

President's Column:

By Keishunna R. Webster



It is an honor to serve as President of the Capital Area Bar Association for the upcoming year. I want to personally thank each and every member for allowing me the opportunity to do so. The responsibility accompanying this role is humbling, and it is a responsibility I do not take lightly.

In starting this year, I would ask all members to find a way to serve our profession and community through CABA. There are many opportunities for all members to be a part of the organization's [mission](#).

Consider attendance at our monthly meeting of members, which provides opportunities to see your colleagues and to learn of legal developments.

Consider mentoring new attorneys and becoming a part of their development for a positive impact on our profession. Please consider serving on a CABA committee. These committees facilitate CLE events for lawyer development, support the Mississippi Volunteer Lawyers Project, continue the Law Day tradition for students to learn about the law and legal system, and maintain relationships between CABA and the state and federal judiciary. Please review the [committee descriptions](#) on the website and consider joining one. I think you will find there is a path for every member to become meaningfully engaged in our professional organization.

Finally, if you have an idea for something new, we want to hear it! Please [contact me](#). I welcome your ideas and suggestions.

With your support and collaboration, I am confident that we will continue to uphold the values of excellence, integrity, and justice that define our tri-county bar association. I wish you the best in the year ahead and look forward to seeing you along the way. 🍀

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Upcoming Events

August 20

CABA Membership Meeting • Noon
River Hills

The views expressed in the articles published are solely those of the authors and do not represent the views of CABA, its officers, directors, or staff.

CABA Membership Luncheon Meeting

Tuesday, August 20, 2024

Lunch at 11:30, Meeting at 12:00 • River Hills

Free Lunch



You're Not the Boss of Me

Mississippi vs. the ABA

By Terryl Massey

When I was contacted about writing an article about the Mississippi Supreme Court's rejecting the CLE Commission's proposed change to the Bar's CLE rules, I figured there wasn't much more to say than this sentence. Ho, hum; nothing to see here. The proposed change would permit the ethics component of the twelve-hour annual requirement to include "legal ethics, professional responsibility, malpractice prevention, substance abuse, mental health or *diversity, equity and inclusion* (added language in italics)." The Mississippi Supreme Court denied the petition without opinion. Justice King, however, had a decided, though somewhat ambiguous, opinion on the matter:

The words *diversity, equity and inclusion* have been the source of great distortion. Some of that distortion has been occasioned by the decisions of various individuals who have seen in its distortion a partisan and personal advantage. Also, some of that distortion has been occasioned by individuals who, while knowing better, merely join the bandwagon for fear of being publicly assailed by those using this distortion for partisan and personal advantage.

In the Matter of the Petition of the Miss. Comm'n on Continuing Legal Education to Amend Rule 1 of the Rules and Regulations for Mandatory Continuing Legal Education, No. 2023-1193 at p.3 (Miss. Mar 5, 2024) (King, P.J. objecting).

Hmmmm – what? A personal dispute among judges? A political dispute among judges? A rejection of "woke" politics? More research was in order.

"Terrible to have a law telling you you got to do something. But you ain't going to do it unless there is." -Will Rogers

Turns out that the proposal came from a change to the American Bar Association's model rules.

Section 3. MCLE Requirements and Exemptions.

(A) Requirements.

(1) All lawyers with an active license to practice law in this Jurisdiction shall be required to earn an average of fifteen MCLE credit hours per year during the reporting period established in this Jurisdiction.

(2) As part of the required Credit Hours referenced in Section 3(A)(1), lawyers must earn Credit Hours in each of the following areas:

- (a) Ethics and Professionalism Programming (an average of at least one Credit Hour per year);
- (b) Mental Health and Substance Use Disorders Programming (at least one Credit Hour every three years); and
- (c) Diversity and Inclusion Programming (at least one Credit Hour every three years).

The ABA's proposed Rule mandates diversity and inclusion programming as a CLE requirement. The Mississippi proposal would make it optional. What could that hurt? Seemingly innocuous, however, it appears to be part of a larger ideological struggle between the states and the ABA.

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SOCIAL MEDIA

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Statistics show that 90% of organizations now maintain social media profiles, and CABA is among that majority. You can find the Capital Area Bar Association's page on Facebook and find us on Twitter (@CABALaw). Social media is a simple way to improve communications within our organization, but we need our members to help to build an effective social media presence. If you are currently on Facebook or Twitter, please engage. Whether you like us, follow us, or comment on posts, you are helping build CABA's social media profile.

According to the American Bar Association's website, it was formed "to set the legal and ethical foundation for the American nation." In its early years, the ABA, like the profession itself, was dominated by white, male, Protestant lawyers. Not surprisingly, during those early years, the ABA opposed a constitutional amendment to prevent child labor and fought against many of the New Deal programs pushed by President Roosevelt. During the McCarthy era, the ABA even voted to expel any Communist or Marxist members!

As its membership became more diverse, the ABA's positions changed. In the early 1990's, it adopted a resolution supporting the right of women to have abortions. In keeping with this shift, the organization has also taken positions supporting gay marriage and opposing the death penalty. These stances have alienated conservative members, and may account for the drop in membership from half of the country's lawyers to about 20%.

"Think for yourself and question authority." -Timothy Leary

Recently, attorneys and other groups have challenged the authority of the ABA, as well as state bars, to govern the practice of law. For example, a group of Texas lawyers sued the state bar over its requirement of attorney membership, and the Fifth Circuit recently upheld that challenge, holding that the Bar's political and ideological policies violated those members' First Amendment rights. *McDonald v. Longley*, 4 F.4th 229 (5th Cir. 2021).

At the same time that the ABA amended the Mandatory CLE Rule, it promulgated a requirement that any ABA program with three or more speakers include one who is diverse. The Florida Supreme Court deemed it a quota program and denied CLE credit to any lawyer attending a program whose sponsor selected speakers in accordance with that Rule. *In re Amendment to Rule Regulating the Florida Bar*, 6–10.3, 315 So. 3d 637, 639 (Fla. 2021). The court later amended its decision to exclude previously taken courses, but the ABA had removed the requirement. www.reuters.com

Along with CLE Rule 1, the ABA adopted a change to Rule 8.4 of the Model Rules on Professional Misconduct. That Rule would prohibit an attorney from engaging in conduct "that the lawyer knows or reasonably should know is harassment or discrimination on the basis of race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, gender identity, marital status or socioeconomic status in conduct related to the practice of law." The Rule exempted "legitimate advice or advocacy". Nonetheless, according to Josh Blackman, a constitutional law professor at the South Texas College of Law, "the rule has been rejected by almost every state that has considered it." Construing it as an abridgement of freedom of speech, a Pennsylvania court even declared it unconstitutional and enjoined its application. *Greenberg v. Haggerty*, 491 F.Supp.3d 12 (E.D. Pa. 2020). The ABA reconsidered and amended the Rule.

More recently, after an increased recognition of the organization's apparent bias, the ABA has lost its ability to preview judicial nominees, first under Republican leadership, and, later, under the Biden administration. Of course, it may still voluntarily rate nominees after they have been selected. It may be that the ABA's power to accredit law schools will later come under attack. Blackman justifies the resistance to the ABA's proposals as stemming from its "position of privilege and power" in shaping governmental policies. If the ABA no longer represents the legal community, the argument goes, then that power may be misplaced.

But back to the proposed CLE requirement. I reviewed the requirements in each state (and that was not easy, as there is no uniform location for CLE Rules, since some are administered by the state bars and others by state courts) and the District of Columbia. This highly unscientific survey shows, as we so often say, a "split among the jurisdictions." Specifically:

4 states and the District of Columbia have no CLE requirement; 25 states have not adopted a provision similar to that proposed by the ABA; 6 states have adopted a provision using the ABA proposed language; and 14 states have adopted a provision similar to the ABA's proposal.

The "similar to" states often describe the ethics requirement in more detail than the ABA's proposal, moved the requirement to place a limit on course approval, or included the requirement in the reporting rule

"I have not aligned myself with any party. Sitting tight, waiting for an attractive offer." -Will Rogers

The disparity of acceptance cannot be neatly categorized as a red state/blue state issue. Connecticut has failed to adopt the model rule, while North Dakota has approved it. Given this lack of wholesale adoption, it's hard to peg Mississippi as an outlier. It's likewise difficult to interpret the Mississippi Supreme Court's decision as simply the Republican adherence to the party line that it seems on its face. While that *could* be the case, as Justice King appears to believe, it could also be part of a general trend of rejecting the ABA's powerful influence over legislation related to the legal profession. The ABA's Model Rules used to be adopted almost as soon as they were proposed, but times have changed. And only time will tell if this "revolt" culminates in a further significant diminishment of the ABA's authority. 📌

- American Bar Association Website. Available online at www.abanet.org (accessed May 29, 2003).
- Josh Blackman, *The ABA Needs Ideological Diversity to Ensure Its Future*, ABA Journal, Apr. 30, 2023.
- Kaelan Deese, *Conservatives Challenge Big Law's Left-Wing Tilt*, Washington Examiner, Sept. 8, 2023.

- Encyclopedia.com, *American Bar Association*, May 18, 2018.
- Karen Sloan, *ABA Revises Diversity Policy for Lawyer Education Programs after Setback*, Reuters, April 2022.
- Debra Cassens Wright, *Mandatory Bar om Texas Violates Lawyers First Amendment Rights, 5th Circuit Rules*, ABA Journal, July 6, 2021.

Terryll Massey is a retired staff attorney with the federal court.

CABA Membership Meeting and Panel Discussion at Anjou

The Future is Now: A Panel Discussion on the Incorporation of Artificial Intelligence, Intergenerational Communication, and Mentorship in a Changing Legal World – Can we still take what we want and leave the rest?



To view more photos of this event please visit caba.ms

FROM THE TRENCH TO THE BENCH

By Madeline M. Iles



At its May membership meeting, Jackson Young Lawyers hosted a panel of three appellate judges who had been in solo or small firms before joining the Judiciary. Justice David Ishee of

the Mississippi Supreme Court and Judges Deborah McDonald and David McCarty of the Mississippi Court of Appeals discussed the arc of their careers as practicing lawyers “in the trenches” and their subsequent transition to the bench.

Each judge shared their unique journey as a young professional and beyond. When asked about the most meaningful case of his career, Justice Ishee, a native of Gulfport, recalled representing a client pro bono, and how that relationship deepened over time to include working with other members of the client’s family and community.

Judge McDonald, hailing from Fayette, discussed what she learned in her nearly thirty years running her own firm. In her view, time management is an essential skill for lawyers and one she worked hard to master as a solo practitioner. She also recalled seeking balance in her law practice, explaining that she took on some cases to pay the mortgage, but handled civil rights cases to feed her soul. Of the vast array of cases she handled as a practicing lawyer, Judge McDonald said she is perhaps most proud of the impact her work has had on voting rights in Mississippi.

For Judge McCarty, it is critical to ask others for help. He admitted that when he was early in his career, he feared asking



other lawyers for help because he thought it might appear that he didn’t understand the complexity of law. But by not asking for help, he said he believes he missed out on crucial opportunities for expanding his knowledge and sense of community. For the longtime Jackson resident, asking for insight and support ultimately grew to become second nature and a key part of his learning process on every case.

According to JYL past-president Brianna Bailey, the meeting was the most well-attended of the year. The private room at Char was filled with attorneys from all over the metro area, including members of CABA. Judge Cory T. Wilson of the Fifth Circuit Court of Appeals and Judge Latrice Westbrooks of the Mississippi Court of Appeals were also in attendance. Judge McCarty later remarked that the meeting “was an incredible time, one of the best JYL meetings I’ve attended in 20 years.”

For my part, I was honored to moderate the panel and help plan it with JYL’s Solo and Small Firm Committee and JYL leadership. As a lawyer at the beginning of my career, it was enlightening to visit with the judges in a more casual setting—to hear from them as people rather than as elected officials, and to learn that the things I face in my career are similar to what the judges encountered when they started out. These judges reminded me why I wanted to become a lawyer in the first place. While it’s easy to get caught up in the day-to-day work in a law office, the panel discussion was a welcome reminder to not lose sight of the purpose of our profession: to help others. ➡

Madeline Iles is an associate attorney at The Eichelberger Law Firm.

An Evening HONORING the JUDICIARY *Banquet*

May 1, 2024 • Country Club of Jackson

Judges deal with difficult and stressful cases and dockets on a daily basis. Justice Bobby Chamberlin and Judge Debra Halford shared their experiences on the bench.

..... *Event Photos*



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An Evening HONORING THE JUDICIARY Banquet

Event Photos



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An Evening
HONORING THE **JUDICIARY** *Banquet*

Awards

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JACKSON YOUNG LAWYERS ASSOCIATION AWARDS

JYL OUTSTANDING SERVICE AWARD

Representative Justis Gibbs and La'Bria Barnes

JYL PRO BONO AWARD

Stephen Fritz

CAPITAL AREA BAR ASSOCIATION AWARDS

Margaret Oertling Cupples

CABA OUTSTANDING SERVICE AWARD

Brianna Bailey

CABA COMMUNITY SERVICE AWARD

Mary Largent Purvis

CABA PROFESSIONALISM AWARD

Presented by Hinds County Circuit Court Judge Debra Gibbs

Judge Kent McDaniel and Rebecca Lee Wiggs





By Chad Hammons

Chad Hammons is a partner in the Jackson office of Jones Walker LLP.

FOOD, FUN, FONDREN

When we received word a couple of years ago that my firm Jones Walker would be relocating its Jackson office from downtown to the Fondren area of Jackson, no one was more excited than *moi*. Since graduating from law school in 1996, I have lived in Fondren continuously, with the exception of a 7-year suburban mistake. I moved back to Fondren in 2014 after those years in the fog, and have lived in the same house ever since.

That house is exactly one mile from my new parking lot behind Duling Hall, where I've parked hundreds of times over the past 10 years for live music at Duling, meals at Saltine, and for food and drinks at the establishments f/k/a Caet and Babalu. So to say I was excited about working in my neighborhood and having the shortest commute of my life would be an understatement.

My excitement over the new location in Fondren though was matched only by the apprehension of a few of my coworkers. Several of them were skeptical—if not scared—of a Fondren I simply did not know.

Seven months later, I am happy to say that most of that uneasiness has faded. As I told my colleagues during one of our first meetings on the topic, on most nights there is actual law enforcement security in the parking lot. There is also more of a hustle and bustle in the heart of Fondren than there was in the heart of downtown, which adds to the overall feeling of safety.

That activity is due in large part to the abundance of restaurants in Fondren. We are flush with fooderies. From our perch at the corner of State Street and Duling Avenue, I can count at least a dozen places to grab lunch within a block. There are three places in our building complex alone. **Saltine** is literally steps from our back door. It offers a broad menu of lunch and dinner items, and has daily lunch specials as well as a nice Sunday brunch menu. **Zundo** is literally steps from our front door, in the old Caet location, offering ramen and other Asian dishes.

And further up the way, at the opposite end of the complex, is a fantastic new addition to the Fondren food scene. Long-time Jackson favorite **Amerigo** opened a third location in the old Babalu space. The service was a little off the first time I ate there last December, but I've been there 3–4 times since then, and they are now on their A-game. Food and service are both great, and what you would expect. On top of that, the bar area in this location is better than the one at the mother ship in Ridgeland, which is simply too small.

The variety in Fondren is also great. If you want to hold down cost, and get a standard meat and veggie plate, **Corner Market** offers a typical grocery store lunch in a Styrofoam box. Next door is **Brent's**, where a cherry Coke and an egg salad sandwich call out to those seeking a lunch counter vibe. Anyone going through a Keifer's withdrawal can walk

down to **Aladdin** and get a gyro, hummus, or other Mediterranean fair. And although nothing will ever take the place of the original Thai House in the old Howard Johnson's in south Jackson, **Thailicious** is in the former Surin location, to satisfy anyone having the occasional hankering for drunken noodle or Pad Thai.¹

Up in the heart of Fondren by our office at Duling and State, restaurants also abound. **Pig and Pint** is across the street and up about 60 yards. Two of the hidden gems on its menu are the fried bologna sandwich and the fried green tomato salad. Both are excellent options when not in the mood for BBQ, brisket, or chicken.



1. It appears Thailicious closed off half of the Surin footprint and condensed the space. This seems to be a smart move on their part, even though there is no bar.

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Directly across the street from the office is a relatively new restaurant called **The Station**. I have not sampled its food yet, but I've heard the pizza is really good, and I know firsthand that it has a decent beer selection. But that's not all. They have installed a nice music venue behind the building, where I saw Kurt Vile in April. Great show, great crowd, great event. I expect more great things out of this place.

Next to The Station you will find the **Capri Theater**, and **Highball Lanes** bowling alley. Both are connected to **The Pearl**, which is a tiki-themed bar and grill. If I understand correctly, The Pearl serves as the common food source for both the bowling alley and the theater. They are great additions to the neighborhood, and all-around excellent amenities.

A few doors up from The Pearl – past Campbell's Bakery, which still bakes cakes and cookies – is another Jackson classic. **Little Tokyo** sushi restaurant now resides in the space formerly occupied by Barrell House. It is still going strong after all these years, and in this new location. The space is a bit big and

in my opinion the décor needs to be updated a bit to reflect more of an Asian theme, but the sushi is still solid, as are the draft options.

Further up and across State Street, in the Fondren Corner building, are a couple of reasonably priced lunch options. **Roosters** has been around for some time now, and offers excellent prices on plate lunches, chicken sandwiches, and the like. I had not eaten there in years despite living in Fondren but have now been there several times. **Basil's** is also on the ground floor of Fondren Corner. Similar to the one in Downtown Jackson, it offers a variety of sandwiches, for those looking to escape a plate lunch and heavier fare. There is also a coffee shop called **The Bean** that serves sandwiches, in a little building next door to Fondren Corner. I have to confess though, I have not been there yet, but I've heard good things about it.

And finally, there is what I would call the beating heart of the Fondren food scene. **Walker's** has been around for ages and has consistently been my favorite restaurant in

Jackson for 20 years or more. The salads are sizeable, the fish is excellent, and they have great weekday lunch specials. My only knock on Walker's these days is that like a lot of other restaurants, its prices have gone up so much since Covid that eating lunch there on a regular basis is cost prohibitive. It's great for taking clients though, and for the occasional nice lunch with friends or family. Taking my kids to lunch there when they're both home is basically a \$75 outing after tax and tip, so that's not happening more than once during a holiday visit. I'm "still not there yet" when it comes to regularly paying \$20 for one lunch, much less \$75 for 3.

That's okay though, because I live close and can eat at home whenever I want. Or, I can save money and go to Corner Market and get the meat and veggies, with tea, for under \$10. Or, I can choose a slew of things in between. All-in-all, a lot of great options. The excitement still hasn't worn off. 🐸

CABA Membership Meeting June 18, 2024

The June 18th meeting was held at River Hills and included special guest, Meade Mitchell, the Mississippi Bar president for 2024–2025.



To view more photos of this CABA Membership Meeting please visit caba.ms

Coffee with the Court

..... May 3, 2024



Coffee - Pastry - Conversation • Held in Judge Thomas' Courtroom



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