick the color and put the can in motion. Most people would agree that the artist has created the painting. The artist picked the colors, the order of the colors, the size of the canvas, the arc of the swing, and even when to stop the can from swinging. So to, the “author” picks the prompt by providing the details and often refining those details based on the AI’s response. After several iterations, the prompt provides enough detail that the end result might be both original and the “work” of the author. The prompt “tell me a story” might generate an original work, but it is undoubtedly not the work of the person typing in the prompt. Therefore if (and at this stage in the life of AI, it’s a big if) the work is considered both “original” and the work of the person who crafts the prompt, then we are left with the final question of whether it is subject to copyright protection.

### Is the Work Copyrightable?

Let us return to the original story that ChatGPT created for me. The “story” may be original. That is, it may not infringe on someone else’s work. If that is the case, then it might be subject to protection except for one important fact. A person (in this case me) did not create it. And under the Copyright Act, only works created by persons are subject to protection. So, what about this story? If it is, indeed, original, then it is merely not subject to protection. Arguably it is in the public domain and could be used by anyone.

I asked the ChatGPT bot who owns the works it creates. Its answer was, in my opinion, an accurate one. “As an AI language model, I don’t create works that are subject to intellectual property laws or copyright ownership.” It went on to briefly discuss that works created by humans are subject to such protection. And that is the blurry line. How much of what was “created” was created by the person who prompts the AI engine? And how much of the creation was *creative*?

The Copyright Act excludes from protection “a work employing preexisting material in which copyright subsists” and for which “such material has been used unlawfully.”<sup>8</sup> The challenge for those who employ the AI engine is that what the engine produces does not give any indication as to its sources making it increasingly difficult to determine what is, or is not, “original.” Therefore, it is difficult to ascertain whether the engine used the “idea” from another work or used the actual language. This determination is important because the Act does not protect ideas.<sup>9</sup> Circling back to the question of whether what is created by the AI engine is subject to copyright protection, the short answer is that we do not yet know. Until legislation or our courts answer the question, all we have is a best guess. Assuming a very detailed prompt would generate an original

work, the person generating the prompt would have an argument that it was his or her original, creative work. The less detail in the prompt, the weaker the argument.

Until we have a legal answer, the safest route is to avoid the engine if the desire is to create a work that is fully protected by the Copyright Act.

<sup>1</sup> If you are unfamiliar with ChatGPT, its origin, its uses, etc., many articles on the Web introduce what it is and what it does. The engine may be found at: <https://chat.openai.com/chat>.

<sup>2</sup> Although this article references ChatGPT as the AI engine used for examples, there are several such engines in development by other companies including Alphabet and Microsoft (which is an investor in the ChatGPT technology).

<sup>3</sup> [www.openai.com/product/dall-e-2](https://www.openai.com/product/dall-e-2) (last visited February 25, 2023).

<sup>4</sup> 17 USC §102 (2022).

<sup>5</sup> In a nutshell, “transformative” is a defense to copyright infringement that permits one to use the original author’s work without permission. 17 USC §107 (2022).

<sup>6</sup> Derivative works are protected but the protection extends to the copyright owner of the original work.

<sup>7</sup> 17 USC §103 (2022).

<sup>8</sup> 17 USC §103 (2022).

<sup>9</sup> 17 USC §102 (2022). It also does not extend to any procedure, process, system, method of operation, concept, principle, or discovery regardless of the form in which it is described, explained, illustrated, or embodied in such work.

## KBA Senior Section Luncheon



The Senior Section will meet for lunch on April 19 at Calhoun’s on Bearden Hill from 11:30 am to 1 pm. The fee is \$30 for the buffet lunch.



East Tennessee Newsmakers:  
Where Are They Now?

Georgiana Vines  
The Knoxville News Sentinel



For more information or to register online visit [www.knoxbar.org](http://www.knoxbar.org) or call the KBA Office at (865) 522-6522. If you have suggestions for luncheon speakers, please contact Chairs Wayne Kline (292-2307) or Sam Rutherford (659-3833).



## IN LIMINE: PROFILING FUTURE JDS

**By: Carol Anne Long**

*Interim Director, Career Center  
University of Tennessee College of Law*

# JILLIAN POLK

## UNIVERSITY OF TENNESSEE COLLEGE OF LAW, CLASS OF 2024

Political Science. English. Philosophy. Criminal Justice. These are some of the most common subjects that incoming law students choose for their college majors. But University of Tennessee College of Law 2L Jillian Polk approached law school from a completely different angle: she majored in Music.



The daughter of two attorneys, Jillian was born and raised in Sarasota, Florida, and in 2015, her vocal talent took her to Nashville to attend Belmont University. While at Belmont, she was a member of two renowned vocal ensembles: POPS, where she also served as assistant director, and Voxology, an R&B Ensemble of which she was a flagship member. Jillian is no stranger to hard work. She was selected for five externships in various facets of the music industry, ranging from labels to publishing houses, all while maintaining regular

singing engagements in Nashville. And when she wasn't studying or performing, she worked as both a hostess and server. All of this hard work paid off when, in 2019, Jillian graduated *magna cum laude* with a degree in Commercial Voice (emphasis in Music Business) and a minor in Sociology.

Following her graduation, she spent two years working in Nashville as a licensing account representative for SESAC (the Society of European Stage Authors and Composers), which is the second-oldest performance-rights organization in America. During her time with SESAC, Jillian educated business owners about their obligations under U.S. copyright law, and she reviewed and executed licensing contracts for hundreds of business accounts.

Law school had always been in the cards for Jillian; she just didn't know exactly when the time would be right. When the pandemic hit, she took it as a sign that it was time to pivot and sit for the LSAT. Jillian accepted her offer at UT Law "without hesitation," citing UT's "strong bar passage rate, excellent opportunities for hands-on learning through UT's Legal Clinic, a large alumni base, and proximity to the mountains." Having grown up camping and hiking in the Smoky Mountains with her family, Jillian always felt at home in East Tennessee.

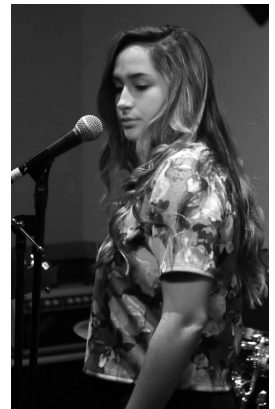
Jillian's strong and enthusiastic work ethic continues in law school. She currently serves as student attorney in the College of Law's Domestic Violence Clinic and is the Managing Editor of the *Tennessee Journal of Law, Leadership, and Policy*. She was also selected to serve as a Legal Process Fellow, a well-deserved honor of which Jillian is immensely proud: "Legal writing did not come easily to me at first, but I worked persistently to improve, and I now have the pleasure of teaching first-year students legal writing and research skills." Because of Jillian's interest in litigation and advocacy, she is pursuing the Advocacy and Dispute Resolution Concentration, and she will be competing in the Center for Advocacy & Dispute Resolution Trial Competition (Jenkins Trial Competition) this semester as well.

Last summer, Jillian enjoyed two rewarding work experiences. First, she clerked for Knoxville family law attorney, John Haines, which solidified Jillian's hope to pursue a family law practice in Knoxville following her graduation in 2024. For the second half of the summer, Jillian interned in the State Attorney's Office in Sarasota County, Florida,

working alongside murder prosecutor, Karen Fraivillig. There, Jillian had the opportunity to, among other things, prepare a grand jury indictment on a first-degree murder case.

As is undoubtedly evident, Jillian doesn't have an abundance of free time, but what little free time she has is devoted to music (singing and playing piano), practicing yoga, and spending time with friends. Her favorite musical artists include Van Morrison, Tedeschi Trucks Band, Halsey, Frank Ocean, and, as a big fan of outlaw country, she is currently re-working her way through the live discography of Waylon Jennings.

Through her time in law school, Jillian has discovered that her training as a musician has benefited her career as a law student in multiple ways. Her high level of comfort on stage, cultivated over years of performing, has resulted in great confidence with public speaking. She has also learned to adapt quickly when things don't go as planned on stage, a skill that translates well in both the law school classroom and the courtroom. Her time as an ensemble director and lead vocalist in various bands and musical groups honed her leadership skills and taught her the importance of being the type of person with whom others want to work and collaborate. And finally, working as a musician, where it's imperative that you actively listen and deliver "receiver-based communication" from both the audience and your fellow musicians, has made Jillian a very effective communicator. In essence, Jillian views the law and music as "people-centered fields" and notes that "the more open your ears are to those around you, the more impactful you can be as a musician and as an advocate."



When asked the ultimate question of why she wants to pursue a career in law, Jillian provided this thoughtful response:

Lawyers have the privilege of helping their clients navigate change, and change can be very challenging, both circumstantially and emotionally! Lawyers are uniquely positioned to be their client's confidant, advocate, and shield. To be able to provide such holistic support for someone – especially in family law, where people are often at a low point – is meaningful, and it's what I want my life's work to be.

Our bar and our community are both fortunate to add Jillian Polk to our ranks.

### \*Hiring Footnote\*

If Attorney Jane Smith receives a cover letter from a law student addressed to "Dear Jane Smith," it's not because the student simply copied and pasted the attorney's full name into the salutation; rather, it's a student's way of showing respect. If Jane Smith is unknown to the student, the student will often avoid using an honorific such as Mr. or Ms. because the student doesn't want to presume to know Jane Smith's preferred pronouns.



# NEW ABA ETHICS OPINION CLARIFIES CHOICE OF LAW FOR ETHICS VIOLATIONS RELATED TO MULTIPLE STATES

Law practice these days often crosses state lines. For example, a lawyer licensed in Tennessee may appear pro hac vice in another state's court. Or a lawyer licensed in Tennessee may prepare a contract for a Tennessee client involving the purchase of goods located in another state. ABA Model Rule 8.5(b) acknowledges that variations in state ethics rules can lead to conflicting ethical obligations for lawyers involved in multi-state legal cases:

(b) Choice of Law. In any exercise of the disciplinary authority of this jurisdiction, the rules of professional conduct to be applied shall be as follows:

(1) for conduct in connection with a matter pending before a tribunal, the rules of the jurisdiction in which the tribunal sits, unless the rules of the tribunal provide otherwise; and

(2) for any other conduct, the rules of the jurisdiction in which the lawyer's conduct occurred, or, if the predominant effect of the conduct is in a different jurisdiction, the rules of that jurisdiction shall be applied to the conduct. *A lawyer shall not be subject to discipline if the lawyer's conduct conforms to the rules of a jurisdiction in which the lawyer reasonably believes the predominant effect of the lawyer's conduct will occur.*

Tennessee Rule of Professional Conduct 8.5(b) is identical to the Model Rule except that the final sentence (italicized above) is omitted.

On March 1, 2023, the ABA issued Formal Opinion 504 interpreting rule 8.5, noting that the Rule treats litigation matters differently from non-litigation matters. With respect to matters "pending before a tribunal," the lawyer's conduct is subject to "the rules of the jurisdiction in which the tribunal sits." With respect to "any other conduct," including "conduct in anticipation of a proceeding not yet pending before a tribunal" (Comment [4]), the applicable rules are those of either "the jurisdiction in which the lawyer's conduct occurred," or the rules of the jurisdiction in which "the predominant effect of the conduct" occurred.

The opinion suggests that the following factors should determine where the "predominant effect" of a lawyer's conduct occurs:

- the client's location, residence, and/or principal place of business;
- where the transaction may occur;
- which jurisdiction's substantive law applies to the transaction;
- the location of the lawyer's principal office;
- where the lawyer is admitted;
- the location of the opposing party and other relevant third parties (residence and/or principal place of business); and
- the jurisdiction with the greatest interest in the lawyer's conduct.

The opinion then applies Rule 8.5 to a series of scenarios. First is a situation in which two states have conflicting rules about fee agreements: A lawyer licensed in Tennessee represents a client residing in Tennessee regarding litigation that will be brought in another state. Should the

lawyer draft the fee agreement in accordance with the Tennessee rules or the rules of the other state? Because the litigation is not yet pending before a tribunal, subsection (b)(2) applies. Tennessee's rules should govern the fee agreement because the predominant effect of the fee agreement occurs where the client resides and where the lawyer is admitted and practices.

Second, what if a lawyer licensed in a state allowing lay ownership of law firms appears pro hac vice in a court in Tennessee? Does the fact that Tennessee prohibits lay ownership of law firms mean that the lawyer appearing pro hac vice cannot receive a share of the fee from the case? Although the Tennessee rules apply to the matter pending before the tribunal, these rules apply only to "the Lawyer's conduct in representing the client in the proceeding, in dealing with the tribunal, and dealing with the opposing party and counsel." The structure of the lawyer's firm is not relevant to the pending litigation matter. Therefore, subsection (b)(2) applies, and the "predominant effect" of the lawyer's conduct in practicing law with a layperson occurs in the state where the firm is located.

Third, the opinion addresses differences in the reporting requirement of Rule 8.3. If a lawyer is licensed in two states, one of which requires reporting of lawyer misconduct regardless of client consent, while the other requires reporting only with client consent, which ethics rules govern the lawyer's reporting requirement? The ABA poses the following hypothetical:

Lawyer is admitted to practice law in States A and B, with Lawyer's office located in State B. Client residing in State A hires Lawyer to complete litigation in State A. Prior counsel on this matter forged the Client's signature on a document that was filed with the tribunal, which has prejudiced the rights of Client going forward in this matter.

Here, because the matter in which the reportable violation occurred is pending before a tribunal, subsection (b)(1) requires the lawyer to follow the rules of State A, the state in which the tribunal sits.

Fourth, what if a lawyer licensed in Tennessee and another state faces conflicting confidentiality duties? Tennessee's Rule 1.6(c) requires a lawyer to reveal confidential information "to prevent reasonably certain death or substantial bodily harm," but the other state makes this disclosure permissive. The ABA posits a scenario in which a lawyer whose office is located in the permissive-reporting state represents a client from Tennessee in a transaction with an opposing party who resides in the other state. The Tennessee client makes a direct threat to "gravely physically harm" the opposing party at their next meeting, which will take place in Tennessee. The lawyer is required to follow Tennessee's Rule 1.6 and report the threat because the predominant effect of the threat will occur in Tennessee.

The final scenario involves screening a lateral transfer to avoid an imputed conflict of interest. A law firm with multiple U.S. offices would like to hire Lawyer A, who is currently associated with another firm. Lawyer A is licensed in State A and would practice law from the firm's office in State A. The firm's hiring of Lawyer A would impute a former client conflict of interest to another lawyer at the firm, Lawyer B. Lawyer B is licensed in State B and practices law from the firm's office in State

*continued on page 29*

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

# barrister bullets

## MONTHLY MEETING

Plan now to attend the Barristers monthly meeting on Wednesday, April 12, starting at 5:15 pm at the Firefly, the outdoor patio at the Hilton located at 501 W. Church Avenue, Knoxville. Social time starts at 5:00 pm. Register by clicking April 12 on the calendar at [www.knoxbar.org](http://www.knoxbar.org).

## SCHOOL OUTREACH COMMITTEE NOW ACCEPTING LAW & LIBERTY NOMINATIONS

The Barrister's Constitution & School Outreach Committee is accepting nominations for the annual Law & Liberty Award, which will be announced at the annual Law Day Luncheon on Friday, April 28. You can nominate someone by filling out a short form or emailing the KBA at [info@knoxbar.org](mailto:info@knoxbar.org). The deadline for nominations is April 10, 2023.

Nominees should:

- strive to foster and maintain good relationships between the legal profession and community
- work to advance the understanding of the law and legal processes in the non-legal community
- set an example of good citizenship
- give time for volunteer work, both within the legal profession and otherwise
- evidence high professional standards in his or her occupation
- express concern for the safeguard of personal, political, civil, and religious liberties
- and should be someone whose work is not normally recognized

Nominees do not have to be attorneys. Please consider those individuals in your firm, local civic and religious organizations, or in the community who have worked to improve our legal system and protect our civil liberties. Questions may be directed to **Richard Graves** ([rgraves@fmsllp.com](mailto:rgraves@fmsllp.com)) or **Christine Knott** ([christineknott@knottlaw.org](mailto:christineknott@knottlaw.org)).

## VETERANS LEGAL ADVICE CLINIC

The Veterans' Legal Advice Clinic is a joint project of the KBA/Barristers Access to Justice Committees, Legal Aid of East Tennessee, the Knox Co. Public Defender's Community Law Office, the UT College of Law, LMU- Duncan School of Law, and the local Veterans Affairs office. This is a general advice and referral clinic which requires attorney volunteers for its continued operation. The next Veterans Legal Clinic will be held in person at the Knoxville Community Law Office on April 12, 2023. Sign up at <https://www.knoxbar.org/?pg=Upcoming-Legal-Clinics>.

## HUNGER & POVERTY COMMITTEE HOLDS PROFESSIONAL CLOTHING DRIVE

The Barristers are seeking professional clothing for individuals in need in Knoxville for a drive that will run from April 13- 28. Clothing will be donated to non-profits around Knoxville and the LMU Career Closet. Multiple donation locations will be available including Gay Street, Main Street, law schools, and West Knoxville. Please reach out to committee chairs Jordan Houser ([Jordan.houser@lmu.net](mailto:Jordan.houser@lmu.net)) or Dillon Zinser ([dillon@knoxvilletnlaw.com](mailto:dillon@knoxvilletnlaw.com))

## VOLUNTEER BREAKFAST NEEDS SPONSORS

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

5044 or **Darius Dixon** at (865) 546-4646 with any questions and/or about volunteering.

## DIVERSITY COMMITTEE COLLECTS DONATIONS FOR SCHOLARSHIP FUND

The Knoxville Bar Association is committed to becoming a more diverse and inclusive organization. To help further this important goal, the Barristers Diversity Committee Chairs, **Mariel Bough** and **Grant Williamson**, spoke with student leaders of several student organizations at the law schools in Knoxville to gain a better understanding of what barriers diverse students were facing in attending law school in Knoxville. In an effort to target this issue, the Barristers Diversity Committee has created a scholarship fund to help with travel and lodging costs for diverse students who are invited to attend preview days hosted by the law schools. Members are asked to make a donation to help ensure that one student, who may not otherwise be able to afford to visit a law school in Knoxville prior to their enrollment, is able to attend a preview day. A more diverse and inclusive Knoxville Bar Association is only possible with a more diverse student population at local law schools. Your donation would help alleviate one of the barriers preventing diverse students from being able to visit campuses in Knoxville and see all that its law schools and the Knoxville Bar have to offer. If you have questions, please reach out to **Mariel Bough** ([mariel.bough@verasafe.com](mailto:mariel.bough@verasafe.com)) or **Grant Williamson** ([gwilliamson@bradley.com](mailto:gwilliamson@bradley.com)) for more information on how your donation will be used, or for more ways to get involved with the Barristers Diversity Committee's efforts to make the Knoxville Bar Association a more inclusive and diverse organization. Information on how to donate online can be found on the KBA website on the Barristers Diversity Committee page.



## *WELCOME NEW MEMBERS*

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

### **NEW ATTORNEYS**

**Robert K. Calloway, Jr.**  
Lakewood Capital Group, LLC

**Cole Stinson**  
AF Group, Inc.

### **NEW LAW STUDENT MEMBERS**

**Richard J. Arning**  
**Robert Bjornstad**  
**Gregory Bohannon**  
**Caden Brownyard**  
**Miles P. Burnham**  
**Nicole Clark**  
**Colt Clements**  
**Melissa Correa**  
**Annie M. DeFreitas**  
**Karen J. Espinoza**  
**Emma G. Estabrooks**  
**Savannah Hall**  
**Ryan A. Jernigan**  
**Garrett Kaplan**

**Matthew McClurg**  
**Mitchell H. McClurg**  
**Rachel E. McKellar**  
**Presley A. Overbey**  
**Lee Poff**  
**Tyler Raper**  
**Sophia M. Sabri**  
**Megan Sadler**  
**Kelsie N. Shipley**  
**Zoe E. Smith**  
**Hayden N. Sutherland**  
**Logan Wade**  
**Brendan M. Walsh**



# WOVEN THROUGH HISTORY

So far, no one has been able to determine who she was, how old she was when she died, what she did for a living before she died, or even how she died. All we know is where she died and when she died. They found her buried in the ancient city of Akhenaten, now known as Armarna, which was the capital of Egypt from 1353 to 1335 BC.<sup>1</sup> Around the fifth year of his reign, King Akhenaten ordered that the city be built, halfway between Memphis and Thebes, along the shores of the Nile River, to honor Atel, a deity who King Akhenaten believed personified the light of the sun.<sup>2</sup>

The city didn't last for very long. After King Akhenaten died, his son, Tutankhumun moved the capital back to Memphis. Then after he died, Tutankhumun's successor, former general Horemheb ordered the city of Akhenaten to be destroyed—and all of the rubble carted off to be used for Horemheb's own projects.<sup>3</sup> The *Real Housewives of [Insert Your Favorite City]* are amateurs at drama compared to the ancient Egyptians.

However, the city of Akhenaten was around just long enough to develop something a bit more long-lasting. By the time archeologists found her about 3,000 years later, her body was severely deteriorated, probably because she did not have sufficient social status to be mummified. But, what was preserved was her hair—carefully braided, and neatly arranged in layers all over her head.<sup>4</sup> As archeologists examined her further, they discovered that it wasn't actually her hair. This wonderful, anonymous woman who did not have the social standing to warrant all of the rituals of mummification had seventy hair extensions carefully woven into her natural hair.<sup>5</sup>

She wasn't the only one. As archeologists continued to excavate a burial ground just outside of the city's ruins, they discovered dozens of remains of other female inhabitants, all of them with remnants of hair extensions.<sup>6</sup> Apparently, a good hair day has been a necessity for thousands of years.

Now, it wasn't quite the same as what you might see on any given episode of *Real Housewives of \_\_\_\_\_* (not that anyone here is insinuating that every strand of those long, luscious locks isn't 100% homegrown . . . or platinum blonde). In the 1300's BC, hair extensions often included sheep's wool and vegetable fibers to thicken things up.<sup>7</sup> But, even in the ruins of the city of Akhenaten, there was evidence that women donated their own hair to make hair extensions and wigs for others.<sup>8</sup>

The technology has changed with the fashion over the years. By the 1800's hair extensions made of sheep's wool had given way to white powdered wigs known as Perukes made out of a combination of human and horsehair (maybe a little goat hair too).<sup>9</sup> It was a sign of status and also a rather convenient way to combat lice—heads could be shaved and wigs boiled with no one the wiser.<sup>10</sup> Then, there was the era of the Pompadour which turned into the Beehive and the quest for bigger and higher hair, without the powder.<sup>11</sup>

But something revolutionary was about to happen. On December 25, 1920, a baby girl named Christina Mae Thomas was born in Ville Platte, a tiny town in Evangeline Parish in Northern Louisiana.<sup>12</sup> Because they were African-American, Christina's parents were prohibited from voting despite the Fourteenth Amendment, and segregation was firmly engrained—in restaurants, hotels, schools, churches, playgrounds, and public transportation.<sup>13</sup> If you want a sense of what it was like, re-read *Plessy v. Ferguson*<sup>14</sup> and imagine being Mr. Plessy who was ejected from a train and taken to jail because he had “one-eighth African blood” and sat in the section reserved for the Caucasian population. *Plessy* went straight from the Louisiana Supreme Court to the U.S. Supreme Court which upheld the state law.

Despite this environment, Christina's parents made sure she was

educated. She graduated from high school and then attended Leland College, a small African-American college in Baker, Louisiana, north of Baton Rouge.<sup>15</sup> Christina graduated with a Bachelor's Degree in science and then moved to the big city of Chicago where she went to work for a wig manufacturer.<sup>16</sup> But Christina's brain was always working. One of the problems she was trying to solve was how to design wigs that would fit securely, accommodate the unique range of textures of African-American hair, and still provide for ease of styling.

After several years, Christina came up with a solution and, in 1951, Christina Mae Thomas (now Jenkins) filed a patent for a hair weaving technique that involved sewing synthetic or natural hair to a net, and then sewing the net to cornrows.<sup>17</sup> She called it the “HairWeev,” and she credited the ancient Egyptians for her inspiration.<sup>18</sup> The technique was novel and revolutionary (at least in modern times). Christina opened her own salon and spent the next several decades teaching her technique to cosmetologists who have continued to perfect both the product and the technique for all hair types ever since.<sup>19</sup>

In 2000, a Yale University study found people have lower self-esteem and feel less intelligent or capable of achievement when they are not happy with their hair.<sup>20</sup> The market agrees. In 2020, Americans spent over \$1.7 billion dollars on hair extensions, weaves, wigs, and associated products. This market segment is projected to grow to over \$8 billion dollars by 2028.<sup>21</sup> It is a simple, but powerful thing—feeling good about how you look—and it all started with an anonymous woman in ancient Egypt and a technique perfected by Christina Mae Thomas Jenkins woven together to make history.

<sup>1</sup> Owen Jarus, Ancient Egyptian Woman with 70 Hair Extensions Discovered, LiveScience (Sept. 17, 2014), <https://www.livescience.com/47875-ancient-egyptian-woman-with-hair-extensions.html>, last visited Mar. 11, 2023; Joshua J. Mark, Amarna, World History Encyclopedia (Aug. 1, 2017) <https://www.worldhistory.org/Amarna/>, last visited Mar. 11, 2023.

<sup>2</sup> Mark, *supra* n. 1.

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

<sup>4</sup> Owen, *supra* n. 1.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> Secrets of Medusa, History of Hair Extension (Feb. 19, 2019), <https://www.secretsofmedusa.com/blogs/knowledge-base/history-of-hair-extensions>, last visited Mar. 11, 2023.

<sup>8</sup> Owen, *supra* n. 1.

<sup>9</sup> Secrets of Medusa, *supra* n. 7.

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

<sup>11</sup> *Id.*

<sup>12</sup> Christina M. Jenkins, <https://christinamjenkins-project.weebly.com/about.html>, last visited Mar. 11, 2023; see also Evangeline Parish Chamber of Commerce, History of Ville Platte, <https://www.evangelinechamber.com/history-of-ville-platte-2/#:~:text=The%20town%20was%20first%20listed,scattered%20inhabitants%20of%20the%20area.>, last visited Mar. 11, 2023.

<sup>13</sup> Nikki Brown, Jim Crow & Segregation, 64 Parishes (Jan. 21, 2015), available at <https://64parishes.org/entry/jim-crowsegregation>.

<sup>14</sup> *Plessy v. Ferguson*, 163 U.S. 537 (1896).

<sup>15</sup> Jenkins, *supra* n. 12.

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

<sup>17</sup> Shedavi, Know Your History: A Quick Black History Moment on the Origin of Weaves, <https://www.shedavi.com/blogs/news/know-your-history-a-quick-black-history-moment-on-the-origin-of-weaves>, last visited Mar. 11, 2023.

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

<sup>19</sup> Jenkins, *supra* n. 12.

<sup>20</sup> Diane Scarponi, Psychology of Bad Hair Days Studied, AP News (Jan. 26, 2000), available at <https://apnews.com/article/3ec01781b26ae2bd58f35a49e5403c96>.

<sup>21</sup> Fortune Business Insights, U.S. Hair Extension Market Size, Share & COVID-19 Impact 2021-2028, available at <https://www.fortunebusinessinsights.com/u-s-hair-extension-market-106378>.



## OF LOCAL LORE AND LAWYERS

By: Joe Jarret, J.D., Ph.D.  
Attorney, University of Tennessee

# KNOXVILLE'S HOMAGE TO THE SINKING OF THE STEAMBOAT SULTANA

### Introduction:

Located in Knoxville's Mount Olive Cemetery is a marble memorial to the sinking of the United States Ship Sultana, a 260-foot paddle wheeler steamboat that suffered a boiler explosion that plunged all aboard into the cold waters of the Mississippi, right outside of Memphis on April 27, 1865. It is estimated that over 1,700 people died on the horrid night, many of whom were returning Union Army former prisoners of war. Why is Knoxville fortunate to have what many believe to be the most ornate memorial to this maritime disaster that occurred almost 400 miles away? We shall soon see.

### The Disaster:

The explosion of the steamboat Sultana on April 27, 1865 in the middle of the night on the Mississippi River near Memphis resulted in what is considered the greatest loss of life in a naval disaster in American history. The ship was rated to carry only about 375 passengers, but nearly 2,200 Union POWs from the Confederate prison Cahaba<sup>1</sup> were crowded onto the boat that fateful night. The Sultana's boilers exploded at 1 a.m. in the morning of April 27, seven miles north of Memphis, flinging civilians and POWs, already weakened from their imprisonment, into the flooded, icy river. Most of Cahaba's prisoners were former members of the Third Tennessee Cavalry, a U.S. regiment that had been captured in 1864 while trying to relieve a besieged fort in North Alabama. It is estimated that 1,700 people lost their lives that night.<sup>2</sup>

### The Law for Treatment of Prisoners of War (POWs):

When the Sultana's civilian passengers came into contact with returning POWs, they were mortified. Most of the soldiers were sickly, gaunt, and clearly malnourished. Call it intuition or coincidence, but two years before the disaster, U.S. President Abraham Lincoln, concerned over the treatment of civilians, prisoners and soldiers, issued "General Orders No. 100: Instructions for the Government of the Armies of the United States in the Field," commonly known as the "Lieber Code" named after its main author Francis (Franz) Lieber, an attorney and law professor. The Lieber Code set out rules of conduct during hostilities for Union soldiers throughout the U.S. Civil War. Even today, it remains the basis of most regulations of the laws of war for the United States, and is referred to in the foreword to the Department of Defense Laws of War Manual.<sup>3</sup> The Lieber Code set out the law regarding the treatment of POWs, and provided in pertinent part:

A prisoner of war is subject to no punishment for being a public enemy, nor is any revenge wreaked upon him by the intentional infliction of any suffering, or disgrace, by cruel imprisonment, want of food, by mutilation, death, or any other barbarity.<sup>4</sup>

### The Trial of Captain Frederick Speed:

Captain James Cass Mason of St. Louis, who was the ship's captain and ultimately responsible for dangerously overloading his vessel and ordering the faulty repairs to her leaky boiler, died in the disaster. Consequently, the military turned its attention to Union Army Officer Captain Frederick Speed who was responsible for the care, treatment, and transportation of the former POWs who were permitted to board the overcrowded ship. Speed was charged with several counts of negligence, tried before a court-martial<sup>5</sup> at Vicksburg, Mississippi, and judged culpable in the disaster—the only Army officer brought to trial. Speed was found guilty and sentenced to be dismissed from service. However, Brig. General Joseph Holt, Judge Advocate General of the United States, refused to endorse the findings of the court and Captain Speed was mustered out of service

with full military benefits and without the formal stain on his record. Captain Speed settled in Vicksburg and practiced law for the rest of his life. He died in 1911.

### Knoxville Remembers:

April 1865 was a troubling month for America. Although the Civil War had ended, President Abraham Lincoln was assassinated, and the ensuing manhunt for his assassin, John Wilkes Booth, captivated the American media, resulting in scant coverage of the Sultana disaster. However, the people of Knoxville didn't forget. In the years after the disaster, a number of Sultana survivor groups cropped up around the country, including a particularly vigorous chapter in Knoxville. Descendants of these veterans still meet annually. One of the Knoxville chapter's leading voices, adamant about honoring the East Tennessee soldiers who perished in the disaster (many of whom were from Knoxville), was the pastor at Mount Olive Baptist Church, Rev. W. L. Singleton. Reverend Singleton chose the church's cemetery as the location for the monument. Three hundred and sixty-five Tennesseans were aboard the Sultana, and the monument features all of their names, hand-inscribed, survivors and casualties alike. Dedicated on July 4, 1916, it is one of Knoxville's treasures and definitely worth a visit.



<sup>1</sup> Cahaba Prison, also known as Castle Morgan, was a prisoner of war camp in Dallas County, Alabama where the Confederacy held captive Union soldiers during the American Civil War.

<sup>2</sup> Due to space limitations, only a small portion of this maritime disaster can be told. For a more comprehensive reading, see "Sultana: Surviving the Civil War, Prison, and the Worst Maritime Disaster in American History," by Alan Huffman.

<sup>3</sup> The Department of Defense (DoD) Law of War manual is a guide for DoD personnel responsible for implementing the law of war and executing military operations. Lieber Code, §3, Article 49

<sup>4</sup> A court-martial is a judicial court convened by the military for trying members of the armed services accused of offenses against military law.



## 15 MINUTES

Life. It can turn in an instant. It all happened in fifteen minutes this past August. I suppose I'll share...

Department of Child Services personnel and Sheriff's detectives pulled a beautiful kid out of her high school class in the first week of her senior year. Week number 1. She is the captain of the cheerleading team. She is a very good student. This girl, this child, this young woman (age 17), whose mother she never knew, died when she was a little girl, was being told by men and women with official titles and concerned faces that she was not going home to the only parent she's ever known. They told her that her father, a man who has raised her on his own, was under investigation for things that would require her to live elsewhere.

The call came to me around noon. My stepson, Cliff, age 29, was in a panic. There was no place for his half-sister, Loryn, to go. "Bring her here," I said. Instinct. She had nowhere else to go. Loryn's father was once married to my wife, Nancy, in a distant life, long before she and I would find each other in the darkness of trauma's aftermath, marry, and raise our four kids together. For 22 years our light has been burning. Nancy and her ex-husband produced Cliff and Cori, two wonderful children I gladly claim as my own and who have grown into amazing adults. Loryn is their half-sister from the subsequent marriage of Nancy's ex-husband. If you need a diagram to keep up at home, you are not alone. However, for Nancy and me, the math has always been easy,  $1+1=2$ . What followed that hectic day was a home visit to my downtown loft by DCS to see if I could provide a suitable home. Check. The life we had created in our empty nest (our four children are grown and out of the house) had just gotten easier with my daughter's wedding in July, and it was supposed to be a time to breathe. All of a sudden, I had fifteen minutes to come to grips with the days events before Loryn would arrive. Fifteen Minutes.

In that time, the realization quickly set in that she was likely never going back to the only home she'd ever known. She would become our fifth child. I knew that the child coming through the door, in a matter of minutes, was a traumatized and scared kid, and although she'd been to our home from time-to-time over her seventeen years, she didn't really know us. I didn't know her. I also happened to be alone as the papers were being filled out and signatures scribbled. Nancy was in Arizona moving Cori to a new town and job. Over those few minutes, she and I quickly talked through the situation by phone and knew what had to be done. Our lives were being altered at the speed of sound.

Ten minutes before her arrival, greater comprehension of our situation sunk in - that we would be full-on parents to this child in some capacity for the rest of our lives. She would need intense counseling, constant supervision and care. New routines would be established. Then, we would have to guide her through the juvenile court system, possibly the criminal court system, too, and interviews with authorities. We would need to hold her hand through the fallout of uprooting a 17-year-old from her place of comfort and safety, all the while getting her through her senior year in high school. Had she applied to college? What did she eat for breakfast? Had she seen Game of Thrones? As fifteen minutes turned to ten and then to five, I began to mourn for her and what was lost,

but I also mourned for Nancy and me and the life we thought we had immediately before us. Selfish. Then, as I was just putting my emotions in check and devising a plan, I heard Cliff arriving with Loryn in the hallway.

When she came through the door, eyes red and moist, bracing for judgment, perhaps touched by embarrassment, I raised my arms and said, "Welcome home! I've been waiting for you!"



In the days to follow, it became apparent that the child I expected is not the one I got. She is a badass. That is the simple version. There are no violins in her soundtrack. Her life is set to a hip-hop beat with electric guitars blaring. The truth is that she is the most advanced, mature, sentient being I have ever encountered. She cries when she wants to cry. She talks when she feels like talking. We set guidelines that allowed her to talk to us as much or as little as possible. I should say she set guidelines. She's counseling counselors. She has blown into our house and absolutely lit the place on fire. Our guest bedroom became hers in every way in the time it takes lightning to strike. It is a shrine to her goodness and strength - photos of her dog, her boyfriend, her friends. In the 8 months she has lived with us, she's missed two days of school. Two. She's cheered every game - basketball and football - and refuses to miss practice. She drives back and forth to Hardin Valley from downtown every single day, like an accountant going to work, a woman on a mission, an executive with a corporation called *Loryn*, showing the world her strength and determination. She has shirked embarrassment or any labeling of her. She is a denier of what people might think and those who may judge. She doesn't care. She is single-focused to change the world and I dare not doubt her. She has been presented at Senior Night for basketball and football with the PA announcer identifying Nancy and I as her "parents." Her decision, a statement of possessing her life. She is not just a survivor, she owns her story, her life, and you better not suggest otherwise. Yes, there is pain, there are tears, and there is anger at the universe that has, in her seventeen years, seemed set upon her in every way. But, she is beautiful, sweet, intuitive, and lights up a room with positivity. She worries about others affected by what has happened, including her father. She pulls herself out of the well when she falls in, dusts herself off, and eats some pasta. Lots of pasta and queso. We sing loud together - the songs we have come to love. She doesn't just allow herself a bit of grace, she tells you when she's taking it. She communicates with her father and visits her dog, because in a complicated situation, she makes it simple. Regardless of the process, it is clear he's raised an amazing person.

The incalculable loss has come with many gifts, chief among them is that she has found a mother. Watching Loryn and Nancy and the relationship they have formed should be labeled one of the 8 wonders of the world. As for me, I've become a cheer dad, walking around at competitions mumbling things like, "Their flyers were really top notch." What? Without apology, she takes the remote from my hand when we watch the Bachelor or Game of Thrones. I am, quite frankly, afraid to take it back. In a situation where I was convinced that I would teach, I've been taught. I will continue to protect. I'm on the wall and happy

*continued on page 31*



## A SIDE TRIP

By: Sarah M. Booher

State of Tennessee Department of Human Services

# THE TBA DOES CUBA: AN UNFORGETTABLE ADVENTURE

Thanks to the hard work, planning, and inspired ideas of outgoing-President Tasha Blakney and the brilliant staff at the Tennessee Bar Association (TBA), 54 total adventurers - 31 Tennessee attorneys and their travel companions - converged on Cuba on March 2, 2023, for what would ultimately be the trip of a lifetime (as though we ever had any doubt!). Coordinated by Daniel Perez at CLE Abroad, this 5-day trip was the first of its kind for the TBA and a powerhouse of continuing education, immersion, and fun.

### Getting There

Yes, Americans can go to Cuba!<sup>1</sup> With that said, there's a few extra steps required to travel. You need a visa. On the American side, there are a limited number of permitted reasons to visit - for us, and most tourists, you are there "in support of the Cuban people," although there are other categories of acceptable travel. On the Cuban side, you're there for tourism. You are required to have travel insurance, which you can buy as part of your airfare. And what I thought was perhaps the strangest aspect of a trip in 2023, you can't check-in on your airline app. It's paper boarding passes all the way, baby!

### Accommodations

There are plenty of weird laws surrounding Cuba. Almost all of them are on the American side, including that Americans are not allowed to stay in hotels or other state-run enterprises.<sup>2</sup> As a result, most folks stay in a *casa particular*, which is essentially the equivalent of a bed-and-breakfast here. My *casa particular* was the ArteHotel, owned by a famous actress and photographer husband-and-wife team, that was absolutely delightful, complete with a rooftop bar, full breakfast, and the husband's photography throughout the space.

### Dining

We had amazing food during our visit. From a farm to table restaurant on the outskirts of La Habana Province to high end dining at La Guarida (feat. on Emeril's Cuba episode) to a homecooked Afro-Cuban meal on one of our "field trips," you will not want for delicious food on your journey. Their food is flavorful, but not spicy hot. Rice, black beans, and yucca are standard side fare at almost every meal, and if you can't get enough of red snapper and lobster, then Cuba should be a culinary destination for you!

### The Arts

If you love art, go to Cuba! You don't even have to go out of your way to find great art in Cuba; you're always among it. In our short time there, we saw Fusterlandia (Google it - incredible), a ceramics gallery, the Museum of Cuban Art, and the Raul Corrales Gallery (Fidel's personal photographer). But what about music, Sarah? Never fear. A band was marching down the street in Old Havana, we went to the Tropicana, we had a private concert our first night of classical Cuban music, and the Havana Youth Orchestra gave a breathtaking performance on our last night there. And don't forget to visit Hemingway's Lookout Farm while you're there!



There's also plenty of art to buy and bring home and enjoy back in the States.

### CLEs

Trip attendees had the opportunity for up to six hours of CLE credits, but that didn't mean the fun and fascination had to end. Over three days, we learned about Cuba in Transition; Introduction to the Cuban Legal System; New Cuban Economy, Private Sector Regulation, and Economic Reform; US-Cuba Relations: Legal and Diplomatic Relations; and Gender & Sex Equality. Interesting facts about their legal system: minors can make wills with assistance from a lawyer, lawyers are employed by the government (but sign confidentiality agreements with their clients), victims can prosecute crimes against them, and only Cubans can own property - each person can own one urban and one rural tract.

### Recommended Viewing

There's a variety of great resources out there about Cuba for those interested in traveling there or just learning more about the island: *Anthony Bourdain: Parts Unknown* (Season 6, Episode 1); *Conan* (*Conan in Cuba* Season 5, Episode 56); *CUBA LIBRE* (eight part miniseries on Netflix); *CUBA AND THE CAMERAMAN* (streaming on Netflix, this is a fantastic film by Jon Alpert who also made the award-winning 1998 *A CINDERELLA SEASON* about our own Lady Vols); *Black in Latin America* (Episode 2 of Henry Louis Gates, Jr.'s series can be found on Amazon Prime Video); *Eat the World with Emeril Lagasse* (Episode 6 on Amazon Prime Video); *BEACON IN HAVANA* (an 18-minute documentary on YouTube about the Greek Orthodox Church in Havana).



### The Moral of the Story

This trip was amazing - the opportunities to build bridges with a country we've long vilified, to network and build friendships with Tennesseans who we might otherwise never know, and to have a fresh perspective on life are treasures that I will carry with me for years to come. I highly encourage all of you to join the TBA if you aren't already a member, but also to participate in any legal trips you see pop up in the future. It was worth every minute and every dime spent.

For the record, I will show you *all* the pictures and rattle *endlessly* in exchange for mojitos!

<sup>1</sup> Please forgive my gratuitous use of exclamation marks, but it was an exclamation mark-heavy trip.

<sup>2</sup> Don't plan on bringing any rum or cigars back to the States. Additionally, bring all the cash you're going to need on the trip. American bank/credit cards won't work in Cuba.





## AVOIDING THE RUT

Bright and early on the morning of January 6, 2023 (Little Christmas in Italy when La Befana brings gifts to the children), I received an email from Sam Henninger asking if I would write an article for the Management Counsel Column for *ICTA*, due July 7, to provide timely information on management issues, such as effective communication or strategic planning. On the afternoon of February 3, 2023, I fished out Sam's email, apologized, and offered to try my hand at it if he still needed someone. Apparently, there's not a run on authors for these articles, so he still needed someone.

First, true confessions. I am not a manager. Frankly, I have never managed anything or anyone, least of all my family. I set the clocks 15 to 30 minutes ahead at home so we can arrive on time. My refrigerator is covered with notes and reminders, and then I forget to look at them. Our daughter and grandson attended Catholic schools; they were "in uniform" on "out of uniform" days, and "out of uniform" on "in uniform" days. Homework was done, but left on the dining room table rather than stuffed in the homework folder. The bills were paid on time, but mostly because I hate those pesky late fees and increased interest rates.

So what can I possibly say about management? I looked up the definition. Management is "the process of dealing with or controlling things or people." Since I don't think people or things can be controlled, I found this definition unhelpful. Oddly enough, the definition offered an interesting example: "the management of elk herds." This led me to wonder what managing elk herds might have to do with managing people, especially lawyers, who, by definition, are unmanageable. More than you think.

Elk are majestic animals. Merriam-Webster describes elk as large gregarious deer, gregarious in the sense of being social, traveling in herds or "gangs." According to James E. Knight, retired Montana State University Extension Wildlife Specialist, the Rocky Mountain elk is an impressive animal.<sup>1</sup> Mature bulls average 700 pounds while cow elk weigh in at about 500 pounds. The majestic antlers of a bull elk can weigh more than 40 pounds. Elk calves are born after a gestation period of about 250 days and weigh almost 30 pounds at birth. Twins are infrequent.

Now, there's the first similarity between elk and lawyers: twins are infrequent. No two lawyers are alike. Accepting this reality means one size does not fit all. Lawyers have different strengths and weaknesses. When they coagulate in firms, honoring each other's strengths and showing patience with each other's weaknesses, they can avoid predators, create a suitable habitat, and encourage young things to grow.

When their antlers finish growing, the Rocky Mountain elk "thrash them against trees to remove the velvet" to ready them for the upcoming competition.<sup>2</sup> Some lawyers have majestic antlers, or at least they think they do. And, so, the art of guiding competition among lawyers within a firm for the benefit of all, and, especially, for the benefit of the clients, grows the herd, oops, I mean the firm.

Forage quantity and quality are important factors for elk. The

availability of various types of forage under various kinds of conditions promotes the right nutritional level that allow elk to grow and develop well.<sup>3</sup> Likewise for lawyers and law firms. Affording young lawyers the opportunity to feed on meaningful work and making sure that experienced lawyers don't get bogged down in routine brush keep the herd lively, interested and together.

Weather is a factor affecting the health of the herd. Severe cold and very deep snow can reduce the available forage which can affect the elk population.<sup>4</sup> Similarly, every lawyer and every law firm experience climate challenges. Hopefully not every lawyer in the firm is fatigued on the same day; but positive feedback for all lawyers, young and old, can be an important antidote to burn-out.

Disease can affect the elk herd.<sup>5</sup> And health challenges affect lawyers and their law firms. We owe it to each other to help our colleagues stay healthy and to be vigilant when one among us is experiencing poor health from overwork, undue stress or personal challenges.

Elk cope with predation. "In general, a healthy elk population can withstand normal predation."<sup>6</sup> Elk predators include bears, wolves and mountain lions. For lawyers, predators come in various shapes and sizes. Depression, exhaustion, substance abuse, financial and professional stress, family challenges. We need to help each other develop coping skills and keep the wolves at bay.

Elk thrive on balanced nutrition and supportive habitats. Elk prefer moderately steep slopes.<sup>7</sup> So do lawyers. Sometimes a lawyer just needs a change in the landscape vision to perceive what is available, what is needed and what will solve the problem. We can help each other widen our outlooks and broaden our skills to promote a more ideal habitat.

Prescribed grazing and managing brush are important for the health of the elk habitat.<sup>8</sup> With the right software and staff, law firms can help lawyers stay organized and develop priorities which create space for growth.

Elk are primarily grazers and secondarily browsers.<sup>9</sup> Now and then lawyers need to browse, to learn or do something new to energize, rejuvenate and remember why we became lawyers. Pro-bono work can be a meaningful tonic. By nature, lawyers are curious animals. Creating a habitat for intellectual and emotional growth can sustain a healthy lawyer and a healthy law firm. There may be one notable difference between elk and lawyers. Unlike elk, it is vital that lawyers avoid a rut.

<sup>1</sup> Knight, James E., MSU Extension Wildlife Specialist (retired). "Elk Management for Montana Landowners." MSU Extension Animal and Range Sciences. Montana State University. [animalrangeextension.montana.edu/wildlife/private\\_land\\_wildlife\\_mgmt/elk-mgmt.html](http://animalrangeextension.montana.edu/wildlife/private_land_wildlife_mgmt/elk-mgmt.html). The information about the Rocky Mountain elk is derived from this article.

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

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

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

<sup>5</sup> *Id.*

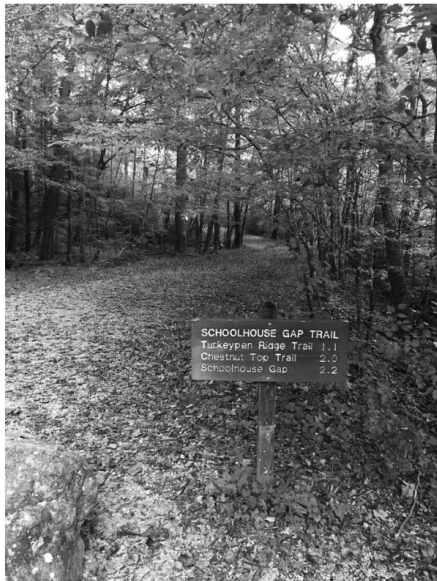
<sup>6</sup> *Id.*

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

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

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

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



# EVERYONE

welcome

## Group Hike Saturday, April 1

Sponsored by the KBA Wellness Committee

**Schoolhouse Gap Trail, Great Smoky Mountain National Park**  
Join the Wellness Committee for a group hike to Schoolhouse Gap for KBA members, family and friends on Saturday, April 1. The trail in the Great Smoky Mountains National Park (GSMNP) and is an easy hike of 3.8 miles roundtrip through quiet forest. At this time of the year, it is popular for wildflower spotting. The trailhead is located between Townsend and the Cades Cove Area off of Newfound Gap Rd. As parking can be an issue at the trailhead, carpooling options will be available for this hike. Register online to learn more about carpool options.

Click April 1 in the event calendar at [www.knoxbar.org](http://www.knoxbar.org) to register you, your family and friends.

### LEGAL UPDATE, continued from page 15

documents/arp\_tdec-water-infrastructure-investment-plan.pdf (accessed online March 12, 2023).

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

<sup>4</sup> "H.R. 1319 - American Rescue Plan Act of 2021," <https://www.congress.gov/bill/117th-congress/house-bill/1319/actions> (accessed online March 9, 2023); see also "About the American Rescue Plan (ARP)," Tennessee Department of Environment & Conservation, available at <https://www.tn.gov/environment/arp/about.html> (accessed online March 9, 2023).

<sup>5</sup> See "Analysis of the American Rescue Plan: Infrastructure," The Council of State Governments, available at <https://web.csg.org/covid19/2021/04/26/analysis-of-the-american-rescue-plan-infrastructure> (accessed online March 9, 2023).

<sup>6</sup> See American Rescue Plan (ARP) web portal, Tennessee Department of Environment & Conservation, available at <https://www.tn.gov/environment/arp.html> (accessed online March 10, 2023); see also "Naturally Tennessee: 2022 Annual Report," Tennessee Department of Environment & Conservation, available at <https://www.tn.gov/content/dam/tn/environment/documents/annual-reports/tdec-annual-report-2022.pdf> (accessed online March 10, 2023); and see "TDEC Announces Additional \$34.5 Million in Water Infrastructure Investments," Tennessee Department of Environment & Conservation: October 11, 2022, available at <https://www.tn.gov/environment/news/2022/10/11/announcement-34-5-million-water-infrastructure.html> (accessed online March 12, 2023); and see "TDEC Announces \$37 Million in 6 Grants from American Rescue Plan," Tennessee Department of Environment & Conservation: August 30, 2022, available at <https://www.tn.gov/environment/news/2022/8/30/arp-grants-aug-2022.html> (accessed online March 12, 2023).

<sup>7</sup> "City Announces \$35 Million in Strategic Investments, Community Assistance Using Federal Pandemic Relief Funds," City of Knoxville: October 12, 2021, available at [https://www.knoxvilletn.gov/archived\\_news\\_stories/2021/city\\_announces\\_35\\_million](https://www.knoxvilletn.gov/archived_news_stories/2021/city_announces_35_million) (accessed online March 12, 2023); and see "City Council: Agenda," City of Knoxville, Tennessee: October 19, 2021, available at [https://cdnsm5-hosted.civiclive.com/UserFiles/Servers/Server\\_109478/File/Finance/ARPA-AIS-101921.pdf](https://cdnsm5-hosted.civiclive.com/UserFiles/Servers/Server_109478/File/Finance/ARPA-AIS-101921.pdf) (accessed online March 12, 2023).

<sup>8</sup> See "Knox County, Tennessee Recovery Plan," 2022 Report, available at <https://knoxcounty.org/communitydevelopment/pdfs/KnoxCountyRecoveryPlan.pdf> (accessed online March 12, 2023).

<sup>9</sup> "TDEC Announces Additional \$125.9 Million in Water Infrastructure Investments," Tennessee Department of Environment & Conservation: January 6, 2023, available at <https://www.tn.gov/environment/news/2023/1/6/-125-9-million-in-water-infrastructure.html> (accessed online March 9, 2023).

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# THE LAND OF MILK, HONEY, AND THREE, FOUR, OR FIVE BEERS

A driver’s license can be a blessing and a curse. Having one can help you overcome some of life’s obstacles, such as how to get from here to there. However, it can also mean that you get dragged into a custody battle as the sole member of the extended family who has a driver’s license, and thus you are tasked with the transportation of the subjects of the custody battle from one opponent to the other, and back again at extremely inconvenient times. Whether an order entered in said custody battle would actually bind the driver when he is not a party to the action is a subject for another day (although, spoiler alert: it would not). What does one do when one is recruited to provide routine, unpaid, involuntary service which most certainly interferes with one’s preferred activity of drinking beers on Fridays and Sundays at 5:00 p.m.? One intervenes.

Back in 2002, in Giles County Chancery Court, licensed driver William Travis Gobble filed the following petition. I am not saying there are typographical errors, but if there are, they are also in the original.

Comes the petitioner, Wm. Travis Gobble, who professes to be greatly aggrieved by the order of this court ... whereby your intervenor was ordered to provide transportation for Suzanna and ‘Log-Jam’ White, minor children of Derrell and Chrysty White, during periods of visitation between the said parties, in the following particulars:

1. Your intervenor is the only damn one in the family with drivers licenses.
2. He should not be required to risk losing his.
3. On Friday afternoon by 1700 hours, and particularly on Sunday by the same time, your intervenor, generally has consumed three or more beers.
4. Three, or more, beers according to all the clients your intervenor has represented causes a driver to register .15 or higher on any cop’s “Get’m” scale.
5. According to MADD mothers, any driver who has consumed three beers, whatever he registers, is drunk and a menace to society.
6. Small children should not be subjected to such danger.
7. In addition thereto, your intervenor drives a small pickity-up truck with only two seat belts, neither of which he can make operable.
8. The two children are of such a size that both must be bundled inside a device resembling and over-sized football helmet. Your intervenor has tried, but has been unable to date, to secure said children into such

a device.

9. In any event, he, two children and a fourth person would crowd his little truck.
10. In the event your intervenor elected to have a fourth, or a fifth beer enroute [sic] ith said kids, he would have no place to sit said cans and would have to drive one-handed.
11. The kids themselves would be a further distraction.
12. A distracted driver is a dangerous driver.
13. Without a fourth person to assist him, should minor children commence to cry, a common occurrence [sic], your intervenor would surely drop his beer and wreck.

...

16. As the common carrier, your intervenor would be trown into regular contact with both parents and subjected to all the allegations hurled from both sides. Your intervenor is too old to suffer such.

FOR ALL OF WHICH Wm. Travis Gobble respectfully moves this Honorable Court to assign said duties to some other caring soul.

— In the Matter of White v. White, Giles County, Tennessee, Chancery Court, No. 2196, filed May 13, 2002.

I needed to remind myself where Giles County was, and Google tells me that Giles County is the Land of Milk and Honey. This is news to me. Merriam-Webster defines the phrase as “a place where there is plenty of food and money and life is very easy.”<sup>1</sup> This is most intriguing, and I find myself immediately and overwhelmingly tempted to relocate my practice and residence to Giles County to avail myself of the plentiful food (okay, fine, that would not serve me well) and money (this would indeed serve me well) and the easy life! Mr. Gobble likely would not have agreed that transporting a couple of crying, distracting, children who required car seats while being subjected to both parents’ allegations hurled against the other equated the “easy life.” For the sake of literally everyone involved in this transportation conundrum, I hope that his petition was successful.<sup>2</sup>

<sup>1</sup> Everyone makes mistakes, but someone forgot to add “pickity-up trucks” to this definition. There are most certainly pickity-up trucks in the Land of Milk and Honey.

<sup>2</sup> In the alternative, I hope that he realized that he could not be bound by an order in a case in which he was not a party and hastily withdrew his intervening petition.

## BENCH AND BAR IN THE NEWS

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

### KBA MEMBER SHOUT OUTS

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

### TN LANGUAGE CENTER - TRANSLATION AND INTERPRETATION SERVICES

A part of UT's Institute for Public Service, the TN Language Center frequently serves many different law offices in Knoxville and throughout the state with meetings, depositions, and other legal matters when help is needed with the non-English speaking population. They provide over the phone, video, and in-person interpretation, as well as the translation of documents, for a small charge. You can contact the office at (615) 741-7579 or by email at [info.languagecenter@tennessee.edu](mailto:info.languagecenter@tennessee.edu). Visit their website at [tlc.tennessee.edu](http://tlc.tennessee.edu) or Fill Out This Form to sign up for their telephonic interpretation service.

### UNION AVENUE BOOK EVENT WITH SUZANNE CRAIG ROBERTSON ON APRIL 27

Suzanne Craig Robertson, the former Editor of the Tennessee Bar Journal, has written a book, *He Called Me Sister: A True Story of Finding Humanity on Death Row*. It's a story of compassion as her family visited a man on death row for 15 years, and it also includes interviews with many Tennessee lawyers involved with the case. Union Avenue Books will host a book event on Thursday, April 27, at 7 p.m. at The Church of the Good Samaritan, 425 North Cedar Bluff Road. The event will include a conversation between Suzanne and Bishop Brian Cole, the bishop of the Episcopal Diocese of East Tennessee. You can find out more about the book at <https://www.churchpublishing.org/hecalledmesister>.

### FREE CLASSIFIEDS AVAILABLE

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

### LEGAL HISTORY VIDEOS AVAILABLE

In 2012, the KBA's Archives Committee began interviewing senior members of the local legal community to capture their stories and perspectives on life and the practice of law. With funding provided by the Knoxville Bar Foundation, the KBA has been able to preserve this history for future generations of lawyers and other interested persons. It is important not to forget the contributions of those who built the local bar and sharing milestones and stories of great lawyers and judges provides new lawyers with historical perspective and inspiration. Interviews of Howard Vogel,

Judge Curtis Collier, David Black and Hon. Mary Beth Leibowitz have been recently added. View the interviews online at [www.knoxbar.org](http://www.knoxbar.org) by clicking Member Resources and then Practice Resources.

### OFFICE SPACE AVAILABLE:

- Downtown Office Space for Rent - Large corner office with a view of downtown. Located in the First Horizon Building. \$900 monthly. Inquiries can be sent to [jfanduzz@gmail.com](mailto:jfanduzz@gmail.com).
- First class furnished individual offices for rent on the 19th floor right off the elevator in First Horizon Plaza, 800 S. Gay Street. Please contact Lance Baker at 865-310-0997 for further details if you are interested.

## Address Changes

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

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# I'M TOO OLD FOR THIS

My wife and I recently attended a concert. It was our first since COVID. The band, Death Cab for Cutie, was a favorite of hers from high school and college. I knew a few of their bigger hits and generally liked their music in their heyday, but I wouldn't consider myself a fan.

The whole experience, while generally pleasant, served as a sharp reminder that I've become my father. It begins with booking. Before I agreed to go, I checked two things: the UT Basketball schedule and my calendar. The first is self-explanatory (although by the time this column is published, my optimism for the season has likely been for naught). The second concern requires some explanation.

Now that I'm completely out of shape, beaten down by our profession, and the father of a rambunctious toddler, I have to consider the ripple effect of sleep disruptions and mild to moderate physical activity. Indeed, it takes longer than ever to rebound, so if I'm ever asked to do something that might keep me awake past 9:00 p.m., it's imperative that I have at least one free day for recovery. (I imagine this is the same sort of planning that marathoners engage in before scheduling an ultra.)

In this particular situation, the concert started at 8:00 p.m., and it was clear that if we stayed until it was over, which seemed unlikely, the next day needed to be a blank slate. Luckily, my calendar was clear, and there was no conflict with basketball, so we purchased our tickets using some Ticketmaster knockoff. Tickets were pricey (\$60.00 per person) but not unreasonable given the size of the venue (The Mill & Mine) and the band's niche popularity.

The real expense, we're beginning to realize, is the babysitter. I have a great deal of respect and appreciation for what the IRS considers "household employees." It's in many ways a thankless job. Evenings are typically the most volatile part of the day for toddlers and disgruntled adults, for that matter. As a result, babysitters often arrive to a scene that mirrors an episode of *Yellowstone*: random shootings, haunting death, and unnecessary human disfigurement. This somewhat explains why the going rate for a babysitter in west Knox County hovers around \$8,000,0000.00 an hour.

Nevertheless, I'm told that tossing our daughter in the crate with our dog is frowned upon, and left to her own devices, she would maim herself while belting "Let It Go" on our stairs. So, we tapped our HELOC and booked a babysitter. I (or more likely, my estate) hope to have this debt repaid by 2060.

With all of the arrangements in place, our next step was to prepare our bodies for the grueling task of staying up after 9:00 p.m. and standing upright for three hours. Don't be foolish. Those plans in no way involved exercise or eating right. No, no. My pre-concert regimen included adding an extra beer after dinner (it's important to prepare for the body for extra abuse) and going to bed 15 minutes earlier for the three nights preceding the concert. These are scientifically proven methods for

building endurance.<sup>1</sup>

On the morning of the concert, I awoke energized and ready to take on the day.<sup>2</sup> After a long day of work, and teaching our next generation of lawyers how to be obstructionists in discovery (I teach Civil Pretrial Litigation at UT), I met my lovely wife for dinner and drinks at Brother Wolf in the Old City. The night, in my opinion, could (and should) have stopped there, but in light of the financial commitments discussed earlier, we moved forward with our plans.

My first observations as we arrived at the venue were (a) "People still smoke?!" and (b) "Why is it so loud?!" In the past, those observations would have been a part of my inner monologue, but given my fairly abrupt transformation to Walter Mathau's character in the *Grumpy Old Men* franchise, these observations traveled immediately through my brain and out through my vocal cords. This was my own personal "blue hair" moment. Considering that I was dressed as a stiff in my collared shirt and dress slacks, no one—even the smokers—seemed to care.

After a full cavity search without anesthesia, we were allowed entry into the venue. The whole while, my wife and I were secretly praying that there would be no opener. As Lee Corso infamously says, "Not so fast." A young, female duo with a band name incapable of publishing in this journal entered from the left. They were fantastic, but three things were clear from the get-go: (1) I needed closed captioning to decipher the lyrics, (2) I should have worn custom orthotics; and (3) tinnitus was in my immediate future.

They played a fairly short set, no more than four or five songs, although I'll admit that for the reasons discussed above, it could have easily been the same song for 45 minutes. After a brief intermission to allow the stage crew to reset, the real show began. It was great at first. Three songs in, however, I began to wonder: "How long will this really last?"

That curiosity morphed quickly into angst. Usually, I can extend the misery with an extra beer, but the venue was so crowded that Frogger couldn't make it to the beer stand. So, there I stood, piled in with all of these young people, beer-less, tired, and grumpy. For all of my faults, my wife's happiness is more important than mine, so I did my best to appear entertained. Then, about an hour and half into the show my wife looked at me and said, "I'm really tired. Do you care if we go?"

Angels descended from above, and in this very moment, I was reminded very clearly that she is my lobster. We quickly meandered our way out of the venue and walked to our respective cars. Miraculously, we were home before 11:00 p.m., and it only took three days to recover.

<sup>1</sup> This is a lie.

<sup>2</sup> This is also a lie.

## SCHOoled IN ETHICS, *continued from page 19*

B. State A's rules require informed consent from the mobile lawyer's current and former clients before screening can be used; State B's rules do not require informed consent. Which state's rules should govern? The answer depends upon whether the imputed conflict concerns litigation or a transaction. If it involves litigation in State B courts, the rules of State B will apply. If it is a transactional matter, the answer depends upon which state sees the "predominant effect" of the conflict. Using the factors recommended in the opinion, Lawyer B must engage in a highly fact-specific inquiry. If this inquiry leaves doubt about which state's rules to follow, the opinion suggests following the more restrictive rules of State B

by obtaining informed consent.

The ABA opinion will be very useful for Tennessee lawyers whose practice crosses state lines. When dealing with two states whose ethics rules conflict, a lawyer can use the analysis suggested by the opinion to decide which state's ethics rules should apply.



## PRO BONO SPOTLIGHT

**By: Caitlin Torney**

*Pro Bono Project Attorney  
Legal Aid of East Tennessee*

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

# VOLUNTEER AT A CLINIC!

Clinics are a wonderful way to get involved in the community and help reach underserved populations. A few hours of your time can make such a difference in a client's life! The Pro Bono Project has many in-person clinic opportunities planned for 2023 but will continue to offer phone advice and Zoom options for clients and attorneys whenever possible. Clients with transportation or medical issues who otherwise wouldn't be able to attend in-person clinics have been able to access legal advice through Zoom and via phone. Many attorneys have indicated they prefer the flexibility of virtual volunteering as well. If you would like to be involved but are uncomfortable or unable to attend an in-person clinic, please email me directly and we can arrange for you to participate remotely.

I will briefly outline the clinics we are currently planning below. Attorneys from all legal specialties are needed, as our clients have a wide range of legal concerns. Legal clinics are a great way to give back to your community, get CLE hours for the time you volunteer, and are a fun way to connect with other members of the local bar! Keep an eye on the KBA and Legal Aid's websites and social media accounts for news and information about upcoming opportunities to volunteer.

### Legal Advice Clinic for Veterans

The Legal Advice Clinic for Veterans, held on the second Wednesday of each month at the Public Defender's Community Law Office, is an excellent legal resource for our local veterans and veterans across East Tennessee. Attorneys from private firms, non-profit firms, and the Knoxville Bar form an advice team to tackle many of our veteran's legal questions. This clinic is the first point of contact for many veterans in need to connect with local attorneys that can help outside the clinic with document preparation and more complex legal issues. The legal help provided is often as varied as the participants. Attorneys provide advice or brief services in areas such as family law, renter's rights, bankruptcy, consumer protection, contract disputes, child support, personal injury, and more.

### Faith and Justice Clinics

The Knoxville Bar Association and community faith leaders partner with Legal Aid of East Tennessee to put on the Faith and Justice Legal Advice Clinic. Churches, mosques, and synagogues host the clinic in places of worship, a natural community gathering place. The safe, neutral space allows the conversations between participants and attorneys to be comfortable, useful, and efficient. The clinic offers free legal advice to anyone who shows up and is one of the most popular clinics for volunteers. We treasure the unity that this clinic builds, and we encourage you to come and take part! We held our first clinic of 2023 on a frosty morning, February 4<sup>th</sup> at City Heights Church on Sevier Avenue. We had moderate turnout and are exploring a Summer or Fall clinic and welcome community suggestions or interest for new faith partnerships.

### Debt Relief Clinics

The quarterly in-person Debt Relief clinic in Knoxville provides an incredible service to area residents struggling with debt and interested in exploring Chapter 7 Bankruptcy. The clinic is held at the Knox County

Public Defender's Community Law Office on Saturday mornings beginning at 9:00am. Judge Bauknight welcomes clients and volunteers and presents an overview of Chapter 7 bankruptcy. Following the presentation, volunteer attorneys give personalized advice to clients. Attorneys who conclude that bankruptcy is an appropriate option often agree to pro bono or reduced-fee bankruptcy representation for clients at this clinic. Clinic dates for 2023 have been set and are listed below. We have such an incredible participation rate from the local bankruptcy bar and are so grateful for their steadfast support! This clinic makes a tangible difference in the lives of LAET clients and we are expecting a large turnout in May. We also partner with Legal Aid organizations across the state to hold a Virtual Debt Relief Clinic in each of the three Grand Divisions and the next virtual clinic will focus on Middle Tennessee and be held on zoom on Saturday June 3<sup>rd</sup>.

### Virtual Pro Se Name Change Clinic

In 2022, LAET was excited to partner with Belmont School of Law and the TBA Young Lawyer's Division to host a Virtual Pro Se Name Change Clinic that was one of the most popular clinics we've ever hosted! Over thirty East Tennessee residents logged on last August to work with volunteer attorneys and law students to fill out paperwork, discuss the name change process, and learn how to take the next steps on their own to change their names. We are really excited to make this clinic a regular feature and will be holding the first Virtual Pro Se Name Change Clinic of 2023 on Saturday, July 15<sup>th</sup> starting at 10:00 AM. The clinic begins with a 1hr CLE program for all volunteer attorneys and then attorneys and law students meet with clients in virtual break out rooms. We welcome clients from across Central and East Tennessee to sign up. Please keep an eye out for a sign up link on our website!

### Blount County Saturday Bar

I'm incredibly excited to announce that we will be resuming our Saturday Bar program in Blount County and kicking off with a Saturday Bar General Advice Clinic to be held at the Blount County Public Library on Saturday April 29<sup>th</sup> from 9:00 AM to Noon! We expect a robust turnout and could use volunteers from across a wide range of legal practice areas so please consider signing up to come in person or to be available by phone if needed. After this kickoff event, we will need volunteers to provide advice to three to four clients one Saturday a month either via phone or in person at our Maryville Office. If you are interested in being on the list of potential volunteers, please send me an email!

### Pro Bono Program

Outside of clinics, we are always looking for new volunteers to take cases on for full representation! Right now, we are seeing a huge demand for help with conservatorships and probate. We are happy to provide training and materials to support attorney volunteers interested in taking cases outside of their typical practice areas! If you are interested in taking pro bono cases, please feel free to reach out to me directly or go to our website, [www.LAET.org](http://www.LAET.org) to check out Pro Bono Matters, where you can browse available cases and find a case that appeals to you.

## 2023 Clinic Opportunities

**Legal Advice Clinic for Veterans:** In person at the Public Defender's Community Law Office at 1101 Liberty Street in Knoxville. Phone advice options available.  
• Wednesday April 12th, May 10th, June 14th, July 12th Noon – 2:00 PM. • To sign up, please use the form on the KBA Website or email [ctorney@laet.org](mailto:ctorney@laet.org).

**Blount County Saturday Bar:** General legal advice clinic at Blount County Public Library 508 N. Cusick Street Maryville. Saturday April 29th 9:00 AM – Noon.

**Debt Relief Clinic:** Public Defender's Community Law Office at 1101 Liberty Street in Knoxville.  
• Saturday May 13th, August 26th, November 4th 9:00 AM – Noon • To sign up, please use the form on the KBA Website or email [ctorney@laet.org](mailto:ctorney@laet.org).

**Virtual Debt Relief Clinic:** Via zoom, Saturday June 3rd 10:00 AM – Noon. Sign up via email [ctorney@laet.org](mailto:ctorney@laet.org) or check for a form on our website.

**Virtual Name Change Clinic:** Via zoom, Saturday July 15th 10:00 AM – 1:00 PM. Sign up via email [ctorney@laet.org](mailto:ctorney@laet.org) or check for a form on our website.



# FAILING FORWARD

*Fail early, fail often, but always fail forward.*  
—John C. Maxwell, *Failing Forward*

In both law and life, the single most important thing I've learned is to fail. As a recovering perfectionist, this has been an incredibly tough, yet essential part of becoming a better lawyer and a happier, more fulfilled person.

Like many attorneys, I've spent most of my life overachieving. From an early age, "fail" was a four-letter word, seen as something negative to be avoided at all costs. In nearly everything I did, I strived not just to succeed, but to excel. I put pressure on myself to work harder, do more than expected, and be the very best. I believed the goal was perfection and nothing less was acceptable.

Too often in the legal profession, this inclination towards perfectionism is magnified and reinforced. Starting in law school, and then throughout our careers, we're reminded lawyers must have impeccably high standards, that our work should be scrupulously flawless, that our character and actions must be ethically irreproachable, and that falling short of this in any way means we are unfit and unqualified to be a member of the bar. Mistakes frequently are treated as moral failures that signify we are deeply inadequate, both professionally and personally.

In reality, however, I believe that becoming a good lawyer requires making mistakes and learning to accept and embrace failure. Failure helps us to learn crucial lessons about practicing law and about ourselves. In many ways "experience" is merely an accumulation of our mistakes and what we learned from them. How we handle these mistakes is what determines our growth and improvement as lawyers and as human beings.

Throughout my legal career, I've been fortunate to work for attorneys who have helped to normalize failure as a necessary step toward progress and achieving future success. As a 2L, while working as a law clerk at Kustoff & Strickland, PLLC in Memphis, I remember nervously knocking on (now Mayor) Jim Strickland's office door to tell him about a mistake I'd made that I undoubtedly believed was an epic disaster and monumental crisis. After patiently listening to me explain, as I reached a near meltdown, he calmly replied, "Okay. No big deal. Most of the things you do as a lawyer are fixable unless you miss a deadline. Let's sit down together tomorrow, and I'll help you make a plan."

At my former firm, Howard & Howard, PC, Josh Bishop, one of the partners who I worked with frequently, invested countless hours into mentoring me and teaching me to navigate various issues and problems I was encountering for the first time as attorney, assuring me early on that mistakes were inevitable, and anyone who wasn't making at least a few was very likely not practicing much law.

By creating a culture where failure was acceptable and allowing me to learn from doing things wrong without fear of judgment or shame, and providing me with guidance and constructive feedback when it was needed, I was able to grow more comfortable with the possibility that I may not always succeed on my first try. Expecting me to take the lead,

initiative, and responsibility for handling situations when a correction was necessary taught me to take ownership of my mistakes quickly, and focus on finding a solution, which built mental resilience and developed my creative problem-solving skills.

That's not to say though, that failing at things is very pleasant or fun. Failing is ego bruising. Failing is vulnerable. Learning how to fail can be an awkward, uncomfortable, and painful experience that challenges us to acknowledge our weaknesses, ask for help, and examine areas and ways in which we can improve. While this can feel daunting and unfamiliar, learning to show up as our true, authentic selves at work and being open to honest feedback helps us better connect with others, develop compassion, increase our self-awareness, improve, and evolve, all of which ultimately allows us to better serve our clients.

If we're afraid to fail, we'll be afraid to try. And without trying, we can never grow, we stop learning, and we never reach our full potential. Nothing interesting ever happens unless we take risks. I've found that the more I've embraced this approach, the more confident I've become about taking on new endeavors not only in my work, but other areas of life as well, and that as I do, I'm redefining what I consider "success". Old habits die hard, and while I still aspire to be nothing short of excellent at most things I do, I no longer hold myself to an impossible, unforgiving standard of perfection in my professional and personal life.

I recognize now that my value and worth as a lawyer and a person aren't conditional on the decisions that I make always having successful outcomes. Lately, success to me feels much more loosely-defined. It's finding joy by adopting a dog and working from home more often. It's learning to play guitar for no reason other than the sake of doing it and building client relationships through shared interests. It's seeking out new experiences and embracing all sorts of different opportunities for personal and professional growth.

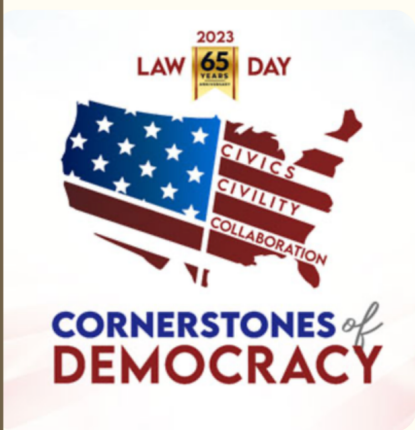
A little over a year ago, I decided to start my own law practice because I wanted to serve clients in a more authentic, personalized way, and connect with entrepreneurs, creative professionals, and small to mid-size business owners, get to know them on an individual level, and help them protect and pursue their passions. This endeavor has required radical amounts of honesty and accountability that have taught me more about myself and how to practice law than the past several years combined, and has been both incredibly rewarding and full of failure at every level as I learn and make mistakes, grow and develop my practice as it continues to evolve.

Yet, I'm able now to view each mistake as teaching moment and opportunity for growth that brings me one step closer to "success" in whatever way I choose to define it. Armed with additional knowledge, I keep moving forward. Failure is disappointing and uncomfortable, but learning to get up from failure is energizing. Whatever you're doing and whatever your goals may be, I encourage you to start taking more risks, learn to accept and embrace failure, appreciate the lessons, take the hits, then get up and always, always keep moving forward.

## OUTSIDE MY OFFICE WINDOW, *continued from page 23*

to be there, but what I've learned is life-changing - some human beings have an immeasurable capacity for absorbing tragedy. A much smaller group, while surviving, are able to radiate unselfish love, acceptance and grace to others. Then there is Loryn, unique among them all, who can do it all and still fuel herself with the adversity she has endured in a push toward greatness. Watch out world. She is now one of us. Forever. The

most unlikely blended family. As for my selfish mourning for the life I'd planned, it easily gave way to celebration and gratitude for the life I've been handed by her unexpected arrival in our home and my gifted front-row seat to witness extraordinary light, one so bright that you must turn away ever so slightly lest you be blinded. And it all happened in fifteen minutes on an August afternoon.



# LAW DAY ★ ★ ★ 2023 ★ ★ ★ LUNCHEON & CLE

**FRIDAY, APRIL 28**

**11:30 AM - 1:30 PM**  
DOWNTOWN KNOXVILLE HILTON

**COST:**

KBA Members: \$40  
Non Members: \$60

Tables of 8 may be reserved by April 21.

**11:30 am** Buffet Lunch Opens  
*Please arrive prior to 11:45 am*

**12:15 pm** Law Day Program including  
*Recognition of the High School Mock Trial Teams  
and Announcement of the prestigious Law & Liberty  
Award by the Knoxville Barristers.*

**12:30 pm** CLE Program  
*Approved for 1 hour of Dual CLE Credit*

## **CLE PROGRAM**

### **"THE ROLE OF EAST TN LAWYERS IN LAYING THE FOUNDATION FOR MODERN HABEAS AND CIVIL RIGHTS LAW"**

In honor of Law Day, the KBA will celebrate the legal profession with a CLE program presented by the Hon. Curtis L. Collier. Judge Collier will explore how modern U.S. habeas and civil rights laws stand on a foundation laid in significant part by lawyers of East Tennessee who fought for justice at the turn of the twentieth century in ways that still resonate today.



**Featured Speaker:**  
**Honorable Curtis L. Collier**  
Senior U.S. District Judge  
U.S. District Court, Eastern  
District of TN



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