

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

FILED

09/28/2020

Clerk of the
Appellate Courts

**IN RE: AMENDMENT OF RULE 21, RULES OF THE TENNESSEE SUPREME
COURT**

No. ADM2020-01159

ORDER

Rule 21, section 3.01(a) of the Rules of the Tennessee Supreme Court requires each attorney admitted to practice in the State of Tennessee to obtain fifteen hours of continuing legal education (“CLE”) in each compliance year. On August 28, 2020, the Nashville Bar Association (“NBA”) filed a petition asking this Court to modify Rule 21, section 3.01(a) to require each attorney to complete two hours of the required fifteen in diversity, inclusion, equity, and elimination of bias. Two groups, the Tennessee Employment Lawyers Association and the Center for Excellence in Decision-Making, have already submitted written comments supporting the NBA’s petition.

This Court hereby publishes the NBA’s petition for public comment and solicits written comments on the proposal from judges, lawyers, interested organizations, and the public. The NBA’s petition, including exhibits, is set out in the Appendix to this Order. The deadline for submitting written comments is December 30, 2020. Written comments should reference the docket number above and may be emailed to appellatecourtclerk@tncourts.gov or mailed to:

James M. Hivner, Clerk
RE: Tenn. Sup. Ct. R. 21, section 3.01
100 Supreme Court Building
401 Seventh Avenue North
Nashville, TN 37219-1407

The Clerk shall provide a copy of this Order, including the Appendix, to LexisNexis and to Thomson Reuters. In addition, this Order, including the Appendix, shall also be posted on the Court’s website.

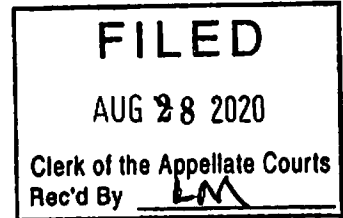
It is so ORDERED.

PER CURIAM

Appendix

**Petition of the Nashville Bar Association
to amend
Tenn. Sup. Ct. R. 21, § 3.01(a)**

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE



IN RE: AMENDMENT OF RULE 21,
RULES OF THE TENNESSEE SUPREME COURT

NO. ADM2020-01159

PETITION OF THE NASHVILLE BAR ASSOCIATION TO MODIFY
RULE 21 OF THE RULES OF THE TENNESSEE SUPREME COURT
TO REQUIRE TWO HOURS OF CONTINUING LEGAL EDUCATION ANNUALLY
IN DIVERSITY, INCLUSION, EQUITY, AND ELIMINATION OF BIAS

The Nashville Bar Association (“NBA”) respectfully petitions the Tennessee Supreme Court to modify Rule 21 of the Rules of the Tennessee Supreme Court to require each attorney admitted to practice in the State of Tennessee to complete two (2) hours of continuing legal education annually in diversity, inclusion, equity, and elimination of bias.

BACKGROUND

Rule 21 of the Rules of the Tennessee Supreme Court requires each attorney admitted to practice in the State of Tennessee to obtain a minimum of fifteen (15) hours of continuing legal education annually with at least three (3) of those hours consisting of approved ethics/professionalism credit. Tenn. Sup. Ct. R. 21, 3.01. The requirement that Tennessee attorneys obtain a minimum amount of continuing legal education each year is designed to provide ongoing educational and professional development for attorneys in our State.

As lawyers, we have an obligation to promote justice and the public good. The essential qualities of an attorney are knowledge of the law, skill in applying the applicable law to the factual context, thoroughness of preparation, practical and prudential wisdom, ethical conduct and integrity, and a dedication to justice and the public good.¹ As public citizens, lawyers are called upon to improve the law, increase access to the legal system, the administration of justice, and the quality of service rendered by the legal profession.² As members of a learned profession, lawyers should cultivate knowledge of the law beyond its use for clients, employ that knowledge in reform of the law, and work to strengthen legal education.³ In addition, a lawyer should further the public’s understanding of and confidence in the rule of law and the justice system because legal

¹ Tenn. S. Ct. R. 8, RPC, Preamble: A Lawyer’s Responsibility, at [1].

² Tenn. S. Ct. R. 8, RPC, Preamble: A Lawyer’s Responsibility, at [7].

³ *Id.*

institutions in a constitutional democracy depend on popular participation and support to maintain their authority.⁴ As lawyers, we must be mindful of deficiencies in the administration of justice and of the fact that individuals with low incomes and those who have suffered from systemic racism or gender-bias, for example, may not have equal access to justice. Within our profession, we also must strive to make the practice of law equitable to all those who engage in it. Therefore, our Rules of Professional Conduct require that “all lawyers [...] devote professional time and resources and use civic influence to ensure equal access to our system of justice for all those who because of economic or social barriers cannot afford or secure adequate legal counsel.”⁵ A lawyer should aid the legal profession in pursuing these objectives and should help the bar regulate itself in the public interest.”⁶ As lawyers we are also called to attain the highest level of skill, to improve the law and the legal profession, and to exemplify the legal profession’s ideals of public service.⁷

Rooting out systemic racism, gender bias, and all forms of discrimination within the judicial system requires active efforts by all of those involved, including the judiciary and attorneys. In order to dismantle structural racism, lawyers must engage in intentional learning and listening to understand history, the effects of implicit bias and privilege in the administration of justice, and the systemic oppression of people which undermines the very justice that our system is intended to protect. Diversity, equity, and inclusion, or the lack thereof, impacts every facet of our judicial system, from the criminal justice system to civil litigation and jury trials. Judges and attorneys alike must be able to identify discriminatory practices, call them out, and ultimately disallow such practices to persist. Moreover, law firms and corporate law departments in this State must create and foster diverse and inclusive workplaces in order to attract talented lawyers to the practice and increase the pipeline for minority attorneys, to spurn innovation and creativity, and to improve overall access to justice. For purposes of this proposed Amendment, diversity, inclusion, equity, and the elimination of bias must be broadly construed to consider all forms of diversity and differences so as to allow a wide range of programming for members of the bar.

For systemic change to occur, all members of the legal profession must actively engage in this work. While limited continuing legal education is offered around issues of diversity, equity, and inclusion at present, requiring continuing legal education in diversity, inclusion, equity, and elimination of bias not only will increase the availability of relevant and impactful programs, but it will also promote better understanding and enhance competencies around implicit bias and the inherent value of inclusion and equity. This education will enhance lawyers’ interactions with clients, our courts and other public officials, opposing counsel, jurors and colleagues, and our community, which is becoming more diverse based upon changing demographics in Tennessee. Moreover, lawyers are in leadership positions in every aspect of society and have a voice at many tables – non-profit boards, homeowner’s associations, and schools, in addition to boardrooms and courtrooms across the state. Thus, the impact to the State of Tennessee of properly training and educating attorneys in the area of diversity, inclusion, equity, and the elimination of bias are sure to be far reaching.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

⁷ Tenn. S. Ct. R. 8, RPC, Preamble: A Lawyer’s Responsibility, at [8].

Tennessee can and should be a leader in adding mandatory diversity, inclusion, equity, and elimination of bias training for attorneys. While jurisdictions such as West Virginia⁸, New York⁹, California¹⁰, Minnesota¹¹, and Illinois¹² have implemented CLE requirements around bias elimination and diversity, the vast majority of jurisdictions do not require such training, and those that do only require the bare minimum training (e.g. one credit hour every three years).¹³

In 2016, the American Bar Association (“ABA”) House of Delegates passed a resolution urging states to require CLE credit(s) in diversity, inclusion, and the elimination of bias.¹⁴ This resolution of the ABA is recognition that continuing legal education is an appropriate vehicle to deliver training to all members of the bar to better equip them to represent their clients and shares a message to the community at large of the profession’s commitment to all who interface with the judicial system. Moreover, CLE provides accountability around this education, both by ensuring a high quality of the substantive training and that all members of the bar are engaging in it. Requiring such training incentivizes CLE producers to create more content around these important topics.

In the wake of the deaths of George Floyd, Ahmad Arbury, Breonna Taylor, and too many others to list herein, and the protests that have erupted across the country and here in Tennessee, the need to address systemic racism in our society is more urgent than ever. Our state courts, bar associations, law schools, legal aid organizations, and others in the legal profession have publicly committed to listen, learn, and proactively work to improve the administration of justice.¹⁵ This necessarily requires acknowledging and learning about racism, gender bias, discrimination on the basis of gender identity and sexual orientation, and other forms of inherent discrimination that exist in our legal system. The importance of fairness and impartiality and the principle of equal justice is so fundamental that, without it, we have no justice system at all. Now is the time to address these important issues through a change to the annual CLE requirement to require that attorneys obtain two (2) hour of continuing legal education in diversity, inclusion, equity, and elimination of bias towards the total required fifteen (15) hours.

The NBA is not advocating for an increase in the annual CLE requirement of fifteen (15) hours, but instead is asking the Court to require CLE on the topics of diversity, inclusion, equity, and elimination of bias as part of the fifteen (15) hour requirement. Just like CLE programs under our current requirements sometimes qualify for dual credit for both general hours and ethics hours, some content under the proposed rule change may be appropriate for dual credit as well.

⁸ <https://wvbar.org/wp-content/uploads/2020/03/Rule-6-MCLE-West-Virginia-State-Bar-Governance-Revisions.pdf>

⁹ <http://ww2.nycourts.gov/sites/default/files/document/files/2018-03/programrules.pdf>

¹⁰ <https://www.calbar.ca.gov/Attorneys/MCLE-CLE/Requirements>

¹¹ <https://www.cle.mn.gov/lawyers/cle-compliance-2/>

¹² http://www.illinoiscourts.gov/supremecourt/rules/art_vii/artVII.htm#794

¹³

https://www.americanbar.org/content/dam/aba/directories/policy/aba_model_rule_comparison_by_state_meet_mode_l_rule_noted.pdf

¹⁴ See Exhibit A.

¹⁵ See Exhibit B.

PROPOSED RULE 21 MODIFICATION

The NBA respectfully requests that the Court modify Tenn. Sup. Ct. R. 21 to require that attorneys obtain two (2) hour of continuing legal education in diversity, inclusion, equity, and elimination of bias towards the total required fifteen (15) hours. This proposed rule change will demonstrate the Court's recognition that lawyers cannot fulfill their duties without ongoing training, education, and active engagement in the areas of diversity, inclusion, equity, and elimination of bias.

Rule 21 should be modified as follows:

3.01 (a) unless otherwise exempted, each attorney admitted to practice law in the State of Tennessee shall obtain by December 31st of that compliance year a minimum of fifteen (15) hours of continuing legal education. Of those fifteen hours, three (3) hours shall be approved for ethics/professionalism credit ("EP credit"), two (2) hours shall be approved for Bias Elimination credit ("BE" credit), and ten (10) hours shall be approved for General credit.

The NBA also requests that the CLE Commission modify its regulations to conform to the modification of Rule 21 as set forth above.

CONCLUSION

There is a recent call to action that requires the legal profession to do more than issue statements around racial injustice. We must take affirmative steps to educate the profession in the many ways that race, gender, sexual orientation, socio-economic status, physical ability, and other differences affect the justice system, which should afford impartiality and equity to all citizens. The NBA supports the 2016 recommendation of the ABA for purposeful and targeted continuing legal education around the critical issues of bias elimination and asks this Honorable Court to adopt a modification to Rule 21 mandating CLE for this purpose.

Respectfully submitted,



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/s/ Julie Bhattacharya Peak

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/s/ Lela Hollabaugh

Lela Hollabaugh, BPR No. 14894
General Counsel, Nashville Bar Association
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Nashville, TN 37203
(615) 244-2582

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing has been served upon the individuals and organizations identified in Exhibit C by email, within seven (7) days of filing with the Court.



Laura Baker

EXHIBIT A

AMERICAN BAR ASSOCIATION
ADOPTED BY THE HOUSE OF DELEGATES

FEBRUARY 8, 2016

RESOLUTION

RESOLVED, That the American Bar Association encourages all state, territorial, and tribal courts, bar associations and other licensing and regulatory authorities, that have mandatory or minimum continuing legal education requirements (MCLE) to modify their rules to:

1. include as a separate credit programs regarding diversity and inclusion in the legal profession of all persons regardless of race, ethnicity, gender, sexual orientation, gender identity, or disabilities, and programs regarding the elimination of bias (“D&I CLE”); and
2. require a designated minimum number of hours for this separate credit without increasing the total number of required MCLE hours and without changing the criteria for MCLE credit.

FURTHER RESOLVED, That the American Bar Association, through its Goal III and other entities, assist in the development and creation of diversity and inclusion continuing legal education programs to ensure attorneys can meet their MCLE requirements.



REPORT

I. Introduction

The ABA Diversity & Inclusion 360 Commission (the “Commission”) was created in August 2015 to formulate methods, policy, standards and practices to best advance diversity and inclusion over the next ten years. The Commission was charged with reviewing and analyzing diversity and inclusion in the legal profession, the judicial system, and the American Bar Association. Moreover, the Commission was charged with recommending specific action items to move the needle on diversity and inclusion in an impactful way. The Commission has examined diversity and inclusion related continuing legal education because of its potential to significantly impact the profession, the judicial system and the rule of law.

In 2004, the House of Delegates approved Resolution 110 amending the language of the Commentary to Section 2 of the Model Rule for Minimum Continuing Legal Education. The amended language provided that regulatory systems require lawyers, either through a separate credit or through existing ethics and professionalism credits, complete as part of their mandatory continuing legal education those programs related to racial and ethnic diversity and the elimination of bias in the profession. The resolution being sponsored by the Diversity & Inclusion 360 Commission builds and expands on that prior recognition of the importance and need for programs regarding diversity and inclusion in the legal profession and further expands the definition of diversity and inclusion consistent with current ABA Goal III to include all persons regardless of race, ethnicity, gender, sexual orientation, gender identity, or disabilities. The Commission believes that while the 2004 resolution was a good start to address the need for diversity and inclusion programs, more can be and should be done to advance diversity and inclusion in a meaningful and productive manner.

The resolution encourages all state, territorial and tribal courts, bar associations and other licensing and regulatory authorities that *currently* require mandatory continuing legal education (MCLE) to modify their rules to include, as a separate required credit, programs regarding diversity and inclusion in the legal profession of all persons, regardless of race, ethnicity, gender, sexual orientation, gender identity, or disabilities, and programs regarding the elimination of bias (“D&I CLE”). Although several states currently allow MCLE credits for D&I CLE, only California and Minnesota have adopted stand-alone D&I CLE requirements.

The resolution does not specify the number of hours for D&I CLE, or increase the total number of MCLE hours required. Rather, the resolution encourages the adoption of a separate credit within those MCLE requirements to ensure that all attorneys receive education regarding the elimination of bias, and diversity and inclusion.

II. Current Status of MCLE and Diversity and Inclusion CLE

Forty five states currently have mandatory continuing legal education. Therefore, the proposed resolution has the potential to impact the vast majority of attorneys in the United States. As referenced above, California and Minnesota have already adopted stand-alone D&I MCLE requirements. Their requirements are as follows:

California: California requires one (1) hour of “Recognition and Elimination of Bias in the Legal Profession and Society” as a component of its three-year MCLE requirements. <http://mcle.calbar.ca.gov/Attorneys/Requirements.aspx>.

Minnesota: Minnesota requires two (2) hours related to “Elimination of Bias” as a component of its three-year MCLE requirements. https://www.mbcle.state.mn.us/mbcle/pages/general_info.asp.

Additional states allow programs on elimination of bias to qualify for ethics and/or professionalism credits, but do not create separate D&I CLE requirements. Those states include Hawaii, Kansas, Illinois, Maine, Nebraska, Oregon, Washington, and West Virginia.

The Commission considered the merits of both approaches – those that create a separate D&I CLE category, and those that provide ethics credits for D&I CLE. Ultimately, the Commission concluded that the California and Minnesota models best advance the goal of diversity and inclusion by ensuring *all* attorneys actually receive D&I CLE.

Recognizing the wide array of existing MCLE requirements, the Commission declined to specify a precise number of required hours. Rather, each jurisdiction should determine the appropriate number of required hours within their current MCLE requirements

III. The Availability of D&I Inclusion CLE

The resolution calls upon the ABA, through its Goal III and other entities, to assist in the development and creation of D&I CLE. This is to ensure that all attorneys can satisfy their new D&I CLE requirement. Although we are confident that CLE providers will ultimately develop programming in response to the new D&I CLE requirement (similar to the prevalence of ethics and professionalism CLE classes), the Commission wants to ensure that *all* attorneys have access to D&I CLE, and that a potential lack of availability of D&I CLE does not deter any jurisdiction from adopting a D&I CLE requirement.

IV. Conclusion

The resolution encourages each jurisdiction that currently has MCLE to designate a minimum number of credit hours for D&I CLE. In order to ensure that all state and territorial bar associations’ attorneys can meet those requirements, the resolution calls upon the American Bar Association, through its Goal III and other entities, to assist in the development and creation of D&I CLE. The resolution is consistent with the ABA’s longstanding commitment to diversity and inclusion in the legal profession as evidenced

in Resolution 110 approved by the House of Delegates in 2004. It is also consistent with multiple states that have recognized the need for D&I CLE. As such, we respectfully request that House of Delegates adopt the resolution.

Respectfully submitted,

Eileen M. Letts, Co-Chair
David B. Wolfe, Co-Chair
Diversity and Inclusion 360 Commission

February 2016

GENERAL INFORMATION FORM

Submitting Entity: Diversity & Inclusion 360 Commission

Submitted By:

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1. Summary of Resolution(s). The resolution encourages all state, territorial, and tribal courts, bar associations and other licensing and regulatory authorities that currently require mandatory continuing legal education (MCLE) to modify their rules to include, as a separate required credit, programs regarding diversity and inclusion in the legal profession of all persons, regardless of race, ethnicity, gender, sexual orientation, gender identity, or disabilities, and programs regarding the elimination of bias ("D&I CLE"). Although several states currently allow MCLE credits for D&I CLE, only California and Minnesota have adopted stand-alone D&I CLE requirements.
2. Approval by Submitting Entity. The Diversity and Inclusion 360 Commission approved this Resolution at its fall meeting on October 6, 2015.
3. Has this or a similar resolution been submitted to the House or Board previously? In 2004, the House approved Resolution 110 amending the language in the Commentary to Section 2 of the Model Rule for Minimum Continuing Legal Education. The amended language provided that regulatory systems require lawyers, either through a separate credit or through existing ethics and professionalism credits, complete as part of their mandatory continuing legal education those programs related to racial and ethnic diversity and elimination of bias in the profession.
4. What existing Association policies are relevant to this Resolution and how would they be affected by its adoption? This resolution builds and expands on Resolution 110. Additionally, Goal III of our Association seeks increased awareness of diversity and inclusion, and the elimination of bias. This resolution addresses the intent of Goal III.
5. If this is a late report, what urgency exists which requires action at this meeting of the House? n/a
6. Status of Legislation. (If applicable) n/a

- 7. Brief explanation regarding plans for implementation of the policy, if adopted by the House of Delegates.
- 8. Cost to the Association. (Both direct and indirect costs) None anticipated
- 9. Disclosure of Interest. (If applicable) n/a
- 10. Referrals. We have or will refer to all committees, sections, and divisions, particularly the Standing Committee on CLE, Litigation Section, TIPS, Business Law, Young Lawyers Division, and the entities within the Diversity Center, and NCBP.
- 11. Contact Name and Address Information. (Prior to the meeting. Please include name, address, telephone number and e-mail address)

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- 12. Contact Name and Address Information. (Who will present the report to the House? Please include name, address, telephone number, cell phone number and e-mail address.)

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EXECUTIVE SUMMARY

1. Summary of the Resolution

This Resolution encourages all state, territorial, and tribal courts, bar associations and other licensing and regulatory authorities who require mandatory continuing legal education (MCLE) to modify their rules to include, as a separate credit, programs regarding diversity and inclusion in the legal profession of all persons regardless of race, ethnicity, gender, sexual orientation, gender identity, or disabilities, and programs regarding the elimination of bias (“D&I CLE”). Further, this resolution while requiring a designated minimum number of hours for a separate credit, will not increase the total number of required MCLE hours or in any way change or alter the criteria for MCLE credit.

2. Summary of the Issue that the Resolution Addresses

This Resolution addresses the need to provide stand-alone Diversity and Inclusion CLE requirements for all attorneys who practice in MCLE states. The Resolution also advances Diversity and Inclusion by assisting in the development and creation of diversity and inclusion continuing legal education programs to ensure all attorneys can meet their MCLE requirements. The Resolution is in accordance with Goal III of the American Bar Association, which is to eliminate bias and enhance diversity in the profession.

3. Please Explain How the Proposed Policy Position will address the issue

This Resolution will increase the legal profession’s understanding and awareness of issues relating to diversity and inclusion, and the elimination of bias, by ensuring that all attorneys who are obligated to comply with MCLE requirements receive education related to diversity and inclusion, and the elimination of bias.

4. Summary of Minority Views

No minority views or opposition to this Resolution have been identified.

EXHIBIT B

DATE: June 4, 2020
CONTACT: Jill Presley, *Marketing & Communications Director*
jill.presley@nashvillebar.org | 615.242.9272



**NASHVILLE BAR
ASSOCIATION**
Improving the Practice of Law through
Education, Service, and Fellowship.

FOR IMMEDIATE RELEASE

Nashville Bar Association Statement on Death of George Floyd, Racial Injustice

Nashville, TN – The Nashville Bar Association is deeply troubled by the tragic death of George Floyd. We stand with other bar associations and denounce the violence suffered by countless people of color because of racism and hatred. As lawyers, we believe in and defend the principle of equal justice for all under the law. We are reminded of the words of Dr. Martin Luther King, Jr. who said: “Injustice anywhere is a threat to justice everywhere.”

We have work ahead to repair injustices in our society that inflict trauma, pain, and fear upon our friends, neighbors, and colleagues. We are united against injustice, racism, and discrimination. The NBA commits to listen and learn, to educate and improve, and to accelerate action. As a membership organization of lawyers and judges dedicated to improving the practice of law, we serve the community through our members, and we are called by our mission to educate, serve, and foster fellowship.

As our community looks to lawyers for leadership, the strength of our members will allow us to answer the call to action. Our voices will be needed in the days, months, and years ahead as our city and nation work to heal and repair public trust. As problem-solvers, critical thinkers, and community servants, the NBA will join our community in honest reflection, conversation, and action to ensure equal justice for all.

About the Nashville Bar Association

The Nashville Bar Association, established in 1831, is a professional organization serving the legal community of Nashville, Tennessee. The NBA—with over 2,500 members—is the largest metropolitan bar association in Tennessee.

#





Friends and colleagues:

I have been saddened and disturbed by many of the events of the last 8 days in Minneapolis and elsewhere, but I am just as troubled by the realization that many of the problems facing us today have existed since before any of us were born. While our country has made great strides in the civil rights arena, we still have a long way to go. I have been pleased that the demonstrations in Knoxville have remained largely peaceful, and I credit both the demonstrators and the City of Knoxville for that.

I hope that every member of the Knoxville Bar Association can agree that racism cannot be tolerated in any form, especially the systemic racism that some of our members have faced their entire lives.

To that end, I urge all of us to come together as a legal community, to have meaningful discussions to identify and take steps towards achieving true societal inclusion and cultural competence. We need to do this with respect to our economy, our system of education, health care, and access to justice and government resources. As Ron Harris said at a recent KBA Lunch and Learn, diversity is a reality; inclusion is a chosen practice. Inclusion and cultural competence involve understanding each other's narratives and avoiding needless violence and harmful rhetoric against all people, especially people of color. It requires COMMUNICATION.

The KBA exists to serve members of the legal profession and through our members, we serve the community. As lawyers, we are problem-solvers and defenders of the rule of law. We spend our days seeking to improve the lives of our clients and our communities. We have sworn an oath to uphold the Constitution. We have an opportunity and an obligation to help. But the question we are left with is how?

We'll begin by listening to each other. The Board of Governors, along with the members of the KBA's Diversity in the Profession Committee, want to listen to you and learn from you. We will only see long term improvement to these issues by working together. We can do more, and we will do more. However, the first step is to listen to our members and community partners to reflect on how. If you have ideas about ways the KBA can better serve its members to address these issues, please let me know.

We look forward to hearing from you, and we look forward to doing more with you soon.

Sincerely,

Hanson R. Tipton
865-637-1700 (office)
hrtipton@watsonroach.com



Dear Colleagues:

As I watch the protesters gathering in Miller Park tonight, just outside my office window, I find myself thinking back to the spring of 1991 when Los Angeles police officers were caught on camera savagely beating Rodney King. The images from that video were horrific indeed, leaving one to wonder just how such an event could occur.

But at least, we thought, it will never happen again. Not after this.

Fast forward to the spring of 2020 and we are confronted with a video of a Minneapolis police officer calmly kneeling on George Floyd's neck until he expired. And unlike the Rodney King incident, the George Floyd incident took place in broad daylight, right in front of onlookers whose comments essentially narrate the video.

But at least it will never happen again. Not after this. Right?

John Adams is often credited with the phrase "a government of laws, not of men." But laws, and the justice they are intended to effect, are administered by men (and women). And the power to administer that justice is just as surely the power to fail to do so.

I would be remiss in my duties as your president if I were to fail to remind every member of this Bar that we too are instruments by which the laws, and the justice they are intended to effect, are administered, and to condemn racism, abuse of power, and injustice in all of its forms.

JOHN C. HARRISON
EVANS HARRISON HACKETT, PLLC



The untimely and heinous murder of George Floyd and countless other unarmed and defenseless African-Americans have ignited flames of despair, disappointment, frustration and exhaustion. Institutional racism and inequitable treatment of African-Americans have caused insurmountable grief, pain, and death for hundreds of years. The death of George Floyd - father, son, brother, and friend- has sparked protests throughout the contiguous United States and across the globe. People are speaking out to demand justice and reinforce that black lives do, will, and always matter.

The decision of one police officer, with the inclusion of three others, to use excessive force robbed an entire family of the life and love of their family member. Unfortunately, this story is all too familiar to the African American community. Thankfully, there was video footage of George Floyd's murder. However, it reminds African Americans of the constant fears they live with every day- fear that the next brutality is right around the corner, fear that their family member or loved one could be the next victim, and fear that institutional racism will never be eradicated.

As an affiliate of the National Bar Association ("NBA"), the Napier-Looby Bar Association joins the NBA's "Let Us Live" campaign. We are developing community education forums "to arm our community with the knowledge to save lives, to improve lives, to protect lives" and "to educate our communities on their rights". We are partnering with six African-American churches to deliver these forums to the community. We will continue to assist with pro bono legal clinics and collaborate with other bar associations and civil organizations in our pursuit of justice and fairness for African-Americans.

LET US LIVE to exercise our rights to assemble to protest. LET US LIVE with freedom from unreasonable search and seizure and imprisonment without due process of the law. LET US LIVE without excessive bail and fines and unusual punishment. LET US LIVE to vote without obstruction and suppression.

LET US LIVE to take a walk in our neighborhoods, to bird watch in the park, to rest peacefully in our own homes, to enjoy family gatherings in our back yards, and to hold a cellphone or toy gun in our hand. LET US LIVE to enjoy the American Dream that has been deferred for too long.

LET US LIVE TO BREATHE.

Mary Beard, President

National Bar Association Launches Its "Let Us Live" Campaign

FOR IMMEDIATE RELEASE

June 4, 2020

Contact: President Alfreda Robinson

Phone: 202-842-3900

Email: president@nationalbar.org

www.nationalbar.org

National Bar Association Launches Its "Let Us Live" Campaign

The National Bar Association and its members stand together today and say to the world "LET US LIVE." We stand in solidarity and mourn with the families and friends of George Floyd, Ahmaud Arbery and Breonna Taylor and all others murdered without cause. These tragic deaths have deeply and adversely impacted our Nation.

In a series of activities to combat a continued pattern of discrimination, National Bar Association President Alfreda Robinson announced, "As part of its mission, the National Bar Association continues to arm our community with the knowledge to save lives, to improve lives, to protect lives. We will double down on our efforts to educate our communities on their rights." Joseph Drayton, chair of the National Bar Association's Know Your Rights Program, emphasizes, "We want to arm our communities to demand respect of our equal rights and to demand equal treatment."

Today, the National Bar Association is focused on "LET US LIVE" and the avoidance and elimination of the senseless violence that plagues the Black Community in its interaction the law enforcement professionals. The National Bar Association asks America to "LET US LIVE." The National Bar Association asks Black America to gird itself to "LET US LIVE." In support of this mission, the National Bar Association today launched a social media campaign under the hashtags #LETUSLIVE and #NBAKYR focused on police encounters.

In 2020, it is clear that the horrific and senseless treatment of Blacks in America that began 400 years ago is an infectious disease woven deep into the fabric of

the minds and hearts of a dangerous swath of the American citizenry. Today, Black America still lives in frustration and fear⁸ with the real prospect of random and tragic mistreatment borne out of being viewed and treated less than equal to others. A series of inextricably intertwined events underscore the need for Black lawyers to mobilize and serve as a catalyst for real change ridding America of structural racism. Within a matter of months, we have seen white men cavalierly slay a black man; white police officers intentionally murder a black man while he pled for his life; white police officers murder a black woman while she lay sleeping and; a white woman claiming that two black men abducted her son who she murdered; and a white women feloniously and erroneously accusing a black man of threats to her and her dog. This conduct reinforces the reprehensible entitlements that began in 1619 which remain a reality.

The National Bar Association was founded in 1925 and is the nation's oldest and largest national network of predominantly African-American attorneys and judges. It represents the interests of approximately 65,000 lawyers, judges, law professors, and law students. The NBA is organized around 23 substantive law sections, 10 divisions, 12 regions, and 80 affiliate chapters throughout the United States and around the world.



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For Immediate Release

June 3, 2020

We. Are. Tired.

It goes without saying that George Floyd's death is a travesty. Prayers to his family, loved ones, and those suffering around the nation. However, the killing of George Floyd is not an isolated event. Within the context of racial injustice, he is yet another name added to a long and sobering list representing brothers and sisters lost due to the continued unnecessary violent and deadly force Black Americans face every day. From 2015 to 2019, *The Washington Post*, using real-time police shooting database, tracked nearly 4,400 fatal shootings committed by law enforcement officers. The tracker underscored that although Black people account for approximately 13% of the U.S. population, we comprised more than 25% of police shooting victims. More specifically, a study by *The Atlantic* found that Black men aged 15-34 are at least 9 times more likely to be killed by police.

Racism, and the devaluation of Black lives, was intertwined into the very fabric of this nation when it was created. The same tyranny that the Founders sought to escape was ultimately the same tyranny that they brought to these new shores. America has long used the full force, protection, and color of the law to rationalize injustices against minorities.

The history of police violence against Black people in the United States is undeniable. In Memphis, peaceful protesters have been met with slow or no change, and in the worst instances, with hoses, tear gas, bullets, and hounds. This rings true in other cities across this nation where people of color and allies have organized for change. Today, people are fed up with respectability politics and being told to remain calm. When marching, kneeling, signing petitions, writing legislators, and voting does not work, people are forced to turn to alternative measures. While the Ben F. Jones Chapter of the National Bar Association does not condone violence, we understand that although the symptom is rage, the underlying disease is subjection to unchanging and unchecked racial injustice. We are tired of dying at the hands of agents paid to serve and protect us with our tax dollars. We are tired of the devaluation of Black people being ingrained into the fabric of American ideology. We are tired of seeing those who unjustly kill us at will and those who unjustly threaten us with the force of police action be rewarded with a lack of legal repercussion for perpetuating these injustices against us. We. Are. Tired.

Addressing these systemic and state-sanctioned inequalities is, in part, why black bar associations were created – to add a modicum of fairness to a system that has historically and statistically been unjust to Black people by fighting against race-based discrimination and stereotypes and working to promote political, social, and legal equality. Just as we have done since our founding, the Ben F. Jones Chapter of the National Bar Association is committed to upholding its torch in these dark times. We will work with social justice agencies to advocate, publicly educate, and participate in concerted collective efforts to eradicate racism and social injustices. We are calling to action the entire Memphis legal community to assist in these efforts.

The Ben F. Jones Chapter challenges local, state, and federal law enforcement agencies across the United States to create a standing seat at the table for the Ben F. Jones Chapter and other attorneys of social justice organizations to contribute to ongoing efforts to improve policy, review police misconduct, and prevent racists from continuing to infiltrate and tarnish our justice system.

Respectfully,

Quinton E. Thompson
Vice President, Ben F. Jones Chapter of the National Bar Association

Facebook: [benjonesnba](#)

Twitter: [benjones](#)

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TBA President Issues Statement on Recent Tragic Events

Posted by: Sarah Sheppard on Jun 1, 2020

News Type: Legal News

Our country, our state and our cities are struggling today to process how our nation can heal in the wake of so much tragedy affecting so many people in our communities. Many have opined that we are in unprecedented times; unfortunately, history teaches us we have been here before and that the road to change is long but not impossible. Another thing we have been taught by history is that legal community leaders cannot be bystanders. We must serve as leaders and support opportunities for education and empowerment related to the administration of justice, the impact of the justice system on citizens, and a critical examination of how we can strengthen, and in some cases, rebuild trust and faith in the rule of law and our legal institutions.

Lawyers have always served as agents of reform and we have a responsibility and an opportunity to champion meaningful reforms to create systemic change. The Tennessee Bar Association realizes that there is more that we can do to serve as a leader on the very important issues facing our state. We appreciate the feedback we have received on how we can better serve our members and the community, and we are continuing to listen. While we have long had committees dedicated to issues related to diversity and inclusion, we are now more committed than ever to facilitating significant and challenging discussions on how we as an association can drive solutions.

ALSO: [TBA Young Lawyers President Terica Smith comments](#) on the role lawyers can play in battling injustice and brutality.

Our upcoming virtual convention includes a roundtable devoted specifically to issues of diversity and inclusion and bringing our members together to discuss how lawyers can better meet the current needs of diverse communities. Our Young Lawyers Division will continue its advocacy and service opportunities for lawyers to get involved and make a difference.

The challenges and sadness felt around the country, already exacerbated in our state by natural disasters and a global pandemic, feel overwhelming. Please know that the TBA will continue to listen, learn, foster dialogue and support change to increase meaningful access to resources and justice for all.

LAW-RELATED BLOGS AND PODCASTS

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TBA YLD President Terica Smith on Lawyers Role in Fighting Injustice, Brutality

Posted by: Terica Smith on Jun 1, 2020

News Type: Legal News

“Courage is the most important attribute of a lawyer. It is more important than competence or vision. It can never be an elective in any law school, and it should pervade the heart, the halls of Justice and the chambers of the mind.” – Robert F. Kennedy

The Tennessee Bar Association Young Lawyers Division stands with the countless leaders across our nation, including lawyers, business people, police chiefs and others who are denouncing acts of racial injustice and brutality against any person by law enforcement, as well as systemic challenges and biases experienced by many in our local communities.

Throughout history, lawyers have been the agents of vast social change through activism, legislation and litigation. All lawyers, especially young lawyers, must step up with our collective voices and help facilitate communication and education to create systemic change in our profession and the lives of the people that we serve. The TBA Young Lawyers Division is committed to working with our local, state and national leaders to initiate meaningful reforms and positive solutions to end discrimination and injustice in our communities.

LAW-RELATED BLOGS AND PODCASTS

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Laura Baker

From: Lawyers' Association for Women - Marion Griffin Chapter <info@law-nashville.org>
Sent: Thursday, June 4, 2020 9:34 AM
To: Laura Baker
Subject: LAW Statement on Racism



STATEMENT ON RACISM

The Lawyers' Association for Women – Marion Griffin Chapter is committed to identifying, discussing, addressing, and dismantling racism. We acknowledge that racism permeates throughout our society, and perhaps nowhere more pervasively than the legal system with which we, as lawyers, interact on a daily basis. In order to practice law in Tennessee, each applicant swears an oath which includes the following promise: "In the practice of my profession, I will conduct myself with honesty, fairness, integrity, and civility to the best of my skill and abilities." LAW recognizes that we as individuals cannot operate either personally or professionally with honesty, fairness, or integrity without acknowledging and confronting the systemic discrimination and unfairness that racism has built into our society. Racism includes the horrendous acts of violence and hatred that our nation has seen in the killing of George Floyd, Ahmaud Arbery, Breonna Taylor and countless others before them. Racism also includes bias, even unconscious or

unintentional bias, which results in unequal access to justice, representation, and resources.

Black Lives Matter. Black voices must be heard. LAW stands committed to exploring and examining the ways bias and discrimination are reflected in the legal profession and legal system. LAW stands committed to working to eradicate racism in all forms. Please join us as we join others in this work.

The Lawyers' Association for Women, Marion Griffin Chapter was formed on February 24, 1981, in Nashville, Tennessee. The association emphasizes and addresses issues of concern to women within the legal profession. In particular, we strive:

- to promote the efficient administration of justice and the constant improvement of the law, especially as it relates to women;
- to advocate for increased numbers of qualified women on the bench and to work for improvement of the overall quality of the bench;
- to encourage the participation of women in local, state, national and specialty bar associations, particularly at leadership levels;
- to monitor and to participate as amicus curiae in litigation involving issues of concern to women;
- **to promote the participation of minority attorneys in the Association;**
- to promote the participation of new attorneys in the Association;
- to promote career opportunities for women within the legal profession, including the dissemination of job availability information and the exploration of alternative work options;
- **to promote diversity in the legal workplace and within the legal profession generally;**
- **to foster public dialogue about unjust societal discrimination and bias;**
- to enhance the quality of life in the community by active participation in community service;
- to explore the impact of and keep pace with technology relative to the workplace and the practice of law; and

- to enhance the legal knowledge and skills of attorneys in the Association.



This message was sent to you by [Lawyers' Association for Women - Marion Griffin Chapter](#)

P. O Box 210436, Nashville, TN 37221

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Laura Baker

From: Tennessee Lawyers' Association for Women <Tlaw22@wildapricot.org>
Sent: Tuesday, June 16, 2020 7:09 PM
To: Laura Baker
Subject: Statement from TLAW Against Racism

TLAW

Tennessee Lawyers'
Association for Women

The call for equality has been the hallmark mission of the Tennessee Lawyers' Association for Women, particularly as related to the advancement of women in the profession of law. The tragic and senseless murders of George Floyd, Ahmad Arbery, Breonna Taylor and too many others painfully demonstrate, again, that racial injustice is systemic and must be actively rooted out.

As officers of the courts and defenders of the rule of law, we stand uniquely positioned to support all our Black colleagues in the pursuit of justice and equity. We urge all of our members to confront and combat all forms of racism, whenever and wherever we see it, to speak out against racism in institutions that are not proactive in preventing it and against individuals who perpetrate it. As an organization, we are committed to engage in authentic conversations, to examine our own individual and collective contributions to systemic racism, and to do better.

To our Black members, we are listening, we are standing with you,
and we commit to use our voice to make real and lasting change.



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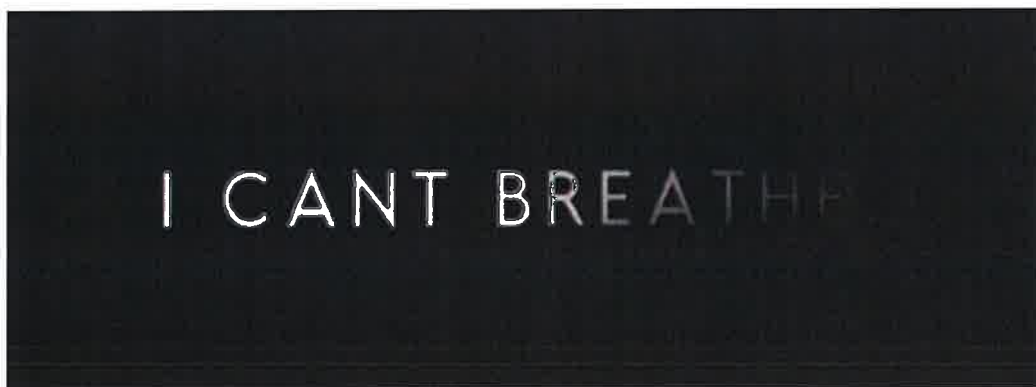
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Laura Baker

From: DarKenya W. Waller <info@las.org>
Sent: Friday, June 5, 2020 1:22 PM
To: Laura Baker
Subject: Our Enduring Commitment to Justice



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Dear Friends,

The Legal Aid Society of Middle TN and the Cumberland extends its deepest sympathy to the family and friends of George Floyd. We mourn his death, and we join in solidarity with those who have expressed outrage and discontent with systemic racial injustices in this country. His death is just one in a series of murders perpetrated against people of color at the hands of law enforcement. George Floyd's death laid bare the social ills in our society and the responsibility we each have to use our voices and our platforms to not only say

his name but to then take personal responsibility to become the change we want to see.

As an institution whose mission is to advance, enforce and defend the legal rights of low-income and vulnerable people, we see first-hand the results when access to justice is denied. We will continue our fight in the courtrooms and in the community to support those without anywhere else to turn. There is much work to do and we cannot afford to wait for anyone else to do it. We join our friends at the National Legal Aid and Defenders Association (NLADA) in:

- **Assembling a Racial Justice and Equity Team** to work within LAS to effect positive change.
- **Committing to courageous conversations on race**, not shying away from uncomfortable conversations about the history of racism, slavery and white supremacy. Making sure we are having courageous conversations at work and in our community! Silence is complicity.
- **Forming genuine and sustainable, community-led partnerships** aimed at bridging the racial divide in our country: Ensuring our efforts are driven by experiences of people of color.
- **Becoming a change agent in our own organizations and communities** by further centering racial equity in our work.

We invite you to join us in these efforts. The words of Martin Luther King, Jr. spoken at the Riverside Church in New York City on April 4, 1967, are now truer than ever, "...tomorrow is today. We are confronted with the fiery urgency of now. In this unfolding conundrum of life and history, there 'is' such a thing as being too late. **This is no time for apathy or complacency. This is a time for vigorous and positive action.**"

Sincerely,



DarKenya W. Waller

Executive Director

Legal Aid Society of Middle Tennessee and the Cumberlands

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TENNESSEE SUPREME COURT ISSUES STATEMENT ON COMMITMENT TO EQUAL JUSTICE

June 25, 2020

The Tennessee Supreme Court today issued the following statement on its commitment to equal justice:

The Latin phrase that adorns the seal of the judiciary for the State of Tennessee means, “Let justice be done, though the heavens fall.” In many instances over the past few months, it seemed the sky was falling. In March, hundreds in middle Tennessee suffered the most devastating tornado to hit the area in twenty years. Only days later, Covid-19 officially was named a pandemic, and we sought to navigate for the first time what “open courts” look like during a massive health crisis. Recently, a series of tragic deaths have reminded us that racism and injustice remain a mortal threat to the lives of Black people in our country.

Racism still exists and has no place in our society. Upon entering service in the judiciary, we swore to uphold the constitutions of the State of Tennessee and the United States. Thus, it is our moral obligation and our sworn duty to ensure that the people of Tennessee receive equal protection of its laws. Justice must be for all.

To do our part, we have provided training to Tennessee judges on implicit bias, and we will continue to do so. Our commitment to equal justice led the Supreme Court over ten years ago to establish the Access to Justice Commission. In light of recent events, the Access to Justice Commission is already having conversations about racism in the justice system and the importance of assuring the public of the judiciary’s commitment to access, fairness, and justice for all. We are directing the Commission to establish a new initiative to identify and eliminate barriers to racial and ethnic fairness and justice. The Access to Justice Commission will lead the search for and advise the Court about how to accomplish change in areas of education and training, our judicial environment, and court policies and procedures that in any way lead to racial bias.

We are striving toward a better tomorrow, and know there is much more work to do. Change is needed and only can happen through listening, as well as valuing and respecting a myriad of voices with different perspectives and views. Our commitment today is another step in what will be a long, sustained journey.

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