

TLAP

TENNESSEE LAWYERS ASSISTANCE PROGRAM 2012 Annual Report



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THE MISSION OF TLAP IS THREEFOLD:

- **to protect the interests of clients, litigants and the general public from harm caused by impaired lawyers or judges;**
- **to assist impaired members of the legal profession to begin and continue recovery; and**
- **to educate the bench and bar to the causes of and remedies for impairments affecting members of the legal profession.**

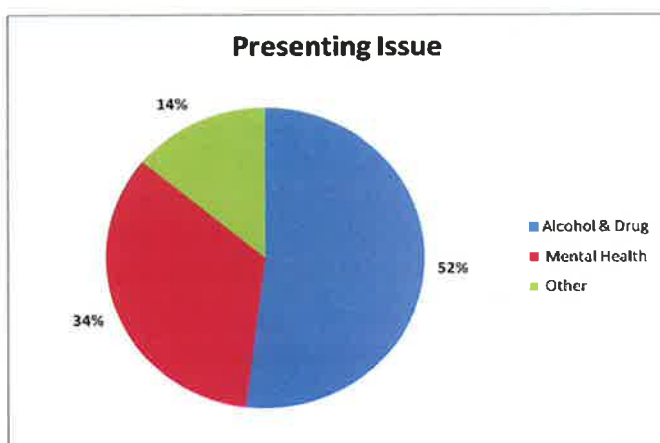


INTRODUCTION

The Tennessee Lawyers Assistance Program ("TLAP") was established by order of the Tennessee Supreme Court (the "Court") in 1999. The mission and general structure of TLAP are set forth in Rule 33 of the Tennessee Supreme Court Rules. This report is submitted to the Commission, pursuant to Tenn. S. Ct. R. 33.02, for the purpose of reporting the activities and accomplishments of TLAP during 2012.

I STATISTICAL DATA FOR 2012

The Tennessee Lawyers Assistance Program is a free, confidential assistance program providing consultation, referral, intervention, and crisis counseling for lawyers, judges, bar applicants and law students who are struggling with substance abuse, stress or emotional health issues. TLAP's work contributes to the protection of the public and the improvement of the integrity and reputation of the legal profession. Statistics support that assistance to an affected lawyer often prevents future ethical violations, thereby reducing the number of disciplinary actions. Since inception, TLAP has provided educational services to 60% of all licensed attorneys and judges, and has made presentations to every student in the six Tennessee law schools.

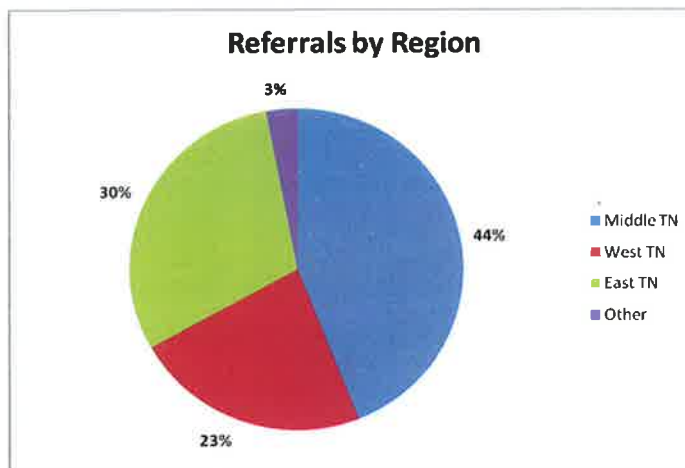


TLAP maintains statistical information regarding inquiries and referrals by individuals. In 2012, fifty-two percent (52%) of intake calls pertained to issues of chemical dependency and thirty-four percent (34%) with mental health issues, such as depression. The other

fourteen (14%) of intake calls presented with something other than substance abuse or mental health concerns, such as marital conflict, financial distress, performance productivity, cognitive impairment, stress, eating disorder, domestic abuse, and

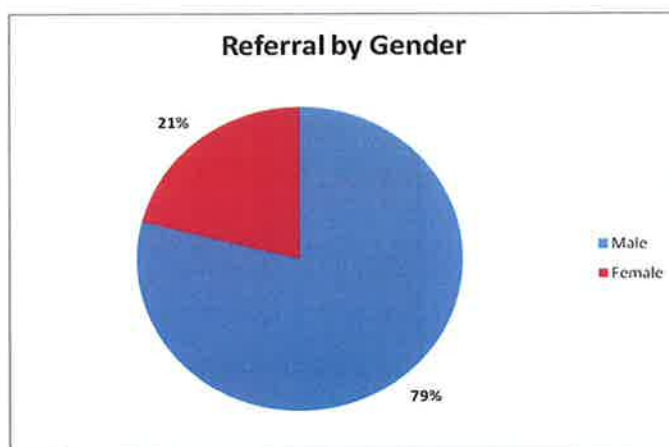
compulsive behaviors. Many TLAP clients have a dual diagnosis, meaning that they have been diagnosed with substance abuse in combination with another disorder.

TLAP tracks the source of the inquiries and referrals based on geographical regions. Forty-four percent (44%) of new referrals were from Middle Tennessee, thirty percent (30%) from East Tennessee, twenty-three percent (23%) from West Tennessee, and three percent (3%) from out



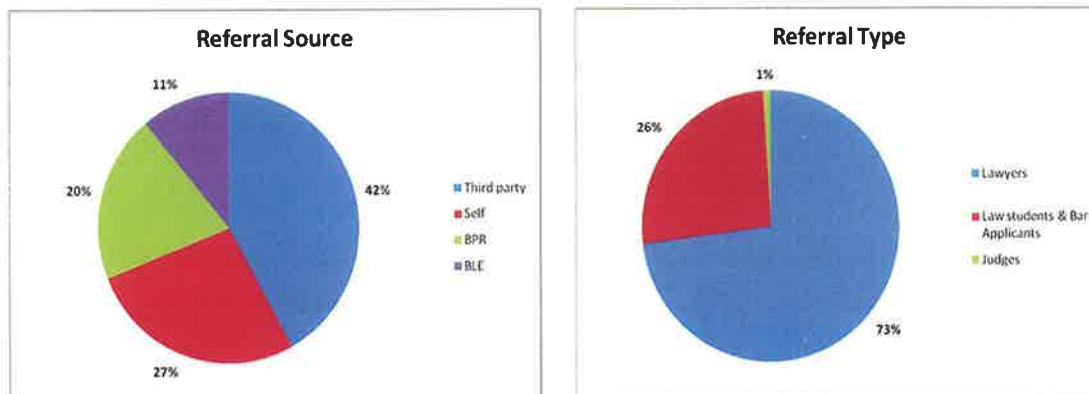
of state. Although the majority of referrals still originate in the Middle Tennessee area, there was a significant increase in referrals from the other two regions, particularly East Tennessee, which increased by nine percent (9%).

In 2012, seventy-nine percent (79%) of TLAP referrals were male, and twenty-one percent (21%) were female. There was a 10% decrease in female referrals from 2011 to 2012.



Forty two percent (42%) of referrals to TLAP were from concerned third parties (such as friends, family, law schools or firm members), twenty-seven percent (27%) were self-referrals, eleven percent (11%) were from the Board of Law Examiners (BLE), and

twenty percent (20%) were from the Board of Professional Responsibility (BPR). TLAP is pleased to report that BPR referrals increased by twelve percent (12%) in 2012 when compared with 2011.



Seventy percent (70%) of TLAP referrals concerned lawyers, twenty-six percent (26%) law students or bar applicants, and one percent (1%) pertained to members of the judiciary. Although the number of judges *referred* to TLAP was not noteworthy, the number of referrals *from* judges increased significantly; twelve percent (12%) of third party referrals were from members of the judiciary.

SUMMARY OF BPR REFERRALS

The BPR refers attorneys to TLAP when the respondent's behavior has indicated that the individual may benefit from TLAP services. TLAP is often included in court orders as a part of resolution of discipline when mental health or addiction is a mitigating factor.

BPR referral data for 2012:

- Informal (phone) referrals: 6
- Formal (written) referrals: 34
- Court orders requiring respondent to submit to a TLAP evaluation and follow all TLAP recommendations: 17
- Total number of referrals from the BPR: 57

Of the forty (40) referrals from the BPR (excluding those referred via court order), TLAP was able to assist fifty percent (50%).

In 2012, TLAP staff and commissioners were able to meet with disciplinary counselors to provide further education about TLAP services and to answer questions or concerns regarding the referral process. TLAP commissioners also presented at the BPR hearing panel orientations in Nashville, Memphis and Knoxville. As a result, one hundred percent (100%) of the disciplinary counselors made more than one referral to TLAP during the 2012 calendar year.

STATISTICAL DATA BY MONTH

TLAP submits monthly statistical reports to the TLAP Commission. These reports include items such as number of phone calls, number of presentations, and number of trips throughout the state. A summary of the year 2012 is provided below:

Statistical Information for January 2012 through December 2012

Abbreviations used:

ABA:	American Bar Association
AG:	Attorney General
AOC:	Administrative Office of the Courts
AOS:	Affinity Online Solutions (UDS service)
BLE:	Board of Law Examiners
BPR:	Board of Professional Responsibility
CLE:	Continuing Legal Education
COJ:	Court of Judiciary
CoLAP:	ABA's Commission on Lawyer Assistance Programs
EAPA:	Employee Assistance Professionals
JAG:	Judicial Assistance Group
LAP:	Lawyer Assistance Program
LIR:	Lawyers in Recovery meeting
MBA:	Memphis Bar Association
MTALA:	Middle TN Assoc. of Legal Assistants
NBA:	Nashville Bar Association
NOBC:	National Organization of Bar Counsel
QPR:	Question, Persuade, Refer: suicide prevention training
UDS:	Urine Drug Screens
TAM:	Tennessee Attorney Memo
TBA:	Tennessee Bar Association
TLAP:	Tennessee Lawyers Assistance Program
TLAW:	Tennessee Legal Association of Women
WWG:	Wednesday Women's Group

- **Contacts with Volunteers = 1,113 or an average of 92.75 per month**
- **Contacts with Commissioners = 634 or an average of 52.83 per month**
- **Contacts with Clients = 2,747 or an average of 228.91 per month**
- **Contacts with New Clients = 235 or an average of 19.58 per month**
- **Contacts with Reopened Clients = 63 or an average of 5.3 per month**
- **Contacts with Treatment Centers = 856 or an average of 71.33 per month**
- **Contacts with Law Students = 627 or an average of 52.25 per month**
- **Contacts with Judges = 303 or an average of 25.25 per month**
- **Contacts with Others (BPR, BLE, other LAP's, etc.) = 1350 or 112.5 per month**

- **Disciplinary Hearings = 21 or an average of 1.75 per month**
- **Meetings held at TLAP = 142 or an average of 11.83 per month**
- **Educational Presentations = 44 or an average of 3.67 per month**

Numbers above only reflect direct one-on-one contacts, and do not include the number of audience members in each presentation.

2012 TLAP TRAVEL AND PRESENTATION HISTORY

January 2012

01/11/12 TLAP presentation for the Nashville School of Law
 01/09/12 Nunnelly-TLAP client meetings at The Ranch
 01/12/12 Nashville-Meeting with Libby Sykes, David Byrne, and Justice Holder
 01/14/12-01/15/12 Nashville-Mock Trials at Vanderbilt University School of Law
 01/18/12 Tullahoma-BPR hearing
 01/18/12 Manchester-TLAP meeting with commissioner
 01/19/12 Nunnelly-TLAP client meetings at The Ranch
 01/25/12 Nashville-Meeting with Libby Sykes
 01/26/12 Jackson-TLAP client hearing in Federal Court
 01/26/12 Jackson-TLAP volunteer meetings
 01/26/12 Jackson-TLAP Client Meetings
 01/27/12 Chattanooga-TLAP volunteer reception
 01/27/12-01/29/12 Chattanooga-TLAP Commission Retreat

February 2012

02/01/12 Knoxville-TLAP presentation for the University of Tennessee School of Law
 02/01/12-02/06/12 New Orleans-ABA Conference-CoLAP meetings
 02/02/12 Nashville-TLAP client meetings at the Integrative Life Center
 02/03/12 New Orleans-TLAP panel at ABA Conference in New Orleans
 02/04/12 New Orleans-TLAP presentation for National Org.of Bar Counsel (NOBC)
 02/04/12 Memphis-TLAP presentation for Memphis University School of Law
 02/06/12 Jackson-TLAP presentation for Inns of Court
 02/14/12 Nashville-TLAP presentation for the Nashville School of Law
 02/16/12 Sevierville-TLAP presentation to Sevier County Bar
 02/16/12 Knoxville-TLAP client meetings
 02/22/12 Brentwood-BPR presentation
 02/22/12 Memphis-TLAP client meetings
 02/22/12 Nashville-TLAP presentation to BPR disciplinary counsel
 02/22/12 Memphis-TLAP presentation to Memphis University School of Law
 02/22/12 NBA Health & Wellness committee meeting
 02/22/12 Nunnelly-CARF interview at The Ranch
 02/23/12 Dickson-Site visit to Freeman Sober Living Establishment
 02/23/12 Nashville-BPR hearing

02/24/12 Nashville-TLAP presentation to Tennessee School Board Attorneys
02/28/12 Nashville-TLAP presentation to General Sessions Judges Conference
02/28/12-02/29/12 Birmingham-site visit to Bradford Health Services

March 2012

03/06/12 Nashville-TLAP client meetings at the Nashville School of Law
03/08/12 Nashville-Marketing meeting with Pinegrove Treatment, Mississippi
03/09/12 Nashville-BPR board meeting- Judge Williams representing TLAP
03/12/12 Knoxville-TLAP client meetings
03/13/12 Dandridge-BPR hearing
03/13/12 Knoxville-TLAP client meetings
03/15/12 Franklin-TLAP presentation at the Judicial Conference (first)
03/15/12 Franklin-TLAP panel presentation at the Judicial Conference (second)
03/21/12 Nashville-TLAP presentation for MTALA
03/14/12 Knoxville-TLAP client meetings
03/14/12-03/16/12 Franklin-Judicial Conference
03/22/12 Memphis-Faculty visit at the University of Memphis School of Law
03/22/12 Memphis-TLAP client meetings
03/22/12 Nashville-Site visit to Cumberland Heights
03/23/12 Nashville-TLAP presentation for Miller Martin Law Firm
03/23/12 Little Rock-SASSI training
03/28/12 Nashville-Suicide Prevention Training
03/29/12 Knoxville-TLAP presentation for the Judicial Magistrate Conference
03/30/12-04/01/12 Dickson-CAMP TLAP

April 2012

04/12/12-04/14/12 Nunnally-LAP Director's Retreat at The Ranch
04/16/12 Nashville-Marketing meeting with Cumberland Heights
04/18/12 Nashville-Marketing meeting with Cumberland Heights
04/18/12 Nashville-TLAP client intervention Planning
04/18/12 Nashville-Healthy Bar Party meeting
04/18/12 Nashville-TLAP mock intervention for Vanderbilt University School of Law
04/19/12 Brentwood-TLAP presentation and CEU for Nashville networking breakfast
04/26/12 Nashville-TLAP client intervention
04/27/12 Nashville-Marketing meeting with local provider
04/27/12 Brentwood-Marketing meeting with local provider
04/30/12 Knoxville-TLAP client meetings

May 2012

05/01/12 Knoxville-TLAP client meetings
05/02/12 Knoxville-TLAP presentation to BPR panel members
05/03/12 Nashville-TLAP client meeting at Integrative Life Center
05/08/12 Burns-Site visit to New Life Lodge Treatment Center
05/10/12-05/13/12 Colorado-CoLAP
05/10/12 Nashville-TLAP presentation to BPR panel members

05/15/12 Nashville-Network with local therapists
05/15/12 Memphis- TLAP presentation to BPR panel members
05/15/12 Nashville-Client meeting at Vanderbilt Psychiatric Hospital
05/17/12 Birmingham-BPR hearing
05/24/12 Nashville-Continuing Educational presentation by New Life Lodge
05/25/12 Nashville-TLAP presentation to Waller Lansden Law Firm
05/29/12 Nashville- Meeting with Vanderbilt Comprehensive Assessment Center
05/30/12 Nashville-TLAP client meetings at Cumberland Heights
05/30/12 Nashville-Site visit to women's extended care facility

June 2012

06/01/12 Nashville-Nashville School of Law Dinner
06/04/12 Nashville-BPR hearing
06/05/12 Memphis-TLAP client meetings
06/06/12 Memphis-TLAP client meetings
06/06/12 Memphis-TLAP presentation to Clerks of Court
06/06/12-06/08/12 Memphis-Judicial/TBA Conferences
06/07/12 Memphis-TLAP client meetings
06/07/12 Memphis-TLAP Commission meeting
06/07/12 Memphis-JAG meeting
06/08/12 Memphis-TLAP presentation to Tennessee Trial Lawyers
06/11/12 Nashville-Marketing meeting with The Ridge Treatment Center
06/12/12-06/13/12 Hattiesburg-Site visit to Pine Grove Treatment Center
06/15/12 Nashville-TLAP client meeting at Cumberland Heights
06/18/12 Nashville-TLAP presentation to Federal Judges Conference
06/18/12 Nashville-TLAP presentation to Nashville School of Law
06/22/12 Hickman County-The Ranch open house
06/25/12 Knoxville-TLAP client meetings
06/26/12 Knoxville-TLAP client meetings
06/27/12 Kingsport-TLAP client meetings
06/27/12 Kingsport-TLAP Tri Cities BBQ
06/28/12 Knoxville-TLAP client meetings

July 2012

07/05/12-07/06/12 Nashville-Music City Round-Up
07/12/12 Nashville-BLE hearings (five)
07/18/12 Knoxville-BPR hearing
07/19/12 Brentwood-Continuing Education presentation by The Ranch
07/20/12 Memphis-TLAP client intervention
07/27/12 Nashville-Marketing meeting with The Ranch
07/28/12 Hendersonville-TLAP Summer Lake Party
07/30/12 Nashville-Meeting with Dean of Nashville School of Law

August 2012

08/02/12-08/05/12 Chicago-ABA & CoLAP Conference

08/06/12 Nashville-BPR hearing
08/07/12 Nashville-Site visit to Integrative Life Center
08/09/12 Alabama-TLAP presentation to Montgomery County Bar Association
08/09/12 Nashville-TLAP presentation to Nashville School of Law
08/10/12 Nashville-Site visit to Cumberland Heights
08/11/12 Nashville-Burns Brady Workshop
08/13/12 Nashville-Referral meeting with Kevin Collen, MD
08/15/12 Memphis-TLAP client meetings
08/15/12 Memphis-TLAP presentation to University of Memphis School of Law
08/16/12 Nashville-Middle TN EAPA meeting and presentation
08/17/12 Nashville-Student fair at Vanderbilt University School of Law
08/22/12 Nashville-Referral meeting with Centerstone Behavioral Health
08/23/12 Nashville-BPR hearing
08/24/12 Knoxville-Student orientation at University of Tennessee School of Law
08/24/12 Knoxville-TLAP client meetings
08/30/12-08/31/12 Memphis-TLAP client meetings

September 2012

09/04/12-09/06/12 Nashville-Journey Together Conference
09/04/12 Nashville-Meeting with Executive Director of BLE
09/07/12 Nashville-TLAP staff retreat
09/10/12 Murfreesboro-TLAP softball game
09/12/12 Knoxville-TLAP client meetings
09/13/12 Nashville-DSM V training
09/13/12 Knoxville-BPR hearing
09/13/12 Knoxville-TLAP client meetings
09/17/12 Nashville-TLAP softball game
09/18/12 Nashville-Meeting with BPR
09/19/12 Nashville-TLAP Presentation to Law Clerks at AOC
09/20/12 Knoxville-TLAP client meetings
09/22/12 Dickson-TLAP Hootenanny
09/24/12 Nashville-TLAP softball game
09/24/12 Nashville-Site visit to Integrative Life Center

October 2012

10/03/12 Nashville-TLAP presentation for Vanderbilt University School of Law
10/03/12 Antioch-TLAP softball game
10/07/12-10/12/12 Michigan-CoLAP Conference
10/07/12 New Orleans-TLAP presentation for AON Conference
10/10/12 Nashville-TLAP softball game
10/17/12-10/19/12 Franklin-Judicial Conference
10/16/12 Nashville-TLAP presentation for TLAW
10/16/12 Knoxville-TLAP presentation for University of Tennessee School of Law
10/16/12 Knoxville-TLAP presentation for DA's Conference
10/17/12 Nashville-TLAP softball game

10/18/12 Memphis-TLAP presentation for University of Memphis School of Law
10/18/12 Franklin-TLAP presentation for Judicial Conference with Dr. McCauley
10/22/12 Nashville-Smart Recovery Training
10/23/12 Knoxville-TLAP client meeting
10/24/12 Knoxville-TLAP client meetings & intervention
10/24/12 Knoxville-TLAP presentation for University of Tennessee School of Law
10/24/12 Nashville-TLAP softball game
10/29/12 Nashville-Meeting with AOC
10/30/12 Nashville-TLAP presentation for BPR-CLE Workshop
10/31/12 Nashville-TLAP softball game

November 2012

11/01/12 Nashville-BPR hearing
11/01/12 Nashville-Meeting with Judges Summers, Woodall, Williams
11/01/12 Nunnally-Client visit at the The Ranch
11/02/12 Nashville-TLAP presentation for Municipal Judges Conference
11/02/12 Franklin-TLAP presentation for TAM with Judge Ross Hicks
11/05/12 Nashville-referral meeting with Foundations
11/07/12 Nashville-Smart Recovery Training
11/08/12 Nashville-Client Integrative Life Center
11/14/12 Kingsport-TLAP client meetings
11/14/12 Kingsport-Tri-Cities LIR Thanksgiving Dinner
11/15/12 Knoxville-TLAP client meetings
11/16/12 Nashville-Healthy Bar Party
11/26/12 Nashville-Referral meeting with Skill Set Organizing

December 2012

12/04/12 Nunnally-TLAP client sessions at The Ranch
12/05/12 Nashville-Tennessee Supreme Court 75th Anniversary Party
12/06/12-12/07/12 Nashville-BLE hearings
12/07/12 Nashville-TLAP presentation for NBA & Government Attorneys
12/07/12 Nashville-Meeting with Deputy Director of NC LAP
12/07/12 Franklin-TLAP presentation for TAM Conference
12/08/12 Nashville-Healthy Bar Party Wrap up brunch
12/11/12 Nashville-TLAP staff Christmas lunch with Shuttleworth Williams
12/12/12 Nunnally-TLAP client meetings at The Ranch
12/12/12 Memphis-TLAP LIR Holiday Party
12/12/12 Memphis-TLAP client meetings
12/13/12 Memphis-TLAP client meetings
12/17/12 Nashville-TLAP client intervention
12/19/12 Nashville-TLAP LIR Holiday Party
12/20/12 Nashville-TLAP sponsored CLE workshop- Law Office Management

II

TLAP PERSONEL AND COMMISSION

Laura McClendon, MA, CEAP, is responsible for all matters related to the operations of TLAP. Ms. McClendon began as Assistant Director for TLAP in 2001, and assumed the position of Executive Director in March, 2006. In 2010, Ms. McClendon served as Chair for the 23rd National Conference for Lawyer Assistance Programs in Indianapolis, Indiana. She is the current Chair of both the Life Balance and LAP Retreat Committees for the Commission on Lawyer Assistance Program (CoLAP), and remains a member of the CoLAP Conference Planning Committee. She has authored numerous articles in the field of substance abuse, stress, mood disorders, lawyer assistance programs, treatment, and more. She regularly speaks at conferences throughout the United States.

Ted Rice, M.Ed., LPC-MHSP, CEAP, has served as Deputy Director since October, 2006. Mr. Rice's role is to coordinate, monitor, facilitate, delegate, evaluate and assume responsibility for TLAP's clinical and organizational support. Mr. Rice travels extensively throughout the state, provides direct client services in each region, oversees law school education programs, and works extensively with both the Board of Law Examiners and the Board of Professional Responsibility.

Emily Lacey was hired as the full-time Program Coordinator in January 2006. She is responsible for conference planning, expenses and reimbursements, random urine drug screening, and compliance management of TLAP Monitoring Agreements. She also manages repayments for the Bill Cain Fund, and is on call after hours to answer TLAP crisis calls.

In May, 2010, TLAP hired Jessica Copeland, M.Ed., NCC, as the Clinical Outreach Coordinator. Jessica graduated in 2010 with her Master's Degree in Education (M.Ed.) from Vanderbilt's Human Developmental Counseling program and is working to become a Licensed Professional Counselor (LPC). Jessica works extensively with the law schools and the Board of Law examiners, conducts assessments for new clients, and provides on-going crisis stabilization services to those in need.

There were two new members appointed to the TLAP Commission in 2012:

Dean Virginia Moses Townzen, Nashville

Bruce G. Seidner, Ph.D., Knoxville

Commissioners Dr. Timothy P. Davis and Stephenson Todd both finished their terms as TLAP Commissioners. Cynthia Cheatham, James Cornelius Jr., Peter Harris, Ph.D. and Drew McElroy were all appointed for a second three year term. Jim Cornelius was appointed by the Court as Chair of the Commission beginning on June 1, 2012 and expiring on June 1, 2014. (Exhibit A)

III **FINANCIAL**

TLAP is a part of the Judicial Branch of State Government and is entirely funded by attorney annual registration fees, of which TLAP receives \$20.00 per licensed attorney. TLAP operates on a fiscal year: July 1st through June 30th. The TLAP budget for the 2011-12 fiscal year was \$446,100.00, of which TLAP spent \$468,097.62 (\$1,520.00 for revolving loan recipients) and collected \$307,190.55. The budget for the 2012-13 fiscal year is \$457,300.00.

TLAP operations have been consistently running over budget since hiring a fourth full-time staff position. The position, originally created in 2007, was partially funded for two years by a grant through the Office of Criminal Justice Programs (OCJP). As a result, TLAP statistics and outreach experienced exponential growth, creating the need to maintain the position after the grant had ended. Following the recommendation of the American Bar Association, TLAP solidified it as a permanent position in 2009. Fortunately, TLAP has been able to temporarily rely upon reserve funds in order to support this position.

Unfortunately, in addition to the expenses related to hiring a fourth full-time employee, there was a decrease in 2012 in the number of dues paying lawyers, which resulted in a \$4,520.00 loss to the TLAP budget. Also in 2012, a new rule was passed allowing

inactive attorneys to pay only half of the annual dues required, which will ultimately cost the program about \$39,000.00 a year. An increase to the \$20.00 provided to TLAP out of registration fees will have to be reviewed and considered in the near future.

It has become increasingly difficult to provide a financial report to the Commission at the end of the calendar year for two reasons: 1.) because of the AOC operating on a fiscal year, and 2.) because of the change in when attorney registration fees are collected.

TLAP was formerly able to know the approximate income from registration fees by the beginning of each calendar year, but now annual dues are required to be paid during the attorney's birth month instead of by the end of December. Because of this, TLAP will provide financial reports during the June Commission meeting as opposed to the Annual Commission Retreat that is always held the last weekend of January.

Bill Cain Fund

Beginning Balance: \$103,597.00

2008-2010	
Loans given	(\$60,450.00)
Donations	\$6,305.00
Repayments:	\$3,060.00
Balance at end of 2010	\$52,512.00
2011	
Loans given	(\$1,520.00)
Donations	\$1,820.00
Repayments	\$7,700.00
Balance at end of 2011	\$60,512.00
2012	
Loans given	(\$10,000.00)
Donations	\$4,550.00
Healthy Bar Party	\$1,379.00
Repayments	\$11,400.00
Balance at end of 2012	\$67,841.00

Revolving Loan, William B. Cain Fund

Impaired Tennessee attorneys who lack resources to directly pay for treatment services may receive loan assistance through the William B. Cain Fund. The fund was named in memory of Judge Cain, who served on the Tennessee Court of Appeals from 1998 until his death in 2007. Judge Cain had been a member of the Tennessee Judiciary since 1986 when he was appointed Circuit Court Judge for the 22nd Judicial District. He remained in that position until his 1998 appointment to the Court of Appeals, where he later served as presiding judge. He was an original member of the TLAP Commission.

Since 2008, the Cain Fund has received twenty five (25) applications. Two are currently pending and two were denied based on a lack of financial need. All but four of the loan recipients are actively making repayments on their loan. As expected, relapse was a contributing factor for the four recipients who have not yet started making loan repayments.

In 2012, the Bill Cain fund received donations from the following individuals, firms or agencies:

- Jim Cornelius
- Third and Church Healthcare (Exhibit B)
- Egerton, McAfee, Armistead & Davis
- Cindy Cheatham
Mendelson Law Firm
- Cleeton Davis Court Reporters
- Libby Sykes
- Mark Vorder-Breugge
- Thomason, Hendrix, Harvey, Johnson and Mitchell
- Howell Edmunds Jackson Chapter of the Inns of Court
- Hayden D. Lait

- TLAP contributed \$1,379.00 in proceeds from the Fourth Annual Healthy Bar Party, which was co-sponsored by the Nashville Bar Associations Health and Wellness Committee.

IV

HIGHLIGHTS OF 2012

Law School Outreach

TLAP staff members and volunteers speak at each of the six Tennessee law schools at least once during a calendar year. TLAP regularly speaks in new student orientations, ethics and professionalism courses, and events sponsored by student organizations. TLAP often presents in conjunction with Lisa Perlan, Executive Director of the Board of Law Examiners, in order to address the bar application process and character and fitness issues. Ms. Perlan joined the BLE in September 2012, and TLAP has been fortunate to continue the solid working relationship between the two agencies

The BLE regularly refers bar applicants with character and fitness issues to TLAP for assessments. Rule 7 § 10.5 allows for bar applicants who have a pattern of issues or incidents around mental health or substance abuse to be admitted to the practice of law based upon the condition of compliance with a TLAP monitoring agreement. In 2011, seven (7) bar applicants were conditionally admitted to the practice of law in Tennessee, and in 2012, fourteen (14) were conditionally admitted. Noncompliance with a conditionally admitted monitoring agreement is reported to the BPR, and the individual is immediately suspended pending further TLAP recommendations.

Due to the education around the bar application and conditional admission, law students are contacting TLAP earlier in the process, sometimes years before the bar application is completed. In addition, many law students self-refer to TLAP for issues unrelated to the bar application process.

Presentations and Marketing

The Tennessee Lawyers Assistance Program believes that intervention begins with

educating all segments of the bench, bar and law schools about addiction, mental health issues, compulsive disorders and recovery from those conditions. TLAP's efforts in this area remain constant—through presentations at law school orientations, professional responsibility classes, CLE seminars, county bar associations, and more. TLAP staff travels the state for presentations, interventions, TLAP sponsored social events, and to meet with clients or new referrals.

TLAP and a member of the TLAP Commission's Judicial Assistance Committee presented at least once at every judicial conference held in 2012. TLAP sponsored Dr. Kevin McCauley from the Institute of Addiction Study in Utah to speak at the October Judicial Conference. (Exhibit C) Dr. McCauley provided a two-hour CLE program on the medical aspects of addiction and received excellent feedback and high evaluation ratings. TLAP believes that the increase in judicial referrals in 2012 was a direct result of these presentations.

Numerous publications featured articles about TLAP this year, including but not limited to the *Memphis Commercial Appeal*, *Tennessee Bar Journal*, *Nashville Bar Journal* and the ABA's *Highlights Magazine*. The *Tennessee Bar Journal* continues to donate a TLAP monthly advertisement. (Exhibit D)

TLAP developed a new judicial brochure and general TLAP brochure. (Exhibit E) TLAP is revising both the Bill Cain Fund brochure and the law school brochure. The Board of Law Examiners has contributed information to the law school brochure explaining conditional admission and how the two agencies work together. TLAP continues to utilize its Facebook page and Twitter account.

Ms. McClendon was a speaker at two national conferences in 2012: The NOBC (National Organization of Bar Counsel) and the Aon Risk Solutions Law Firm Symposium. (Exhibit F) Both presentations resulted in additional national speaking engagements for 2013.

For the first time, TLAP was invited to speak at the hearing panel trainings for the Board of Professional Responsibility. A one-sheet guideline is provided to each member to use throughout the year. (Exhibit G)

CAMP TLAP

In April 2012, the 7th annual CAMP TLAP was once again held at Montgomery Bell State Park, with over one hundred and ten (110) participants, almost double the number of attendees from the first Camp TLAP in 2006. The event featured headline speakers John Koster from New York City, Linda Albert from Michigan, and Rob Weiss from California. (Exhibit H)

The 2012 “Stephenson Todd Volunteer of the Year” award was given to Bill Robilio, Shelby County Public Defender. Bill has been a volunteer mentor to fellow lawyers in crisis since TLAP was established in 1999. Prior to that, he worked with the Memphis Bar Association’s “Lawyers Helping Lawyers” Committee.

CAMP TLAP has been fortunate to have solid sponsorship support from treatment centers to help cover event expenses. Many TLAP volunteers paid the registration fees for participants who otherwise could not afford to attend. This year, TLAP offered extra CLE hours for \$25.00 an hour, raising an additional \$2,593.00.

CAMP TLAP has been extremely successful in bringing together TLAP clients, volunteers, commissioners, and their families. The retreat draws participants from surrounding states and across the country. The model and name has now been replicated in at least three other states.

TLAP Volunteers

Tennessee volunteers remain the cornerstone of TLAP. They provide peer support, serve as speakers, plan and participate in interventions, visit lawyers in treatment centers, offer rides to twelve-step meetings, help lawyers with family issues, and donate both time and

money. TLAP finds that individuals recovering from alcohol and drug addiction greatly benefit from sober activities. The TLAP softball team continued to be a favorite in 2012. In addition to the “Hootenanny” held in Dickson every year, TLAP sponsored a lake/boating party in Hendersonville, a barbeque in Johnson City, a winter holiday party in Memphis, a Thanksgiving party in Kingsport, and a Christmas open house in Nashville.

TLAP volunteers also run the Lawyers in Recovery (LIR) meetings across the state. Currently there are LIR meetings in Memphis, Nashville, Knoxville, Jonesboro, and Greeneville. In addition to the regular LIR meeting, Nashville also has a women’s meeting and a mental health support group.

TLAP redistricted the volunteer regions to more narrowly reflect where volunteers are located. TLAP is careful to make sure an updated confidentiality agreement is on file for each volunteer.

TLAP referral process

Treatment Centers

TLAP works diligently to stay up-to-date with treatment centers both locally and nationally. TLAP educates treatment centers on TLAP’s purpose, confidentiality, and services so that if an attorney admits to the facility without TLAP assistance, the treatment center can explain TLAP’s resources to the client and get him or her involved in the TLAP program. Treatment centers coordinate with TLAP regarding a client’s admission to treatment, duration of stay, discharge, and aftercare plan.

When a client informs TLAP that he or she is interested in treatment, TLAP provides the client with at least three (3) facilities that best meet the client’s needs, and the client chooses a facility based upon those recommendations. If the client is in need of a loan from the Cain Fund, their application is forwarded to the revolving loan committee and then to the full commission for a vote. Many treatment centers will offer a significantly

discounted rate for TLAP loan recipients.

TLAP also maintains a list of therapists, psychologists and psychiatrists who are familiar with TLAP and have experience working with lawyers. TLAP is careful to match each client with the appropriate provider.

TLAP continues to expand meeting options that fit the “abstinence based support group” requirement in monitoring agreements. Ted Rice and Jessica Copeland were trained and are now certified Smart Recovery facilitators, a non-faith based recovery group. TLAP also has clients participating in Celebrate Recovery and Restore Ministries, which are both faith-based support groups. In addition, TLAP sometimes approves meditation groups, depending on the format.

Organization and Office Management Resources

TLAP often receives referrals of individuals whose mental health or substance abuse issues have contributed to poor office management skills. This is particularly a problem with those in solo practice. Many of the referrals to TLAP from the BPR are because the respondent has failed to answer a disciplinary complaint. Often times these attorneys not only have difficulties with billing, prioritizing, and time management, but also with returning phone calls, responding to emails, and showing up for hearings on time.

To address these issues, TLAP consulted Ms. Sara Skillen of SkillSet Organizing, a professional organizer who worked as a paralegal for many years, but now specializes in helping people who have difficulty with office management. In December 2012, TLAP invited Ms. Skillen to present a pilot CLE to six TLAP participants who provided feedback to TLAP about the prospect of future CLE’s on this topic. All agreed that the training was both helpful and relevant.

TLAP intends to continue to work with Ms. Skillen, provide similar workshops throughout the state, and eventually develop a workshop that combines the primary mission of TLAP with office management education. Once the workshop is refined,

TLAP hopes the BPR will consider mandatory participation for respondents where failing to respond is the primary complaint.

TLAP Commission Rule Review Committee

TLAP created a new committee to review potential rule and policy changes. In 2012, suggested changes to both Rule 9 and 33 were submitted to the Court and posted for comment. These suggestions were developed to better define the relationship between TLAP and the BPR. (Exhibit I)

Monitoring Agreements

One of the goals set for 2012 was to combine all forms of TLAP Monitoring Agreements into one simple contract. This contract was redesigned and has been utilized by TLAP since April 2012. (Exhibit J)

CoLAP Annual Conference 2014

TLAP submitted a proposal to the ABA's Commission on Lawyers Assistance Programs requesting to host the CoLAP Annual Conference in Nashville in 2014. Nashville was unanimously selected. The International Lawyers in Alcoholics Anonymous also selected Nashville as its 2014 conference location.

This not only gives TLAP an opportunity to highlight the volunteers, supporters and achievements of the program, but will also create a venue to invite participants who may not be familiar with TLAP.

GOALS

TLAP achieved nine (9) out of the ten (10) goals that were set for 2012.

2012 Goals

1. Host the first TLAP Annual Dinner (this was tabled due to the focus on CoLAP

2014)

2. Redesign all brochures, including a new brochure about law school/conditional admission (two out of the four brochures have been completed)
3. Explore possibilities for a new TLAP position designed specifically to assist solo practice attorneys with office management issues (TLAP has been utilizing an office management consultant)
4. Explore opportunities for fundraising (TLAP raised additional money through the Healthy Bar Party and CAMP TLAP.)
5. Submit a site proposal to the ABA to host the CoLAP Conference in Nashville in 2014 (Nashville was selected)
6. Present at all judicial conferences across the state (accomplished)
7. Explore the idea of a JAG training/retreat (The Judicial Committee is always thinking of new ways to solicit judicial support)
8. Education and training for BPR staff (accomplished)
9. Education and training for BPR hearing panel members (accomplished)
10. Revise and combine all monitoring agreements into a single agreement (accomplished)

2013 Goals

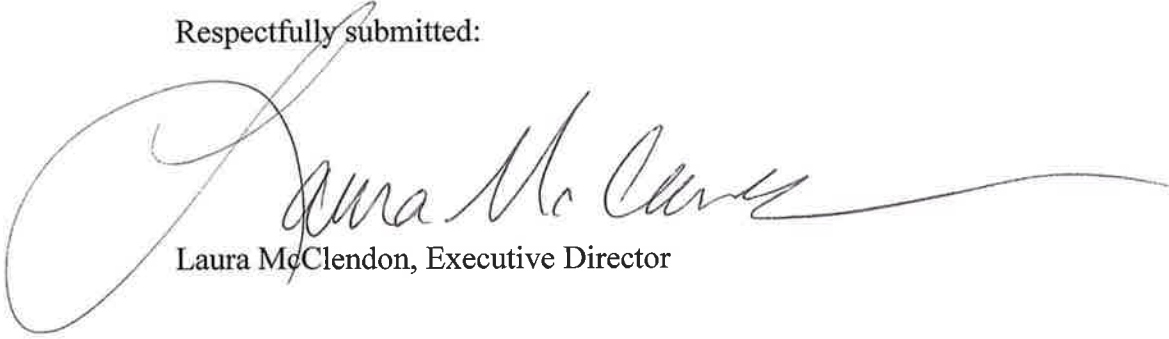
1. Prepare for the 2014 CoLAP and ILAA Conferences
2. Finalize the law school and Cain Fund brochures
3. Further develop office management training opportunities
4. Create a money-making CLE program that is appealing to all attorneys
5. Work on new topics to present at judicial conferences
6. Exhibit at conferences
7. Work with BPR to find more TLAP opportunities for assistance, such as including TLAP as a Practice and Professionalism Enhancement Program
8. Continue regular meetings with BPR disciplinary counsel
9. Redesign website to include a mobile version and a on-line method to make donations to the Cain Fund

10. Work with Judicial Records Task Force to develop a rule designed to distinguish between those records in the judicial branch that should be open to public inspection and those that should remain confidential

CONCLUSION

TLAP grows and expands due to the unwavering support from the TLAP Commission, Court, volunteers and participants. The staff is grateful for the opportunity to serve the Tennessee legal community. TLAP often receives letters of gratitude and praise which validate the necessity and benefit of the TLAP Program. (Exhibit K)

Respectfully submitted:

A large, elegant handwritten signature in dark ink, which appears to read "Laura McClendon". The signature is written in a cursive style with a long, sweeping horizontal line extending to the right.

Laura McClendon, Executive Director

EXHIBIT A

IN THE SUPREME COURT OF TENNESSEE
AT NASHVILLE

IN RE: TENNESSEE LAWYER ASSISTANCE PROGRAM

ORDER

It appears to the Court that the terms of the Commission to Administer the Tennessee Lawyer Assistance Program ("Commission") members Dr. Timothy P. Davis and W. Stephenson Todd will expire on June 1, 2012, and they are not eligible for reappointment. The Court wishes to recognize and thank Dr. Davis and Mr. Todd for their valued service and outstanding contributions as members of the Commission.

It appears to the Court that the terms of the Commission members Andrew Branham, Cynthia Cheatham, James Cornelius Jr., Peter Harris, Ph.D., and Drew McElroy will expire on June 1, 2012. Because of their valuable contributions and exemplary service to the Commission, and based upon their eligibility and willingness to accept a new appointment, under the provisions of Supreme Court Rule 33, the Court is pleased to reappoint Andrew Branham, Cynthia Cheatham, James Cornelius Jr., Peter Harris, Ph.D., and Drew McElroy to new three-year terms, beginning on June 1, 2012, and expiring on June 1, 2015.

The Court is pleased and honored to appoint new members Bruce G. Seidner, Ph.D., 5401 Kingston Pike, Suite 400, Knoxville, TN 37919, and Dean Virginia Moses Townzen, Nashville School of Law, 4013 Armory Oaks Drive, Nashville, TN 37204, to three-year terms, beginning on June 1, 2012, and expiring on June 1, 2015.

The Court is pleased and honored to appoint James Cornelius Jr. to a two-year term as Chair of the Commission, beginning on June 1, 2012, and expiring on June 1, 2014.

IT IS SO ORDERED.

FOR THE COURT:

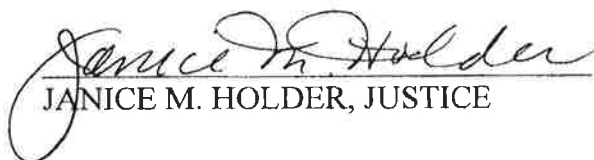

JANICE M. HOLDER, JUSTICE

EXHIBIT B



NEWS:

As many of you know my nurse Michelle's mother had been battling breast cancer and I am happy to say she is **CANCER FREE!** We want to thank everyone for thier support and encouragement through what was a very tough time for their family. So many thoughts, prayers and positive vibes were sent out and that type of energy works.

The holidays for me are a time to reflect, and everyday I walk into this place I feel so lucky. Thank you for allowing me to be part of your healthcare team.

3rd and Church Cares:

We donate a dollar for every B-12 shot administered both here at the clinic and off-sight to a local charity. I will be donating \$1000.00 to the Tennessee Lawyers Assistance Program (TLAP). TLAP offers numerous confidential services including: consultations, crisis stabilization, assessments, referrals, interventions, education, peer support services, ABA networking & outreach, anonymous support groups and more. Moreover, they are exceptional people. I will also be donating \$1000.00 to Eakin PTO as this fabulous school has been teaching my children for several years and I am eternally grateful. Please post your suggestions of a local charity on our Facebook page: 3rdandchurchhealthcare. Please email 3rdandchurchhealthcare@gmail.com if you are interested in having an **on-sight clinic** set up for your downtown business. **THE B-12 SHOTS ARE ONLY 10\$ WHICH IS HALF OF OUR COMPETITOR'S PRICE...AND WE WILL COME TO YOU!** We work with businesses of all sizes in the downtown and surrounding area so please feel free to contact us and we can set up a time and place for you. As an added bonus the nurse who comes out on sight will take **free blood pressures** on demand.

Small business spotlight

I have sent many patients, including myself, to the East Nashville Community Accupuncture center. Alexa Hulsey and the other accupuncurists are exceptional practitioners, courteous and thier prices are very reasonable. Please check out thier website below for more information.

www.eastnashvilleacupuncture.com

604 Gallatin Avenue #113 Nashville, TN 37206

EXHIBIT C



**TENNESSEE JUDICIAL
CONFERENCE
SPECIAL PRESENTATION**

"Pleasure Unwoven"

**with
Dr. Kevin McCauley**

Thursday, October 18th, 2:00-4:00

Dr. McCauley had a personal battle with addiction while he was serving as a Naval Flight Surgeon. Now he is the founder of the Institute of Addiction Study in Utah. He will share his story, while also explaining how the brain constructs pleasurable experiences, what happens when this process goes wrong, and why this can have a dramatic impact in our ability to make proper choices.

**Fabulous
Door
Prizes!**

MUST BE PRESENT TO WIN

2:00 drawing: \$50.00 Pre-paid Visa

3:00 drawing: \$100.00 Ruth's Chris Steak House

**4:00 drawing: \$200.00 Apple Gift Card
Price of iPhone 5!**

Kevin McCauley is a graduate of the Medical College of Pennsylvania. After completion of medical school, he joined the Navy and became a Naval Flight Surgeon. After earning his wings at Pensacola, Florida he was assigned to a Marine helicopter squadron (The Red Lions). Later he was transferred to Marine F/A-18 Hornet squadron (Sharpshooters). While working as a flight surgeon he treated pilots with alcohol and drug problems. He is a founder of the Institute of Addiction Study based in Utah.

Sponsored by The Tennessee Lawyers Assistance Program

5. Veterans Court

	Strongly Disagree	Neutral	Strongly Agree
The presenter demonstrated mastery of the topic		4.56	
The presenter was effective, clear & enthusiastic		4.67	
The presenter managed class time well		4.67	
The included materials were beneficial in understanding the topic		4.44	

The aspects of this seminar that were the most beneficial were:

The aspects of this seminar that were the least beneficial were:
I won't have a veterans court

Comments:

741-3508

6. TLAP Session- "Pleasures unwoven"

	Strongly Disagree	Neutral	Strongly Agree
The presenter demonstrated mastery of the topic		4.89	
The presenter was effective, clear & enthusiastic		4.72	
The presenter managed class time well		4.61	
The included materials were beneficial in understanding the topic		4.65	

The aspects of this seminar that were the most beneficial were:

Understanding disease concept, treatment of chronic addiction

Excellent presentation on elements of addiction and good insights in dealings with recovery

Information was new to me

The aspects of this seminar that were the least beneficial were:

Comments:

He should come back every 2 to 3 years

Speaker was very knowledgeable and interesting, excellent program

Fantastic speaker!

Minimal use in the courtroom but a lot of good information otherwise. These I can sue in the courts fore some defendants.

7. How would you improve future conferences?

Yes, especially for General Sessions and Municipal Court Judges who see a lot of usage issues & sell and distribution issues.

I am satisfied with our conference

8. What topics would you like addressed at future seminars? Please list any possible speakers and contact information if you know it:

THRA Cases

Contempts

How do you determine the credibility of parties and witnesses, who's not telling the truth?

Please turn your completed evaluation into the registration desk at the end of each day.

EXHIBIT D

HIGHLIGHTS

of the American Bar Association Commission on Lawyer Assistance Programs

VOL. 14, NO. 4 ■ WINTER 2012



Seeking Help for Substance Use Before the Bar Becomes a Bar

BY DAVID JAFFE

Substance Use and Abuse is a Problem Among Law Students

"Jane," a rising 2L, came to my office last week to share that she was off probation for her DUI charge. She thanked me for my counsel during the prior year, including the recommendation that she seek support from the local Lawyer Assistance Program (LAP). Jane also informed me that she had been attending a local AA meeting, and was both surprised and relieved to recognize several individuals from the law school. Outwardly, I expressed happiness for Jane that she was taking affirmative steps in addressing her situation. I assured her that her actions, while not guaranteeing success would only facilitate her ultimate admission to the bar, adding that what was paramount was that she was simultaneously taking care of her physical and mental well-being. Internally, though, I was troubled: "Just a few recognizable faces at the AA

meeting? Given the suspicion that a far greater number of law students are affected by issues involving alcohol (as well as drugs), were others attending different meetings, or is my ongoing concern about students in need not getting help being confirmed?" Substance use and abuse by students, including alcohol, performance-enhancing drugs such as Adderall and Ritalin, and other illicit drugs, exists at law schools throughout the United States.¹ Such behaviors by law students can adversely affect their academic (and, ultimately, professional) interests, along with their physical well-being. Stressors unique to law school, including a new vocabulary, the Socratic method, and limited feedback leaving some at least initially confused; higher levels of competition; increasing debt coupled with employment concerns; expectations from family members, are exacerbated for many by their undergraduate experience and concomitant experimentation in things illicit (or even legal). Law school can be an erratic time, one of excitement and anticipation, but also of transition and anxiety.

CONTINUED ON PAGE 5

The Reviews are In! The Smash New Drama "The Road to Redemption: Recovery and Reinstatement" is a Hit!

BY TRACY L. KEPLER

The stage was set...the Magnolia Ballroom of the Westin New Orleans, early morning of Saturday, February 4, the actors behind the scenes nervously running their lines amidst the high-fives and wishes of "Break a Leg," the buzz of the audience anxiously awaiting the dimming of the lights signaling the beginning of the show. And then, precisely at the strike of nine

a.m., as a hush came across the room, the curtain parted on stage revealing the courtroom and the drama to unfold in *In the Matter of Darrin William Stephens, Petitioner*.

A tad too dramatic? Maybe. But an apt description of the excitement and feeling of anticipation among the audience and the presenters for "The Road to Redemption: Recovery and

Reinstatement," the joint program presented by members of the ABA Commission on Lawyer Assistance Programs (CoLAP), National Organization of Bar Counsel (NOBC), Association of Professional Responsibility Lawyers (APRL) and National Council of Lawyer Disciplinary Boards (NCLDB) at their Mid-Year meetings in New Orleans.

This presentation was born out of

CONTINUED ON PAGE 9

Seeking Help for Substance Use Before the Bar Becomes a Bar

CONTINUED FROM PAGE 8

humanizing_lawschool/booklet.html

7 The VIA (Values in Action) survey (www.viacharacter.org) is an increasingly popular vehicle for assessing one's character strengths.

8 See "State and Local Lawyer Assistance Programs" at <http://apps.americanbar.org/legalservices/colap/>

9 <http://www.wcl.american.edu/studentaffairs/> ("Staying Healthy Video"; also available in hard copy upon request)

10 http://apps.americanbar.org/legalservices/colap/downloads/Substance_Abuse_in_Law_Schools.pdf

11 A number of schools in recent years, for example, have moved away from open bars at on-campus and/or off-campus events, citing both the expense and the wrong message being sent.

12 Students alternatively should order a non-alcoholic drink either openly or separately if they feel more comfortable doing so.

DAVID JAFFE, Dean of Students at American University Washington College of Law.

In addition to counseling students on these and other matters, Dean Jaffe currently serves as committee chair of the District of Columbia Bar Lawyer Assistance Program. He is a member of the ABA Commission on Lawyer Assistance Programs (CoLAP) and serves as chair of CoLAP's Law School Assistance Committee. He can be reached at djaffe@wcl.american.edu.

The Reviews are In! The Smash New Drama "The Road to Redemption: Recovery and Reinstatement" is a Hit!

CONTINUED FROM PAGE 1

the vision of Jeanne Marie Leslie, Director of the Alabama Lawyer Assistance Program, and members of the Alabama Bar. They were looking to create a unique and interactive way to educate the Bar on various rules and regulations related to reinstatement proceedings while also

highlighting issues and situations that arise when substance abuse/dependence concerns are involved. They drafted a fact pattern, created pleadings and recruited members of the Bar, the judiciary and LAP to play roles in a mock reinstatement proceeding based on a compilation of real-life disciplinary cases. This program was first presented during the 2011 Annual Meeting of the Alabama State Bar to rave reviews. As the accolades kept rolling in, members of CoLAP and then-NOBC Liaison, Tracy Kepler, started thinking that this program might be the perfect candidate for a joint program between the two groups at the ABA and NOBC Mid-Year meetings in New Orleans. Not only were the members of the NOBC Planning Committee excited, but members of APRL and NCLDB jumped on board when they heard of the idea.

While the original fact pattern had to be tinkered with a bit to make it relevant for an audience of jurisdictions from across the nation and Canada with similar but different rules and regulations for reinstatement proceedings, the Case of Darrin Stephens began to take shape. The groups, which, in addition to the "actors" included CoLAP members Judge Sallie Krauss, Eileen O'Brien, Karen Kahle, Joan Bibelhausen, and Michael Cohen, decided that since our target audience already had a firm grasp on the "ins and outs" of a reinstatement proceeding, the focus should really be about explaining the roles and functions of LAP directors, LAP monitors, and also some discourse on how to best deal with those questions that are routinely asked of attorneys and their clients when substance abuse issues are involved; questions such as "How can we be assured that Petitioner will not engage in this behavior in the future?", "Can you give us a guarantee that this will not happen again?", and "What is Petitioner's risk to relapse?"

Prior to the start of the program, the audience was provided with a fact pattern relating to Petitioner, Darrin Stephens', background, and Stephens' own statement in support of his petition for reinstatement. Darrin Stephens, played by Michael Stewart (CoLAP-AL), was a successful Massylvania attorney with a general practice, who always loved to drink, but never had any major consequences. That is, until he did. His

drinking increased dramatically with the arrival of his live-in, mother-in-law, Endora. His situation worsened following his back surgery and subsequent dependence on the pain medication, Lortab. His work began to slip, he was having problems at home, and clients began to complain to his boss, Larry Tate, and to the Bar about his behavior. Initially, Darrin managed to forestall formal disciplinary proceedings, but as more complaints came in, including one where Darrin had taken a \$5,000 retainer from his client, Ward Cleaver, performed no work on the matter and then failed to refund the unearned portion of the funds when asked, the Bar had to take action. Darrin failed to respond to the Bar's requests for information, and he was summarily and immediately suspended. Upon receipt of the notice of the suspension of his license, Darrin picked up the phone and called the Director of the Massylvania LAP, played

"How can we be assured that Petitioner will not engage in this behavior in the future?"

by Laura McClendon (CoLAP-TN). He signed a contract, and among other things, went in to a 90-day treatment program, started seeing a psychiatrist, and was assigned an attorney monitor, played by Buddy Stockwell (CoLAP-LA). A few months after his release from treatment, Darrin relapsed; however, he contacted McClendon, admitted the relapse and accepted responsibility for his actions. Since that time, Darrin complied with the requirements of the LAP monitoring agreement and remained sober. In order to regain his law license, Darrin would need to petition for reinstatement to the Massylvania Bar and to resolve the grievances filed against him by his former clients, including a refund of the unearned retainer fees. He hired counsel, played

CONTINUED ON PAGE 11

Robilio named volunteer of year for assistance to fellow Memphis lawyers

By Lawrence Buser

Thursday, April 5, 2012

Memphis lawyer Bill Robilio has been named the Stephenson Todd Volunteer Attorney of the Year by the Tennessee Lawyers Assistance Program, which provides confidential help for lawyers with health and personal issues such as stress or substance abuse.

Robilio, a member of the Shelby County Public Defenders Office, has been a volunteer mentor to fellow lawyers in crisis since TLAP was established in 1999.

Prior to that, he worked with Lawyers Helping Lawyers, a similar service of the Memphis Bar Association.

"Bill certainly deserves the award," said Circuit Court Judge Robert Childers of Memphis, former chair of the American Bar Association Commission on Lawyer Assistance Programs. "He has volunteered hundreds of hours of his time in assisting lawyers and judges who are struggling with impairment issues. He has been a leader in TLAP's efforts to educate and assist members of our profession."

Robilio received the award at TLAP's recent annual retreat at Montgomery State Park.

The award is named for Todd, a Kingsport attorney, who helped create the TLAP commission and served as its first chair.



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for the judgment of the lower tribunal.¹⁹ The court reviews the manner in which the lower tribunal reached its decision and not the decision itself.²⁰

The common law writ remains in place to cover agencies and tribunals for which review is not otherwise provided by statute.²¹ While the UAPA²² alone provides the scope and procedure for reviewing the administrative decisions of most state agencies, it is inapplicable to certain agencies, including the parole board, the board of claims, and the state election commission.²³ As a result, if an inmate seeks to review a decision of the parole board, she must use the common law writ of certiorari.²⁴

Common law certiorari is considered an extraordinary remedy and is not granted as of right but is granted or

denied within the sound discretion of the trial court.²⁵ Tennessee statutes state that the writ should only be granted when "there is no other plain, speedy, or adequate remedy."²⁶ This provision does not impose a strict exhaustion of remedies requirement on petitions for writs of common law certiorari.²⁷ Rather, it "reflects a reviewing court's prudential obligation to stay its hand and to decline to disrupt on-going proceedings when timely and adequate relief for the perceived wrong is available either in the on-going proceeding or elsewhere."²⁸

In addition to serving different purposes, writs of certiorari and declaratory judgments provide relief from different types of actions. Declaratory judgments are available to one who seeks to invalidate a legislative action, while common law certiorari is available to review judicial

or quasi-judicial actions.²⁹ For example, the proper vehicle for one seeking to overturn a *determination* of the Board of Zoning Appeals is common law certiorari.³⁰ However, the proper vehicle for one seeking to invalidate an *amendment* to the zoning regulations themselves is a declaratory judgment.³¹

As set forth above, common law certiorari involves review of judicial or quasi-judicial actions. The term "judicial" indicates that the actions at issue were taken by officers who made determinations upon a record at a hearing required by law.³² The lack of a record may indicate that the lower tribunal's decision is not reviewable with a common law writ of certiorari. For example, a local ordinance provided that the Metropolitan/Nashville Police Department

Continued on Page 20 ➔

The Nashville Bar Association's Health and Wellness Committee announces:

THE FOURTH ANNUAL HEALTHY BAR PARTY

SPONSORED BY THE TENNESSEE LAWYER'S ASSISTANCE PROGRAM

Nov. 16, 2012

10:30 a.m. – 3:30 p.m.

At Waller

**511 Union St. Suite 2700
Nashville, TN 37219 - 7160**

Cost: \$30

This includes lunch and presentations

Registration coming soon.

**Contact emily.lacey@tncourts.gov for
more information.**

JUDGE ROBERT L. CHILDERS RECEIVES JUDICIAL SERVICE AWARD

June 11 2012

From the Tennessee Bar Association

Memphis Circuit Court Judge Robert L. Childers was honored with the Tennessee Bar Association's Justice Frank F. Drowota III Outstanding Judicial Service Award today at the group's annual meeting in Memphis. The Drowota Award is given to a judge or judicial branch official of a federal, state or local court in Tennessee who has demonstrated extraordinary devotion and dedication to the improvement of the law, the legal system and the administration of justice as exemplified by the career of former Supreme Court Justice Frank F. Drowota III – the award's first recipient.



Memphis Circuit Court Judge Robert L. Childers

Judge Childers was recognized for his work with the Tennessee Lawyers Assistance Program (TLAP) – a confidential service for attorneys struggling with addiction, depression, anxiety, stress and burnout, anger or grief. Childers was one of the first commissioners appointed to the TLAP management board when the Tennessee Supreme Court created the program in 1999, and has been a consistent supporter of the statewide program, as well as local programs administered by bar associations and other legal organizations. He is recognized as a national leader for lawyers' assistance programs, Immediate Past President Danny Van Horn said when he presented the award.

Judge Childers started practicing law in Memphis in April 1975 and was elected Division Nine Circuit Court judge in 1984. He is a former president of the Tennessee Judicial Conference and the Tennessee Trial Judges Association. He also has been involved with community efforts to address the problem of domestic violence, serving as a member of the Shelby County Domestic Violence Council since 1995.

Childers earned his law degree in 1974 from the University of Memphis Cecil C. Humphreys School of Law.



*"You don't have to be
reachable 24 hours a day
to be a great lawyer.
Disconnect and rest."*

Time for Renewal and Reflection

April in Tennessee means spring is here. As we see our beautiful state come to life again, it is important that we as attorneys take the time to do the same. Our profession is tough enough. With the time pressures of clients, recent legislative changes, the need to make payroll and a host of other pressures, it is no wonder that exhaustion, depression and substance abuse are serious issues in our profession.


There is no shame in recognizing that we are human in a sometimes inhumane world. To be the kind of lawyers, spouses, parents, friends and people that we want to be, it is necessary to step back every now and then and actually smell the roses and heal up.

Many are concerned about the stigma of admitting that we need some time off or that we need help in one area or another. That is absolutely understandable. Just know that as a profession and as an association, we stand shoulder to shoulder with you. You don't have to be alone in facing whatever you are facing. The Tennessee Lawyers' Assistance Program (TLAP) does great work and does it in private. Addressing issues before a client is harmed or before you suffer significant damage is the responsible and caring thing to do. Work with TLAP doesn't have to mean a disciplinary referral. Unfortunately, far too many let problems fester to the point that they become a disciplinary problem. Don't let that happen to you. Be caring enough and be professional enough to safeguard others while taking care of your own health.

Even if you aren't facing a serious health issue like depression or substance abuse, it is important that we all just take the time to step away from it all. Change

your phone message and leave an outgoing e-mail message to let folks know that you are unavailable for a few days. Then comes the hard part — actually turn off your cell and don't check your e-mail.

You don't have to be reachable 24 hours a day to be a great lawyer. Disconnect and rest. You'll be amazed at how much better you'll be able to think about that tough matter or how much more productive you will be. I recently met a lawyer who told me that he had not taken a vacation in more than three years! That's just not healthy.

We all need a little time to renew. Rest, prayer and quiet time are all really important in any profession. In a stressful one like ours, they are doubly important. So, here's to hoping that you will take the time to step away, pray, reflect and, if necessary, get help. We are here to help if we can and so is the Tennessee Lawyers' Assistance Program. [To learn more about TLAP and its services, read "A Way Out," in the July 2011 *Tennessee Bar Journal*, online at www.tba.org/journal/archive/2011-07.] 

TBA President DANNY VAN HORN is a partner with Butler, Snow, O'Mara, Stevens and Cannada PLLC in Memphis.

YOU NEED TO KNOW

LICENSURE & DISCIPLINE

Reinstated

The following attorneys have been reinstated to the practice of law after complying with Section 20 of Supreme Court Rule 9, which requires the payment of annual registration fees to the Board of Professional Responsibility:

Kathleen Lynn Chambers, San Ramon, Calif.

Anthony William Desmond, Knoxville

John Michael Moody II, Fort Lauderdale, Fla.

The following attorneys have been reinstated to the practice of law after complying with Section 20 of Supreme Court Rule 9, which requires the payment of annual registration fees to the Board of Professional Responsibility, and Supreme Court Rule 43, which requires certification that a lawyer's funds are held in an account participating in the Interest on Lawyers' Trust Accounts (IOLTA) program:

William Lynn Campbell Jr., Nashville

Sally French Paulson, Memphis
Jesse Frank Randle, Germantown

Brian K. Roberts of Fairbanks, Alaska, was reinstated to the practice of law on May 30 after complying with Supreme Court Rule 21, which requires mandatory continuing legal education.

Knoxville lawyer **David A. Lufkin Sr.** was reinstated to the practice of law on May 15. He had been suspended in 2009, retroactive to October 2006. On Aug. 25, 2011, Lufkin filed a petition for reinstatement. The Supreme Court granted his request but also imposed a requirement that he engage a practice monitor for one year and pay the costs of the proceeding.

Nashville lawyer **Parrish B. Stanton** was reinstated to the practice of law on May 22. He was suspended on Oct. 14, 2010, for 18 months, retroactive to 2009. The reinstatement requires that he pay restitution; attend support groups with the Tennessee Lawyers Assistance Program twice a month for one year; acquire 10 of the required continuing legal education hours in the subject area of criminal law; engage a practice monitor for one year; and pay the costs of the reinstatement proceeding.


Disciplinary

Censured

Nashville lawyer **Colin Michael Daly** was publicly censured by the Tennessee Supreme Court on May 22 for practicing law while his license was administratively suspended after he failed to timely pay his annual registration fees. The court determined that his actions violated Rule 5.5 of the Rules of Professional Conduct.

Knoxville lawyer **Lisa Anne Temple** was publicly censured on May 25 after the state Supreme Court found that she accepted representation of a client while she was suspended from practicing law. In addition, the court found that she made misrepresentations to the client about whether she had filed the client's divorce. Temple submitted a conditional guilty plea and agreed to the censure. Her actions were found to have violated Rules of Professional Conduct 1.4, 1.5, 5.5, 8.1 and 8.4(a)(c) and (d).

Suspended

The Supreme Court of Tennessee temporarily suspended the law license of **Mark Kelley Braswell** on May 22 for his failure to respond to a complaint of ethical misconduct. Braswell is licensed in Tennessee but maintains an office in Washington, D.C. The suspension remains in effect until dissolution or modification by the court. 

Problems are not signs of failure but opportunities for growth ...

We provide consultation, referral, intervention, education, and peer support services for lawyers, judges, bar applicants, law students and their families.

All calls are confidential and free. If you or someone you know is suffering from **stress, anxiety, burn-out, grief, major life changes, depression and/or substance abuse problems**, call the **TENNESSEE LAWYERS ASSISTANCE PROGRAM**

1-877-424-TLAP



EXHIBIT E

TLAP STAFF

TLAP employs a full time professional staff, consisting of experienced mental health professionals, uniquely qualified to help lawyers, judges, law students and those concerned about their well-being

TLAP COMMISSION

The Tennessee Supreme Court appoints commission members to administer the TLAP program. Commissioners are appointed for three-year terms. The TLAP Commission provides consistent and valuable leadership, direction, consultation and guidance for the TLAP staff and volunteers in their work. The TLAP Commission is a critical component of the services provided through TLAP and helps with the ongoing development and implementation of TLAP policies, procedures and the resolution of specific issues and concerns as they may arise.

TLAP VOLUNTEERS

TLAP volunteers are lawyers, judges and law students who wish to contribute to the legal community by helping others. Many volunteers are individuals who have experienced challenges with substance use or mental health disorders of their own, or with individuals who are close to them. Volunteers are trained to provide peer counseling, interventions, presentations, event planning and more. TLAP volunteers are governed by the same confidentiality requirements as the TLAP staff and are relieved of their duty to report ethical violations discovered as a result of their TLAP work. **TLAP is always recruiting new volunteers and encourages interested parties to contact the TLAP office for more information.**

TLAP provides a **crisis hotline** for clinical emergencies outside of business hours. Call **1-877-424-TLAP** and press "2." An on-call staff person will return your call as promptly as possible.

TLAP Can Help.

TLAP | 200 4th Avenue North | Suite 810 | Nashville, TN 37219

Local: (615) 741-3238 | Toll Free: (877) 424-8527

Fax: (615) 741-3508

Website: www.tlap.org



A Confidential EAP Service for the Legal Profession



When You Need Assistance
TLAP PROVIDES CONFIDENTIAL HELP

877.424.8527



What is the Tennessee Lawyers Assistance Program (TLAP)?

TLAP offers help to law students, judges, and attorneys troubled by substance abuse, psychological disorders, and similar impairments which may affect an individual's ability to practice law in a competent and professional manner.

Why is TLAP Important?

18% of lawyers suffer from alcoholism
33% of lawyers suffer from significant mental health issues
19-33% of lawyers suffer from depression

The **incidence of depression is higher** for the legal profession than any other profession

TLAP is:

FREE: There is no fee for services.

ANONYMOUS: TLAP accepts anonymous referrals from individuals who have concerns about a fellow colleague, law student or judge.

CONFIDENTIAL: All communications with TLAP are confidential and shall be governed by the laws pertaining to attorney client privilege by virtue of Rule 33 of the Rules of the Supreme Court of Tennessee and T.C.A. Sec. 23-4-101, et seq.

TLAP OFFERS NUMEROUS SERVICES

- Consultation
- Assessment
- Interventions
- Support groups
- Education and presentations
- Peer support services
- Critical incident debriefings
- Crisis stabilization

TLAP HELPS WITH A VARIETY OF ISSUES

- Stress and Burnout
- Anxiety
- Depression problems
- Work/life balance
- Substance abuse
- Co-dependency/relationship issues
- Conflicts with colleagues or family
- Disciplinary or legal concerns
- Compulsive behaviors
- Grief and loss

SIGNS AND SYMPTOMS

Substance Use Disorders

- Drinking or use of drugs to bolster courage, calm nerves, improve performance or deal with difficult people or situations
- Drinking or use of drugs on the job or during the day, before appointments, meetings, depositions or court appearances
- Failing to show for appointments, meetings or failing to return phone calls
- Declining quality and quantity of work product
- Avoiding law partners, office staff, colleagues, friends, family, or clients
- Drinking or using drugs alone, making excuses for, or lying about, frequency or amount
- Driving under the influence (regardless of whether discovered)
- Experiencing blackouts or memory lapses

Depression

- Constant feeling of sadness or hopelessness
- Lack of interest in people, things or activities
- Increased fatigue or loss of energy
- Increased restlessness or irritability
- Noticeable change in appetite or weight
- Noticeable change in normal sleep pattern
- Isolation from family and friends
- Feelings of guilt or worthlessness
- Diminished ability to remember, think, concentrate or make decisions
- Thoughts of death or suicide

TLAP Helps Attorneys with Disciplinary Issues.

TLAP may accept referrals of lawyers, judges, or bar applicants under investigational, provisional, or probational status with the Tennessee Board of Professional Responsibility, Tennessee Board of Judicial Conduct, Tennessee Board of Law Examiners or any disciplinary agency with disciplinary authority; however, TLAP never initiates a complaint. Information and actions taken by TLAP are privileged and shall not be disclosed to any disciplinary authority unless such disclosure is authorized by the member of the legal profession to whom it relates.



TENNESSEE **LAWYERS ASSISTANCE** PROGRAM
200 4th Avenue North
Suite 810
Nashville, TN 37219

TLAP Can Help.

Confidentiality: When you call TLAP, you can be sure that **complete confidentiality** will be maintained. The Tennessee Supreme Court has established TLAP as an approved impaired lawyers program pursuant to Rule 33 of the Rules of The Supreme Court of Tennessee. By virtue of said rule, all communications with TLAP are confidential and members of TLAP are relieved of their duty to report ethical violations discovered as a result of their TLAP work. This means that misconduct or an ethical violation discovered by or revealed to a member of TLAP will **not** be reported to any disciplinary body or to anyone else for that matter. Additionally, communications with TLAP are confidential and privileged by virtue of T.C.A. Sec. 23-4-101, et seq.



TENNESSEE **LAWYERS ASSISTANCE** PROGRAM

TLAP



Confidential Assistance for Tennessee Judges

Life is hard and presents us with many obstacles and challenges every day.

When **you or a colleague needs a listening ear** or someone to turn to, **TLAP can help.** Using trained volunteer judges and lawyers, we provide **peer assistance, support,** and **guidance** to fellow judges, lawyers, law students, and bar applicants.

When You Need Assistance

TLAP PROVIDES CONFIDENTIAL HELP

Like all members of the legal profession, judges sometimes face problems — stress, depression, balancing work and family, alcohol or drug abuse, and compulsive behaviors.

But as a judge, the problems you face are more likely to go unnoticed and untreated because of the very nature of your role in the legal system:

- You work in isolation, often shielding your problems
- Colleagues and associates may be hesitant to talk with you
- You may be reluctant to seek help because of fear, denial, and embarrassment — even hopelessness
- Above all, you may be concerned about your problems becoming known and negatively impacting your status and reputation

Never again will a judge have to say there was nowhere to turn for help.



Concerned About A Judicial Colleague?

TLAP HELPS YOU HELP THEM

On the bench and in the courtroom, you are often in the best position to see problems or impairment in your colleagues. Lawyers often are reluctant to initiate judicial intervention for fear of retaliation by the impaired judge or alienation of other judges.

You can help others most effectively by contacting TLAP and using the support of trained TLAP volunteers who understand the issues and are genuinely concerned about helping their judicial colleagues.

The assistance process is always conducted with confidentiality, respect, and concern. Helping a colleague in need is the honorable thing to do.



TLAP Needs Your Help

YOU PLAY A CRITICAL ROLE IN TLAP SERVICES

You can play a critical role as a trained TLAP volunteer, since you understand the day to day stressors of the job, the system, and the culture of being a judge. While many judges have participated in our training to become judicial volunteers, TLAP needs more judges in all regions of the state. There is no requirement that a volunteer be in recovery. All that is required is that you care and want to help.

Helping members of the legal community as a TLAP volunteer can be meaningful and personally rewarding. If you are interested in becoming one of our volunteers, contact TLAP at **877-424-TLAP (8527)** for information about the next volunteer training event.



It's Free! It's Anonymous! It's Confidential!



Has an Impaired Lawyer Appeared Before You?

YOU'RE IN A POSITION TO HELP

As a judge, you are in a unique position to recognize impairment in the lawyers who appear before you. Sharing your concerns with other trained judges about the behavior of an attorney can help identify someone who needs help. Most warning signs, such as changes in personality and job performance, are key indicators that something is wrong.

A perceptive, understanding, but assertive judge can cut through the denial, enabling, and indifference to reach the impaired attorney as no one else can. Contact TLAP when you have a concern about an attorney.

TLAP has over three hundred trained judicial and attorney volunteers ready to offer support and guidance. The program volunteers, combined with professional TLAP staff, offer prompt response to many problems legal professionals face.

TLAP | 200 4th Avenue North | Suite 810 | Nashville, TN 37219

Local: (615) 741-3238 | Toll Free: (877) 424-8527 | Fax: (615) 741-3508

Website: www.tlap.org

EXHIBIT F

Laura McClendon - The Road to Redemption: Recovery and Reinstatement

From: "Sara G. Rittman" <sara.rittman@mo-legal-ethics.org>
To: "Mulvenna, Maureen (mmulvenna@iadc.org)" <mmulvenna@iadc.org>, "fpkeo@aol.com" <fpkeo@aol.com>, "Cynthia Bullington(ccbullington@agcmi.com)" <ccbullington@agcmi.com>, "slee@lioneandlee.com" <slee@lioneandlee.com>, "laura.gatrell@tncourts.gov" <laura.gatrell@tncourts.gov>, "mstewart@bradfordhealth.net" <mstewart@bradfordhealth.net>, "mtheriot@LN-law.com" <mtheriot@LN-law.com>, "buddy@louisianalap.com" <buddy@louisianalap.com>
Date: 7/12/2012 11:09 AM
Subject: The Road to Redemption: Recovery and Reinstatement

This is an extremely belated thank you for The Road to Redemption: Recovery and Reinstatement presentation at the NOBC meeting in February. As we are approaching the next meeting, I am aware of those things left undone. Thanking you for an extremely informative and interesting presentation is one of those things. It was readily apparent to all that you spent a great deal of time preparing this presentation so that it would be relevant and presented in an interesting format.

NOBC greatly appreciates your willingness to prepare and present the program to us. The evaluations reflect that the program was well received.

Once again, I am sorry for the delay in thanking you but the thanks are no less warranted or sincere.

Sara Rittman, President
National Organization of Bar Counsel
www.nobc.org
Legal Ethics Counsel
217 E McCarty
Jefferson City, MO 65101-3112
573-638-2263
fax 635-8806
Sara.Rittman@mo-legal-ethics.org
www.mo-legal-ethics.org



Aon Law Firm Symposium

The Roosevelt New Orleans

October 10-12, 2012

Friday | October 12, 2012

8:00-9:00 a.m. Breakfast

9:00-10:00 a.m. **The Trial of a Legal Malpractice Case**

Relatively few legal malpractice claims or claims by third-parties against large and sophisticated law firms go to trial, but when they do, the proceedings can open firms' eyes in new and sometimes alarming ways. Trials can be difficult and stressful for all involved; they consume lawyers' time and drain their energy. Of course, firms and their insurers must be prepared to try even difficult cases, lest they be held hostage by claimants. This panel of experienced defense lawyers will discuss the issues that law firms should take into account as cases against them approach trial, as well as challenges and opportunities that surface once the trial curtain rises. Pretrial motions, common evidentiary issues, the good and bad aspects of lawyers as witnesses, the use of experts, settlement opportunities, and more—it will all be on the table here.

Moderator: Douglas R. Richmond, *Aon Professional Services*

Panelists: Nancy J. Marshall, *Deutsch Kerrigan & Stiles*

Michael L. O'Donnell, *Wheeler Trigg O'Donnell LLP*

Pamela Phillips, *Arnold & Porter LLP*

10:00-10:15 a.m. Mid-Morning Break

10:15-11:15 a.m. **So Basic, But So Important: Engagement Letter Approaches, Conditions, and Terms**

All firms now appreciate the importance of well-crafted engagement letters, but is it fair to ask what qualifies an engagement letter as "well-crafted"? Beyond defining the scope of the representation and spelling out how fees and expenses will be charged, what provisions (a) are firms including in their engagement letters or (b) should they be focusing on? On what issues do clients push back and what of the "battle of the forms," as corporate clients employ their own engagement terms? To the extent there are engagement letter best practices, what are they? This panel will explore possible answers to these questions and others. The seemingly basic subject of engagement letters is, in fact, critically important to all firms.

Moderator: Henry S. Bryans, *Aon Professional Services*

Panelists: Harry D. Cornett, Jr., *Tucker Ellis LLP*

Robert M. Rolfe, *Hunton & Williams LLP*

Michael J. Sweeney, *Sidley Austin LLP*

11:15-12:15 p.m. **The Depressing Problem of Impaired Lawyers**

Attendees at our 2011 Symposium heard the story of a preeminent regional law firm that was plunged into controversy by the destructive behavior of a respected lawyer with unrecognized mental health issues. Sadly, a disturbing number of lawyers suffer from alcohol abuse, chemical dependency, depression, gambling addiction, and other mental health and personality disorders. Impaired lawyers pose a very real professional liability risk to firms, and they are a sad and unhappy danger to themselves and others. Impaired lawyers are not just a small firm and solo practice phenomenon; to the contrary, they walk the halls of many of the country's finest law firms. How do we recognize them? How do we help them? What do we do to manage and mitigate related risks? These are essential questions for law firm general counsels and leaders.

Moderator: Brian S. Faughnan, *Thomason Hendrix Harvey Johnson & Mitchell PLLC*

Panelists: William R. Leary, *Lawyers Assistance Program, Inc. (Ret.)*

Laura McClendon, *Tennessee Lawyers Assistance Program*

12:15 p.m. Closing Remarks and Adjournment

EXHIBIT G

TLAP is an agency of the TN Supreme Court: TLAP is a confidential service under Supreme Court Rule 33 and T.C.A. Sec. 23-4-101.

TLAP assists with a variety of issues: stress and burnout; anxiety; depression and other mood disorders, such as bipolar disorder; anger management; vicarious trauma; post-traumatic stress disorder; balancing the demands of practice and family; substance abuse; process addictions- such as food, sex, gambling; grief and loss.

TLAP offers numerous services: consultations, crisis stabilization, assessments, referrals to outside resources, interventions, education, peer support services, ABA networking & outreach, anonymous support groups, and monitoring.

TLAP helps attorneys with disciplinary issues: Rule 33.07 (A): "TLAP may accept referrals of lawyers, judges or bar applicants under investigational, provisional or probational status with the BPR, COJ, or BLE, or any other disciplinary agency with disciplinary authority." Rule 33.07 (B): "When TLAP accepts a referral under Rule 33.07 (A), TLAP may provide progress reports or reports of substantial noncompliance [...] which may be used as evidence in any proceeding or appeal...." A respondent may be referred to TLAP *prior to, during, or subsequent* to a board panel hearing.

TLAP Monitoring Agreements: TLAP monitoring services may be voluntary, or may include mandatory reporting to a disciplinary agency. TLAP monitoring agreements are individually tailored to address Axis I/dual diagnosis issues, primarily mood and substance use disorders. As part of monitoring, participants may be required to attend therapy sessions, self-help groups, treatment programs, aftercare meetings, and/or lawyers in recovery meetings. All participants are required to submit to random urine drug screens, provide monthly documentation to the TLAP office, and meet regularly with an assigned a volunteer Peer Monitor. Referral to psychiatry services and management of psychotropic medication are sometimes included in the agreement.

TLAP testimony: If a respondent has been referred in writing by the Board of Professional Responsibility, TLAP may provide information regarding the respondent's participation in the TLAP program. TLAP will also occasionally appear at hearings to testify to the compliance or noncompliance of a monitored participant.

TLAP evaluations: TLAP will evaluate **ANY** attorney to determine if TLAP services are appropriate and to make recommendations for care. If TLAP services are deemed appropriate, and if those services are mandated by court order, it is suggested that the wording in the order is clear and specific, such as "Respondent shall contact the Tennessee Lawyers Assistance Program ("TLAP") for evaluation. If TLAP determines that a monitoring agreement is appropriate, Respondent shall comply with the terms and conditions of the TLAP monitoring agreement."

Tennessee Lawyers Assistance Program
Contact Name: Laura McClendon, Executive Director
Phone: 615-741-3238 or 877-424-TLAP laura.mcclendon@tncourts.gov

EXHIBIT H



INFORMATION

7th Annual

CAMP TLAP 2012

March 30th - April 1st

Montgomery Bell State Park

COST:

The registration fee is \$100.00 and includes retreat programs, three hours of CLE credit, Saturday night banquet and light refreshments. Additional meals are available in the hotel restaurant. This year seven CLE credit hours are available. Any credit above three hours can be paid for onsite for \$25.00 per credit hour.

WHEN:

Friday night, March 30th, 2012, through Sunday morning April 1st, 2012.

RESERVATIONS:

Hotel reservations are to be handled directly with the State Park's Inn by calling: 1.800.250.8613

Please request the TLAP rate of \$49.95.

SATURDAY NIGHT BBQ & SPEAKER:

John K. holds an undergraduate degree from the University of Notre Dame and a law degree from the University of Michigan. Following service as a United States naval officer he has practiced law in New York City for over forty years. John currently serves on the board of various non-profit organizations related to the field of alcoholism and as a Trustee on the board of the New York Lawyer Assistance Trust.

REGISTRATION:

Mail your registration form with check or money order only to:

Tennessee Lawyers Assistance Program
200 4th Ave. N, Ste 810
Nashville, TN 37219

DIRECTIONS:

From Nashville: Take I-40 West from Nashville to Exit 182 (Fairview/Dickson Hwy. 96 Exit). Turn left (West) onto Highway 96 until it dead ends at Highway 70. Turn right (East) on Highway 70, off-ramp provided. Stay on Highway 70 approximately 3 miles. Park entrance is on the right.

From Memphis: Take I-40 East to Exit 182 (Fairview/Dickson Hwy. 96 Exit). Turn right (West) onto Highway 96 until it dead ends at Highway 70. Turn right (East) on Highway 70, off-ramp provided. Stay on Highway 70 approximately 3 miles. Park entrance is on the right.



AGENDA

7th Annual

CAMP TLAP 2012

March 30th - April 1st

Montgomery Bell State Park

FRIDAY

- | | |
|------------|--|
| 3:00-5:00 | TLAP Commission Meeting |
| 5:30-7:00 | Registration |
| 5:30-7:00 | Dinner (on your own) |
| 7:00-7:30 | Surprise Kick-off Event |
| 7:30-8:30 | Practicing the Principles while Practicing Law
<i>Hon Sarah Krauss, NYC; Bill Leary, Louisiana, and, TN volunteer</i> |
| 9:00-10:00 | Meetings
• Lawyers in Recovery
• Mental Health Support Group |

SATURDAY

- | | |
|-------------|--|
| 6:00-7:00 | Daily Ponderables Sunrise Meeting |
| 8:00-8:30 | Welcome & Introduction of Sponsors |
| 8:30-9:45 | Sex Addiction 101
<i>Robert Weiss LCSW, CSAT-S</i> |
| 9:45-10:00 | Break |
| 10:00-11:00 | Keeping Legal Minds Intact; Mitigating Compassion Fatigue for Attorneys, Part I
<i>Linda Albert, LCSW, CSAC, Executive Director Wisconsin Lawyers Assistance Program</i> |
| 11:00-11:15 | Break |
| 11:15-12:15 | Professional Responsibility: How to Avoid Getting a Complaint and Handling a Petition if one is Filed ("The Gold Effect")
<i>David Gold, Esquire; William (Tripp) Hunt, JD, PhD</i> |

- | | |
|------------|---|
| 12:15-1:00 | Lunch on your own |
| 1:00-2:00 | Women's Meeting
<i>facilitated by Elizabeth Asher, LPC</i> |
| 1:00-3:00 | Hike or Movie |
| 2:00-3:00 | Survival of the Fittest, Narcissism and Addiction; <i>Rob Weiss</i> |
| 3:00-5:00 | Compassion Fatigue, Part II & III |
| 6:00-6:30 | CAMP TLAP Traditional Barbeque |
| 6:30-7:00 | Awards and Prizes |
| 7:00-8:00 | Speaker: John K, NYC |
| 8:30-10:30 | Bonfire, S'mores, Guitars |

SUNDAY

- | | |
|------------|-------------------------|
| 7:30-8:30 | Breakfast (on your own) |
| 8:30-9:30 | Spirituality Service |
| 9:30-10:00 | Farewells |

Hospitality Suite- OPEN ALL WEEKEND

Want to golf?

Make your tee time by calling the Golf Shop at (615) 797-2578.



REGISTRATION

7th Annual

CAMP TLAP 2012

March 30th - April 1st

Montgomery Bell State Park

Mail your registration form with **check or money order** only to:

Tennessee Lawyers Assistance Program
200 4th Ave. N, Ste 810
Nashville, TN 37219
Attn: CAMP TLAP

Name: _____

Phone: _____

Fax: _____

Address: _____

Email: _____

Information WILL be provided by email unless otherwise requested.

☐ Registration Fee (includes banquet): \$100.00

☐ Banquet Ticket(s) for guest: \$25.00

Would you like to scholarship a TLAP participant? (any contribution is welcome)

Scholarship amount: _____

Total enclosed: _____

Contact the TLAP Office for more information:

Emily.lacey@tncourts.gov
615-741-3238
877-424-TLAP

EXHIBIT I

Walter W. Davis
Egerton McAfee
James L. Armistead
William E. Armistead III
George D. Davis
Charles D. Davis
Donald L. Davis
Robert S. Davis
Nathan L. Davis

EGERTON McAFEE

Egerton McAfee Armistead & Davis, P.C.

ATTORNEYS AT LAW

MEMBERS OF THE TENNESSEE BAR

James L. Armistead
Robert S. Davis
William E. Armistead III
George D. Davis
Charles D. Davis
Donald L. Davis
Nathan L. Davis
Walter W. Davis
Egerton McAfee

E-MAIL: jcornelius@emadlaw.com

October 30, 2012

Mr. Michael W. Catalano
Appellate Court Clerk
401 Seventh Avenue, North
100 Supreme Court Building
Nashville, Tennessee 37219

VIA FEDERAL EXPRESS
(615) 741-2681

Re: In re: The Adoption of Amended Tennessee Supreme Court Rule 9, Docket No.
M2012-01648-SC-R1,2-R1 - Comments of the Tennessee Lawyer Assistance Program

Dear Mr. Catalano:

As Chairman of the Commission of the Tennessee Lawyer Assistance Program ("TLAP"), I am writing to provide you with the comments of the TLAP Commission on proposed new Tennessee Supreme Court Rule 9 ("New Rule 9"). After careful review and consideration of New Rule 9, the TLAP Commission recommends that certain revisions be made to Sections 12, 13, 14 and 36 of New Rule 9 to facilitate the work of TLAP in conjunction with the Tennessee Board of Professional Responsibility during the disciplinary process. The TLAP Commission's proposed revisions are set forth on the enclosed comparative draft of Sections 12, 13, 14 and 36 of New Rule 9.

If you have any questions regarding the enclosed comments of the TLAP Commission on New Rule 9, or if we need to further discuss this matter, please do not hesitate give me a call.

Yours truly,



James M. Cornelius, Jr.

JMC/jmc

Enclosure

587251v1

TLAP Proposed Rule Changes to Rule 9, October 30, 2012

Rule 9. Disciplinary Enforcement.

Section 12. Types of Discipline

12.3. (a) Temporary Suspension. On petition of Disciplinary Counsel and supported by an affidavit demonstrating facts personally known to affiant showing that an attorney has misappropriated funds to the attorney's own use, has failed to respond to the Board or Disciplinary Counsel concerning a complaint of misconduct has failed to substantially comply with a Tennessee Lawyer Assistance Program monitoring agreement requiring mandatory reporting to the BPR~~contract entered into with the Tennessee Lawyer Assistance Program~~ pursuant to Section 36.1, or otherwise poses a threat of substantial harm to the public, the Court may issue an order with such notice as the Court may prescribe imposing temporary conditions of probation on said attorney or temporarily suspending said attorney, or both.

Section 13. Diversion of Disciplinary Cases

13.1 Authority of Board. The Board is hereby authorized to establish practice and professionalism enhancement programs to which eligible disciplinary cases may be diverted as an alternative to disciplinary sanction. The Board is also

authorized to require a respondent attorney to enter into a Tennessee Lawyer Assistance Program monitoring agreement requiring mandatory reporting to the BPR as a condition of diversion under this section. Further, such monitoring agreement may in the board's discretion qualify as a practice and professionalism enhancement program or a part thereof.

Section 14. Probation

(a) Probation. In the discretion of the hearing panel or a reviewing court, the imposition of a suspension for a fixed period (Section 12.2) may be deferred in conjunction with a fixed period of probation. The conditions of probation shall be stated in writing in the judgment of the hearing panel or court. The conditions of probation may require the respondent attorney to enter into an agreement with the Tennessee Lawyer Assistance Program requiring mandatory reporting to the BPR. Probation shall be used only in cases where there is little likelihood that the respondent attorney will harm the public during the period of rehabilitation and where the conditions of probation can be adequately supervised. The hearing panel or reviewing court may require as a condition of probation the assignment of a practice monitor for the purposes and pursuant to the procedures set forth in Section 12.9. The respondent attorney shall pay the costs associated with probation, including but not limited to a reasonable fee to the practice monitor.

Section 36. Tennessee Lawyer Assistance Program

The Tennessee Lawyers Assistance Program (TLAP) was established by the Court to provide immediate and continuing help to attorneys, judges, bar applicants, and law students who suffer from physical or mental disabilities that result from disease, disorder, trauma, or age and that impair their ability to practice or serve.

36.1. Referrals to TLAP.

(a) Pursuant to Rule 33.07(A) of the Rules of the Tennessee Supreme Court, the Board, its hearing panels or Disciplinary Counsel may provide a written referral to TLAP of any attorney who the Board, hearing panel, or Disciplinary Counsel (collectively, “the BPR”) determines:

- (1) has failed to respond to a disciplinary complaint;
- (2) has received three or more complaints within a period of twelve months;
- (3) has received a complaint that includes multiple failures to appear or to respond or to take any other action in compliance with established rules or time guidelines;
- (4) has pleaded impairment or disability as a defense to a complaint;

(5) has exhibited behavior or has engaged in behavior that, in the BPR's determination, warrants consultation and, if recommended by TLAP, further assessment, evaluation, treatment, assistance, or monitoring;

(6) is seeking readmission or reinstatement where there is a question of either prior or present impairment or disability; or

(7) is requesting TLAP's involvement.

(b) The Executive Director of TLAP shall review any referral by the BPR. If the Executive Director of TLAP deems that assistance and monitoring of an attorney is appropriate, the Executive Director will make reasonable efforts to enter into a Monitoring/~~Advocacy~~ Agreement ("Agreement") with the attorney pursuant to Rule 33.05(E) of the Rules of the Tennessee Supreme Court. If the Executive Director of TLAP determines that TLAP assistance is not appropriate, for whatever reason, the Executive Director shall report that determination to the BPR, without further elaboration and without disclosure of information otherwise confidential under Rule 33.10.

(c) The BPR will provide written notification to the Executive Director of TLAP that TLAP's assistance will be or has been recommended in any matter pending before the BPR or when TLAP has an ongoing relationship with an attorney who has a matter pending before the BPR. The BPR will provide such notification prior to the date of any hearing and will further provide notice of any

hearing date. The Executive Director of TLAP or his or her representative may attend any such hearing.

(d) The BPR will provide written notification to the Executive Director of TLAP of any provision concerning the participation of TLAP included in any proposed order submitted by the BPR to the Court or any other agreement between the Respondent and the BPR and its disciplinary counsel, informal or otherwise, in which TLAP is required. The Executive Director of TLAP will notify the BPR of any requested modification of the order and may decline involvement. If the Executive Director of TLAP declines involvement of TLAP, the BPR shall not include TLAP's participation in any proposed order submitted to the Court. Neither the BPR nor any hearing panel of the BPR shall include TLAP in any proposed order submitted by the BPR to the Tennessee Supreme Court unless TLAP has given notice to BPR disciplinary counsel or the Respondent or Respondent's counsel that TLAP will accept involvement in the matter. In any proposed order submitted by the BPR to the Tennessee Supreme Court that includes TLAP involvement, the proposed order shall specifically state that TLAP has been consulted and that TLAP has accepted involvement in the matter, and the proposed order shall contain a certificate of service stating the date and manner in which the proposed order was served upon the Executive Director of TLAP.

(e) Pursuant to Rule 33.07–(B) of the Rules of the Tennessee Supreme Court, TLAP will provide the BPR with the following information:

(1) TLAP will notify the BPR of a referred attorney's failure to establish contact with TLAP or enter into a recommended Agreement.

(2) If the attorney enters into an Agreement with TLAP which requires mandatory reporting to the BPR, TLAP will provide a copy of the Agreement to the BPR. Such Agreement will provide for notification by TLAP to the BPR of substantial non-compliance with any of the terms or conditions of the Agreement. Contemporaneously with any such notification, the Executive Director of TLAP may make such recommendation to the BPR as TLAP deems appropriate.

(3) Upon request of the BPR, TLAP will provide the BPR with a status report of monitoring and compliance pursuant to the Agreement. When appropriate, the BPR will obtain from TLAP's Executive Director a recommendation concerning the attorney's compliance with any Agreement.

COPY

IN THE SUPREME COURT OF THE STATE OF TENNESSEE

IN RE:

PETITION TO AMEND RULE 33 OF
THE RULES OF THE SUPREME COURT

)
)
) Supreme Court Case No.:
)
)
)
)
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M2012-01897-SC-R41-R4

PETITION OF THE COMMISSION OF THE
TENNESSEE LAWYER ASSISTANCE PROGRAM
TO AMEND RULE 33 OF THE RULES OF THE SUPREME COURT

Comes the Commission of the Tennessee Lawyer Assistance Program (the "Commission"), and petitions the Tennessee Supreme Court (the "Court") to amend Rule 33 of the Rules of the Supreme Court ("Rule 33"). More specifically, the Commission petitions the Court to amend Rule 33 as set forth on Exhibit A attached hereto and incorporated herein by reference. In support of its petition, the Commission would show the Court that it has been working together with the Tennessee Board of Professional Responsibility to review, consider, draft and propose amendments to Rule 9 of the Rules of the Supreme Court in order to improve the lawyer discipline and lawyer assistance processes, and in conjunction therewith, the Commission has determined that the proposed amendments to Rule 33 set forth on Exhibit A attached hereto will (i) improve the lawyer discipline and lawyer assistance processes, (ii) enable the Commission to cultivate and draw upon additional resources to improve the lawyer assistance process, and (iii) provide lawyers and the general public with more information regarding the resources that are available through the Tennessee Lawyers Assistance Program.

Wherefore, in light of the above, the Commission respectfully requests that its Petition to

Amend Rule 33 of the Rules of the Supreme Court be granted, and that Rule 33 be amended as set forth of Exhibit A attached hereto.

Respectfully submitted this 4th day of September, 2012.

**COMMISSION OF THE TENNESSEE
LAWYERS ASSISTANCE PROGRAM**

By: James M. Cornelius, Jr.
James M. Cornelius, Jr., Esq. (BPR# 014802)
Chairman of the TLAP Commission
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Attachment:

Exhibit A – Proposed Amendments to Rule 33

[Certificate of Service on Following Page.]

CERTIFICATE OF SERVICE

The undersigned does hereby certify that a true and exact copy of the foregoing Petition to Amend Rule 33 of the Rules of the Supreme Court has been served upon the following at the addresses set forth below, by first class U.S. Mail, with postage prepaid:

TN Board of Professional Responsibility
Attn: Nancy S. Jones, Esq.
10 Cadillac Drive, Suite 220
Brentwood, TN 37027

Tennessee Board of Law Examiners
Attn: Executive Director
401 Church Street, Suite 2200
Nashville, TN 37243

Tennessee Bar Association
Attn: Allan F. Ramsaur, Exec. Dir.
221 4th Avenue North, Suite 400
Nashville, TN 37219


Memphis Bar Association
Attn: Anne Fritz, Exec. Dir.
80 Monroe Avenue, Suite 220
Memphis, TN 38103

Nashville Bar Association
Attn: Gigi Woodruff, Exec. Dir.
150 4th Avenue North, Suite 1050
Nashville, TN 37219

Knoxville Bar Association
Attn: Marsha S. Wilson, Exec. Dir.
505 Main Street, Suite 50
Knoxville, TN 37901

Chattanooga Bar Association
Attn: Lynda Hood, Exec. Dir.
801 Broad Street
Chattanooga, TN 37219

This the 4th day of September, 2012.



Attorney

EXHIBIT A

(to Petition of the TLAP Commission to Amend Rule 33)

Proposed Amendments to Rule 33 of the Rules of the Supreme Court

The TLAP Commission proposes the following amendments to Rules 33.02, 33.05 and 33.07:

33.02 TLAP Commission

A. **Members.** The Tennessee Supreme Court shall appoint commission members to administer the TLAP. Officers of the commission shall consist of a chair, vice chair and secretary treasurer. The chair shall be appointed by the Supreme Court. Each of the other officers shall be elected by the members of the commission annually.

B. **Composition.** The commission shall consist of fifteen (15) members, chosen on the basis of geography and diversity and shall include three (3) citizens who are not members of the legal profession. The members shall have diverse experience, knowledge and demonstrated competence in the problems of addiction and other common difficulties that impair members of the legal profession.

C. **Terms.** Members shall be appointed for a three-year term. Appointments shall be staggered so that the number of terms expiring shall be the same each year. No member shall be appointed for more than two consecutive, full three (3) year terms.

D. **Duties of the Commission.** The commission shall have the following powers and duties:

(1) To establish TLAP policy and procedures consistent with this rule. Such policies and procedures shall be established after reasonable notice to the Tennessee bench and bar and opportunity for comment.

(2) To operate the program to achieve its purposes.

(3) To assure the duties listed under Rule 33.03 are carried out in the absence of a director of the program.

(4) To establish and administer a revolving loan fund as provided under Rule 33.09.

(5) To make reports to the Tennessee Supreme Court annually or as otherwise required.

E. **Meetings.** The commission shall meet quarterly, upon call of the chair or upon the request of five (5) or more members. The Commission may invite non-Commission members, including representatives from other branches of government, lawyers, and members of the public, to attend meetings and to participate as members of advisory committees to help further the work of the Commission.

F. **Advisory Committees:** The Commission may create advisory committees to study specific issues identified by the Commission and to make such recommendations to the Commission as the members of the advisory committees deem appropriate.

33.05 Services

TLAP shall provide the following services:

A. Immediate and continuing assistance to members of the legal profession who suffer from physical or mental disabilities that result from disease, disorder, trauma or age and that impair their ability to practice;

B. Planning and presentation of educational programs to increase the awareness and understanding of members of the legal profession to recognize problems in themselves and in their colleagues; to identify the problems correctly; to reduce stigma; and, to convey an understanding of appropriate ways of interacting with affected individuals;

C. Investigation, planning and participation in interventions with members of the legal profession in need of assistance;

D. Aftercare services upon request, by order, or under contract that may include the following: assistance in structuring aftercare and discharge planning; assistance for entry into appropriate aftercare and professional peer support meetings; and assistance in obtaining a primary care physician or local peer counselor; and

E. Monitoring services under Rule 33.07 or under contract that may include the following: alcohol and/or drug screening programs; tracking aftercare, peer support and twelve step meeting attendance; providing documentation of compliance; and providing such reports concerning compliance by those participating in a monitoring program as may be required by the terms of that program. There are three types of monitoring agreements.

(1) Voluntary Monitoring Agreement with no reporting party listed in the agreement.

The contract participant may request from TLAP letters of compliance addressed to the contract participant for the participant to provide to outside sources as he or she deems appropriate. TLAP or the contract participant may terminate the monitoring agreement at any time.

(2) Voluntary Monitoring Agreement with reporting to a non-disciplinary authority.

A contract participant may request monitoring with reporting to a non-disciplinary authority. The reporting designee will receive a copy of the monitoring agreement and may request a status report at any time. The reporting designee will be notified if the client becomes substantially noncompliant. The contract participant, reporting designee, or TLAP may terminate the agreement at anytime. If TLAP or the contract participant terminates the agreement, the reporting designee will be notified immediately.

(3) Monitoring Agreement requiring mandatory reporting to disciplinary or licensing authority.

A disciplinary or licensing authority, such as the Board of Law Examiners, Board of Professional Responsibility, or Court of Judiciary, may request TLAP to conduct an evaluation of a law student, attorney or judge. The request shall be in writing from the disciplinary authority to both TLAP and the referred attorney, and may be by court order. Following the evaluation, TLAP will provide the disciplinary or licensing authority with a written summary of TLAP's recommendations. If monitoring is recommended by TLAP, the disciplinary or licensing authority will be listed as the reporting designee. The disciplinary or licensing authority shall be notified if the referred law student, attorney or judge becomes substantially noncompliant with the terms of the agreement. The disciplinary or licensing authority may request a status update concerning substantial noncompliance at any time. TLAP shall provide an affidavit upon request of any party to the proceedings. Upon conclusion of a proceeding of any licensing or disciplinary authority, the monitoring agreement shall end, unless continued monitoring is specifically required in writing for a specified period of time following the conclusion of a proceeding

33.07 Referrals From Board of Professional Responsibility, Court of the Judiciary, Board of Law Examiners or Other Disciplinary Agencies

A. Referrals. TLAP may accept referral of lawyers, judges or bar applicants under investigational, provisional or probational status with the Tennessee Board of Professional Responsibility, Tennessee Court of the Judiciary, Tennessee Board of Law Examiners or any disciplinary agency with disciplinary authority

B. Progress Reports. When TLAP accepts a referral under Rule 33.07(A), which results in a recommendation for a monitoring agreement, with a disciplinary agency as a reporting party, TLAP may shall provide progress reports or reports of substantial non-compliance. Notwithstanding Rule 33.10, these reports may be used as evidence in any proceeding or appeal relating to such referral from the Tennessee Board of Professional Responsibility, the Tennessee Court of the Judiciary, the Tennessee Board of Law Examiners or a disciplinary agency with disciplinary authority.

EXHIBIT J

Tennessee Lawyer Assistance Program MONITORING AGREEMENT

Initiation date: _____ Completion date: _____

I, _____, hereafter referred to as "Participant," agree to comply with all of the terms and conditions of this Monitoring Agreement from the initiation date through the completion date listed above.

☐ **Voluntary Monitoring Agreement:**

The contract participant may request from TLAP letters of compliance addressed to the participant for the participant to provide to outside sources as he or she deems appropriate. TLAP or the contract participant may terminate the monitoring agreement at any time.

☐ **Voluntary Monitoring Agreement with reporting to a non-disciplinary authority:**

The reporting designee will receive a copy of the monitoring agreement and may request a status report at any time. The reporting designee will be notified if the participant becomes substantially noncompliant. The contract participant, reporting designee, or TLAP may terminate the agreement at anytime. If TLAP or the contract participant terminates the agreement, the reporting designee will be notified immediately.

Reporting Designee: _____

☐ **Monitoring Agreement with mandatory reporting to a disciplinary or licensing authority:**

The disciplinary or licensing authority shall be notified if the referred law student, attorney or judge becomes substantially noncompliant with the terms of the agreement. The disciplinary or licensing authority may request a status update concerning compliance or substantial noncompliance at any time. Upon termination of a proceeding of any licensing or disciplinary authority, the monitoring agreement shall end.

☐ Board of Professional Responsibility *

☐ Board of Law Examiners**

☐ Court of Judiciary

☐ Other: _____

*If the reporting designee is the Board of Professional Responsibility, Participant has been advised that under TN S. Ct. Rule 9, § 4.3, noncompliance with this Agreement may be grounds for summary suspension. _____ initials

**If the Participant is a law student or bar applicant, it is agreed and understood by both parties that Participant may qualify for Conditional Admission pursuant to TN S. Ct Rule 7, § 10.05; Participant understands that if he or she is admitted conditionally, a new TLAP Monitoring Agreement must be signed with the Tennessee Board of Professional Responsibility as the Reporting Designee and will be forwarded to the Board of Professional Responsibility as mandated in Rule 7, § 10.05 (b). Participant has read and understands TN S. Ct Rule 7, § 10.05. _____ initials

It is understood and agreed by TLAP and the Participant that:

1. TLAP desires to help the Participant to improve his/her health by providing supervision and monitoring;
2. TLAP is not a healthcare provider and its role is to monitor the Participant and report compliance, noncompliance or termination to the reporting designee;
3. TLAP does not make determinations regarding the status of an attorney's license or determinations regarding the admission of an applicant to practice law;
4. TLAP will testify on behalf of Participant to the reporting designee so long as Participant maintains compliance with the terms and conditions of this Agreement;
5. Although TLAP stands ready to help with any special problems that may develop during the term of this Agreement, it is the responsibility of Participant to make TLAP aware of any such problem as soon as it may arise, including arrests, disciplinary complaints, investigations, or petitions for discipline that occur during the terms of this Agreement.

Participant shall:

- A. ☐ Participate and be compliant with the monitoring program as recommended and approved by TLAP staff, for the duration of this contract. Participant is being monitored for:
- | | |
|--|-------|
| <input type="checkbox"/> Substance Abuse | _____ |
| <input type="checkbox"/> Mood Disorder | _____ |
| <input type="checkbox"/> Other | _____ |
- B. ☐ Agree to undergo a professional evaluation with an approved provider chosen by TLAP within _____ days of execution of this document and have a written report from this evaluation forwarded to the TLAP Program. _____
- C. ☐ Comply with and successfully complete any TLAP recommended course of treatment and/or therapy, including all continuing care and aftercare recommendations.
- D. ☐ Remain abstinent from all alcohol, drugs, and other mood-altering substances including without limitation "non-alcoholic" beer or wine, cold medicines, or allergy medication, except when medications are prescribed by a licensed health care provider who is treating the Participant or supervising such treatment AND such medications are made known to TLAP.
- E. ☐ Notify TLAP in writing of any mind or mood-altering medications taken. Participant will sign a release for TLAP to speak with the treating physician and/or psychiatrist. TLAP may request a letter regarding any prescribed medication directly from the treating physician.
- F. ☐ Sign a "Relapse Prevention Contract" prior to any procedure that may require postoperative narcotics.
- G. ☐ Register with Affinity Online Solutions and follow all protocols to submit to random alcohol/drug/prescription medication screens as requested.

- H. ☐ Participate in daily call-ins & random alcohol/drug screenings at a designated lab and arrive at the designated screening site within six (6) hours of notification. Participant shall be responsible for obtaining notification of selection. The cost of random alcohol/drug screenings shall be the responsibility of Participant. The results of all alcohol/drug screenings shall be provided by designated lab directly to TLAP. Screenings may include urine, blood, fingernail, and/or hair testing if requested.
- I. ☐ Submit to random alcohol/drug screens _____ x per year. Participant understands that frequency can be increased or decreased based on Participant's compliance or noncompliance with the terms of this Agreement.
- J. ☐ Meet with his/her TLAP Peer Monitor a minimum of _____ time(s) per month, more frequently if so required by monitoring program, throughout the duration of this contract. Such meetings shall be in person, unless on occasion at the Monitor's discretion contact is made by telephone rather than in person. Exceptions to face to face contact must be documented and approved in advance by the monitoring program.
- K. ☐ Make verbal contact weekly with his/her Peer Monitor when not meeting in person.
- L. ☐ Attend abstinence based self-help support groups, a minimum of _____ time(s) weekly, as approved by TLAP. _____
- M. ☐ Participate in the following recommended therapeutic counseling: _____
- N. ☐ Agree, upon request, to take any action or execute any documents and releases necessary to allow the TLAP office to obtain and release information directly with the identified doctors, treatment providers or others deemed necessary for monitoring.
- O. ☐ Submit a monthly calendar to TLAP documenting all activities related to Participant's ongoing recovery, including but not limited to attendance at 12-step, LIR, or aftercare meetings, therapy sessions, meetings with Peer Monitor, and/or any other meeting as recommended by TLAP staff.
- P. ☐ Provide TLAP with a written report:
☐ monthly
☐ quarterly
☐ biannually
☐ annually
The report shall include the following information: _____
- Q. ☐ Be responsible for all documentation and reports being delivered to TLAP, including but not limited to monthly calendars and Peer Monitoring reports.

- R. ☐ Participate in any designated TLAP Lawyer in Recovery ("LIR") Support Group.
- S. ☐ To attend TLAP's Annual Retreat (Camp TLAP).
- T. ☐ Meet in person with TLAP _____ x per year, or upon request, to ensure compliance with the program and to address other matters as relevant.
- U. ☐ Inform his/her TLAP Monitor and/or TLAP staff of any noncompliance with the treatment, rehabilitation or the Monitoring Agreement within 24 hours of occurrence.
- V. ☐ Agree to pay for all costs associated with assessment, treatment, drug testing and any other conditions of the Monitoring Agreement and program.
- W. ☐ Obtain consent from TLAP staff before leaving the area where he/she lives or practices (e.g., vacation etc.) if it interferes with the terms of the Monitoring Agreement.
- X. ☐ If at any time during this Agreement Participant fails to comply with any of the terms and conditions, Participant will be in direct breach of this Agreement. It will be solely within the discretion of TLAP's Executive Director whether Participant's noncompliance shall result in termination of this Agreement and/or notification to the Reporting Designee.
- Y. ☐ Additional recommendations and/or requirements: _____

By signature below, the Participant agrees to the Monitoring Agreement as written on this date.

PARTICIPANT:

Name Date

TLAP:

TLAP Representative Date

EXHIBIT K

Excerpts from thank you letters TLAP received in 2012

“Hi Laura. First, I want to thank you for the amazing job you did at our conference! I don’t know if you heard the written feedback results from the judges, but you were one of the highest rated speakers we have ever had. And we have scores of comments that these judges across TN had no idea your program existed....I have a lot of experience in this area (unfortunately not all of it “professional” experience), and would like to come visit with you to see how we might do more to get your message out to judges -- who I suspect can be even harder to reach with these matters than lawyers....As hard as this is for me to say, I think I need to be one of those 3% who come to see you and find out more about what your program involves, as I have to be sure that I am solid before I endeavor to lead/reach anyone else on this topic.”

“Bill [Leary] & Laura, I attended the recent Aon conference in New Orleans, including the session on lawyers assistance programs. I found the discussion compelling and have decided that, for the first time, I will include a section on impaired lawyers in my annual risk management presentations to all lawyers/offices in our Firm.”

“Dear Laura, Just a small token of my **huge** appreciation for all of your hard work, humor, and talent in our recent joint program in New Orleans. I have received an outpouring of positive feedback in the program and I am thrilled that so many attendees appreciated our unique approach and actually learned something they can take back and share with their respective jurisdictions.”

“Laura, the hearing panel training session in Memphis today concluded the Board’s training for this year. I have heard nothing but positive reports about the information and presentation of Judge Woodall, Mark Vorder-Bruegge and Jim Cornelius concerning the services of TLAP as it relates to disciplinary orders. Please thank each of them for their time and efforts on our behalf. Also, thank you for preparing the written information we included in the training notebooks. This written information will serve the panel members well as a reference during their three-year tenure.”

“Laura, Ted, Jessica, and Emily. Just a note to say thank you so much for allowing me to go to Camp TLAP. I had a wonderful time getting to know the folks there, and I thought the presentations were stellar. I can’t begin to say how grateful I am for all of your endless support and patience with me through what has been one of the most difficult times of my life. Thanks to you **all**.”

“Dear Laura, It was great to see you at The Ranch retreat. I appreciate your always taking the time to help me out with the thousand questions I always have about how to run KYLAP better. I’m blessed to have such a fantastic example as my Tennessee neighbor!”

“CONGRATULATIONS for putting together, again, a wonderful program! Ya’ll are the BEST! TLAP has THE BEST staff of any state agency. Thanks for your hard work for the TLAP commissioners, and most of all, for your hard work for members of the legal profession (and their families) in Tennessee and for the citizens of our state. Looking forward to Camp TLAP and another year of association with the best group of people in the world!”

“Laura: I just wanted to thank you and the TLAP crew for all of the help throughout the last year. I definitely would not be where I am without TLAP. I truly believe in TLAP and the services it provides to our community. And with this, I would like to volunteer my services to be a peer monitor for other people in monitoring contracts, or anything else that I may be able to help with. Please just let me know if I can help in anyway.”

“Has anyone told ya’ll what a fantastic job you did on Camp TLAP? Well you did do a FANTASTIC JOB!!!! On behalf of the entire legal profession, and the many attorneys and the family members and friends of those who benefit from your hard work, I say THANK YOU, THANK YOU, THANK YOU!!!!”

“Ted, Thanks so much. I really appreciate the help, support, and guidance you have given me. I am sure I would not have made it through without you! You really do give all of us uppity law students a better understanding of the problems we face and the hurdles we must overcome to find the finish line to our race. I thank you for listening to me rant, talking me off the edge and the great advice you have given me. I plan to still come see you on occasion if that is ok with you! I will also be glad to mentor to a law student in my situation next time around.”

“Dear Laura, I was both honored and proud of the recognition and award bestowed on me at the recent Tennessee Judicial Conference in Memphis. It is an honor to have the privilege to be involved with you and your staff in helping others in your very important work. Please accept the enclosed check to be used in the program. — Paul I. Mendelson”

“Dear Jessica, Thank you for all that you and TLAP have done to help me with the Mississippi Bar Examiners. I really think it helped to have your letter in addition to Chip’s [of the Mississippi Lawyers Assistance Program] support. The work you do makes a big difference in my life.”

“I thoroughly enjoyed attending Camp TLAP last year and have heard so many good things about other LAP gatherings. I hope Mississippi’s first effort can live up to those standards.”

“Laura, Thank you for your service to the profession!”

“Hi Emily, I just wanted to thank everyone at TLAP for helping me the past 2 and half years. It appears that I’ll be getting my license very soon, without a hitch! I truly couldn’t have done it without the assistance and support provided by TLAP. More importantly, I’m happy in recovery and ready to pursue new challenges in life with the help of the program. Thanks again ☺ And Jessica, special thanks for getting my updated letter over the TBLE so promptly!”

“Laura, Thank you **so much** for taking so much time out of your busy schedule yesterday in order to speak with me about my sister. Having your professionally trained, experienced counsel was wonderful; but your willingness to listen really helped me work through the situation on a personal level.”