



LAW MATTERS

March 2016

Volume XXVII No. 11

INSIDE THIS ISSUE:

<i>President's Message</i>	2
<i>February Meeting Update</i>	3
<i>Upcoming Programs</i>	4
<i>Department of Justice Findings Letter Re: Investigation of the Robertson County Schools Issued: September 5, 2014 Excerpts</i>	5
<i>Rye v. Women's Care Center of Memphis, The Tennessee Summary Judgment Standard Revisited</i>	6
<i>Ten years later, our immigration system remains broken</i>	7
<i>New Member Spotlight</i>	8
<i>LAW Committee Corner</i>	9
<i>KUDOS/Members on the Move</i>	10

March 15, 2016 Membership Meeting and One Hour General Credit CLE

"When Domestic Violence Comes to Work"

**Speakers: Rebecca Wells DeMaree
Kathy Walsh**

11:15 a.m. Registration

11:45 a.m. Announcements

BB King's Jazz Club

150 2nd Avenue North

Cost:

Members: Lunch \$25 plus \$15 CLE cost;

Nonmembers: Lunch \$30 plus \$25 CLE cost

Register Online at www.law-nashville.org by Noon Friday, March 11, 2016.

Prepayment preferred. Pay online with PayPal, pay by check, or pay at the door. Make checks payable to: LAW, P. O. Box 190583, Nashville, TN 37219

*If you are unable to attend, please find someone to take your place.
You will be invoiced for your unused reservation.

LAW CALENDAR OF EVENTS

- March 15, 2016
Monthly Membership Meeting 11:15 am—1:00 pm
- March 16, 2016 7:30 am—1:30 pm
Day on the Hill
- March 24, 2016
Diversity Networking Event 5:30—7:30 pm
- March 31, 2016
Wellness Book Club 6:00—8:00 pm
- April 20, 2016
Annual Meeting and Awards Banquet 6:00—9:00

View the complete calendar at www.law-nashville.org

**2016 Annual Meeting
and Awards Banquet
Register Today!**

PRESIDENT'S MESSAGE

by Abby Sparks



A few days ago, while scrolling through Facebook, a post caught my eye. A friend had posted a link to a [Ruth Bader Ginsburg coloring book](#), with free printable pages. Always looking for new ways to teach my 4-year old daughter feminist values, I quickly bookmarked the website. This afternoon, I printed the RBG coloring pages out and introduced them to my daughter. As Zoe and I colored away the afternoon, I told her about Justice Ginsburg, and why she is a role model.

I told Zoe that Ruth Bader went to law school at a time when very few women attended- she was one of only nine women in her class of over 500 students at Harvard. She attended law school while being a mother and caring for her husband who had recently been diagnosed with cancer - in fact, she helped her husband keep up with his studies by taking notes for him. She was the first female member of the Harvard Law Review. After transferring to Columbia for her last year of law school, she graduated first in her class. As the director of the ACLU's Women's Rights Project, she advocated for women's rights and gender equality. I told Zoe about how Ginsburg became the second woman appointed to the Supreme Court. I admit, the lesson devolved a bit when Zoe asked about Justice Ginsburg riding on unicorns with rainbows, as one of the coloring pages depicted. But we got back on track as I told her about Ginsburg's friendship with Justice Scalia.

One of the traits I most admire about Ginsburg is the friendship she shared with Scalia, particularly admirable because of their stark differences. Although they passionately disagreed on many issues, and were ideologically at opposite ends of the spectrum, Ginsburg and Scalia had a deep mutual respect for each other. They shared common interests- a love of opera, for example- and made each other laugh. Their families vacationed together and spent New Year's Eves together. Their friendship was so legendary, it was even the subject of an opera, "Scalia/Ginsburg." In the opera, the tenor Scalia and soprano Ginsburg sing a duet titled "We are Different, We are One."

This ability to form a meaningful friendship despite ideological differences seems to be rare in our increasingly polarized society. This is particularly evident during this election cycle, when the level of discourse has regularly stooped to personal insults, even among the same political parties. Sometimes it seems that as a society, we have lost sight of the fact that finding common ground and working together is necessary to move forward.

As it turns out, respect and trust are critical components in the success of working together as a team. A recent study by Google called "Project Aristotle" sought to uncover the secret to the most successful teams. Google found that "the best teams respect one another's emotions and are mindful that all members should contribute to the conversation equally. It has less to do with who is in a team, and more with how a team's members interact with one another." Team cultures that promote "psychological safety," characterized by "interpersonal trust and mutual respect in which people are comfortable being themselves," are the most effective and productive teams. In other words, when members of a team are nice and treat each other with respect, the team is more successful.

This is a refreshingly simple concept- one that is more likely to be heard in my daughter's preschool class than in business or public forums. Yet it's something that Ginsburg and Scalia modeled in their friendship, and an important lesson I hope to instill in my children.

http://qz.com/625870/after-years-of-intensive-analysis-google-discovers-the-key-to-good-teamwork-is-being-niceutm_source=atfb

http://www.nytimes.com/2016/02/28/magazine/what-google-learned-from-its-quest-to-build-the-perfect-team.html?_r=0

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LAW Matters is a monthly publication of the Lawyers' Association for Women, Marion Griffin Chapter, P. O. Box 190583, Nashville, Tennessee, 37219. Voicemail: 615.708.1827; Fax: 888.834.7370; www.law-nashville.org.

To submit articles for the March issue, contact, Alicia Cottrell, alicia.cottrell@tenethealth.com.

February Meeting: All Deliberate Speed The Struggle for Educational Equality 60 Years after *Brown*

by Mandy Strickland Floyd



(From L) Mandy Floyd, Professor Daniel Kiel, La-Tonnysa Burney and Tracy Alcock.

LAW hosted a discussion regarding educational equality in the 60 years after *Brown v. Board of Education*. On September 5, 2014, Federal authorities issued a findings letter which formally determined that the Robertson County School District “has yet to desegregate its schools and eliminate the vestiges of its prior segregated school system” as required by federal case law and statutes since *Brown v. Board of Education*. The Robertson County federal intervention served as a springboard for broader discussion, exploring the continued challenges to desegregation, integration, and equality 60 years after *Brown*. The discussion included the reflections of Hon. Richard H. Dinkins and Professor Daniel Kiel.

After receiving his law degree from Vanderbilt University in 1977, Judge Dinkins spent 18 years in private practice with the law firm headed by prominent late civil rights advocate, litigator and State Senator Avon M. Williams, Jr. In 1988, Judge Dinkins was instrumental in the historic settlement of the 43-year-old desegregation case against the

Nashville School System that had resulted in nearly three decades of court supervision of Metro Schools. Judge Dinkins currently serves on the Tennessee Court of Appeals.

Professor Daniel Kiel’s work centers on inequality in the educational system, particularly along the lines of race. His research examines efforts to reduce educational disparities including both the historical era of desegregation and more modern efforts to reform the structure of public education. In 2011, Professor Kiel built on his work on school desegregation in Memphis through an oral history project that culminated in *The Memphis 13*, a documentary film he wrote and directed sharing the stories of the first students to desegregate public schools in Memphis. Professor Kiel is currently an associate professor of law at the University of Memphis School of Law.

Judge Dinkins shared his first-hand experience with the Nashville desegregation process. As a member of the team focused on crafting a desegregation plan, Judge Dinkins spoke about the role of the Metro school board members who were focused on doing it right. Together, they took five years to develop a unitary plan which took into account socioeconomic factors, lot size, transportation systems, school choice, and myriad other factors. However, once the unitary system was approved, the district moved away from it and the advancements gained under the plan began to fade. Judge Dinkins reminded our membership that to improve the system we must want for every child what we each want for our own child.

Professor Kiel discussed the complications and challenges with defining and implementing effective desegregation plans. While *Brown* constituted a finding of liability, this marked only the beginning of the long remedial history as illustrated by Judge Dinkins’ experience. While later cases would require the states remove all vestiges of state sponsored segregation, this charge posed practical problems and constant changes of the parameters of the goal. Ultimately, the *Brown* progeny posed the question: What are the limits of the courts’ remedial powers?

Brown posed twin goals of addressing both the *separate* and the *equal* components of de jure segregation. While student assignment addresses the separate component, teacher training and school choice address the requirement of equality. Integrating children into mediocre or failing schools was not the goal of *Brown*. With time, there developed exhaustion in trying with respect to desegregation. In some ways our society has abandoned integration as a goal, and *Plessy*-style education reform has resulted. However, education reform cannot exist separated from underlying issues. Ultimately, Professor Kiel noted, education reform alone cannot solve problems which are rooted in poverty, educational disadvantage, residential segregation, lack of kindergarten readiness, and failure of meaningful social integration.

Thank you to Judge Dinkins and Professor Kiel for their excellent contributions!



Mandy Strickland Floyd is a 2015/16 Newsletter Editor. She is a civil litigation attorney for Bone McAllester Norton PLLC.

Upcoming Monthly Membership Meetings

March 15, 2016—One Hour General Credit

When Domestic Violence Comes to Work

How to address domestic violence when it comes to work, reporting issues, referrals and safety planning.



Rebecca Wells
Demaree
Cornelius & Collins



Kathy Walsh, Coalition
Against Domestic
and Sexual Violence

April 20, 2016—LAW Annual Meeting and Awards Banquet

Networking 6 pm

Program and Dinner 6:30 pm

Davidson Ballroom

The Music City Center

201 5th Avenue South

Nashville, TN 37203

Tickets: \$50.00 per person—in advance

Reservations and Payments must be received
by Friday, April 15, 2016.

Reserve online at www.law-nashville.org or

mail a check made payable to LAW to P. O. Box 190583, Nashville, TN 37219

(Open seating. Tables of 8.)

Department of Justice Findings Letter
Re: Investigation of the Robertson County Schools
Issued: September 5, 2014
Excerpts

The United States has completed its investigation into allegations that the Robertson County Schools (“District”) and the Robertson County Board of Education (“Board”) have discriminated on the basis of race through their student assignment practices, including failing to desegregate the District’s schools. The United States considered these allegations in light of the District’s and Board’s obligations as a prior *de jure* segregated school system to dismantle and not reestablish its segregated system. These obligations include those set out in federal case law and statutes since *Brown v. Board of Education*, 347 U.S. 482 (1954), prohibiting discrimination on the basis of race and requiring equal educational opportunities in public schools. As explained in detail below, the United States has determined that the District has yet to desegregate its schools and eliminate the vestiges of its prior segregated school system.

I. Summary of the Investigation

Prior to *Brown*, the Robertson County Schools operated as a segregated system pursuant to state law. *Brown* required such *de jure* segregated school systems to desegregate, and subsequent cases and statutes elaborated on how to fulfill this obligation. . . .

Following the passage of the 1964 Civil Rights Act, the District took measures to begin desegregation, including in 1966 filing an Assurance with the United States Department of Education that memorialized the understanding that the District’s desegregation plans would be subject to review to determine their adequacy in achieving desegregation. (*HEW Decision* at 5.) After these earlier measures failed to desegregate the system, the District entered into a Form 441-B desegregation plan (“441-B plan”) with the United States Department of Education in 1970. Under that plan, the District has continuing responsibilities to further desegregation including through the selection of locations for new schools; additions made to existing schools; the assignment of students to schools and classes; and the employment and assignment of faculty and staff to schools.

The United States received complaints alleging that the District has taken actions that are inconsistent with its continuing obligations under the 441-B desegregation plan and federal law. The complaints allege that: (1) the District’s student assignment policies in combination with the location of new facilities impede desegregation and create racially identifiable schools; and (2) the District discriminates in faculty and staff assignment.

A. Site Selection, Construction, and Assignment Practices

Since the adoption of its 441-B Plan in 1970, the District has built seven new schools, all of which are over 90% white. . . . These schools are all located in the outer areas of the county, where the population is predominantly white. . . . The District’s site selection for these schools, coupled with its student assignment practices, resulted in the creation of new predominantly white schools, which perpetuate segregation, in violation of the District’s desegregation obligations. . . .

The District’s placement of portable classrooms at schools where almost all black students are enrolled also hinders desegregation. In 2013, all of the District’s majority-minority schools relied on portable classrooms to relieve overcrowding. . . . At the same time, majority white schools . . . were operating under capacity. . . . Despite the availability of capacity, the District did not reassign students from the Springfield area to these contiguously zoned schools.

B. Student Assignment

The data show that the majority of the District’s schools are racially identifiable. . . . Thirteen of the District’s nineteen schools have racial enrollments outside of the $\pm 15\%$ deviation of the District-wide demographics. All of the District’s elementary schools are racially identifiable, and Springfield Middle and High, serving the majority of the District’s black students, are also racially identifiable.

While the District’s remaining middle and high schools do not fall outside the $\pm 15\%$ deviation, they are all over 90% white and their enrollment demographics contrast starkly with those of Springfield Middle and High School. It is particularly problematic that a large number of schools across grade levels are almost exclusively “white” schools.

The District has had opportunities to re-draw zone lines, construct new schools, or make other changes to student assignment that would further desegregation. The District, however, has not pursued, and has often rejected, those opportunities.



Rye v. Women's Care Center of Memphis
The Tennessee Summary Judgment Standard Revisited
by Mandy Strickland Floyd

The Tennessee Supreme Court has redefined and clarified the summary judgment standard for civil cases. In *Rye v. Women's Care Ctr. of Memphis, M PLLC*, No. W2013-00804-SC-R11-CV, 2015 WL 6457768, at *22 (Tenn. Oct. 26, 2015), the Court returned to a summary judgment standard consistent with the Federal Rules of Civil Procedure:

[W]hen the moving party does not bear the burden of proof at trial, the moving party may satisfy its burden of production either (1) by affirmatively negating an essential element of the nonmoving party's claim or (2) by demonstrating that the nonmoving party's evidence *at the summary judgment stage* is insufficient to establish the nonmoving party's claim or defense. . . . "[W]hen a motion for summary judgment is made [and] ... supported as provided in [Tennessee Rule 56]," to survive summary judgment, the nonmoving party "may not rest upon the mere allegations or denials of [its] pleading," but must respond, and by affidavits or one of the other means provided in Tennessee Rule 56, "set forth specific facts" *at the summary judgment stage* "showing that there is a genuine issue for trial." Tenn. R. Civ. P. 56.06. The nonmoving party "must do more than simply show that there is some metaphysical doubt as to the material facts." *Matsushita Elec. Indus. Co.*, 475 U.S. at 586, 106 S. Ct. 1348. The nonmoving party must demonstrate the existence of specific facts in the record which could lead a rational trier of fact to find in favor of the nonmoving party. If a summary judgment motion is filed before adequate time for discovery has been provided, the nonmoving party may seek a continuance to engage in additional discovery as provided in Tennessee Rule 56.07. However, after adequate time for discovery has been provided, summary judgment should be granted if the nonmoving party's evidence *at the summary judgment stage* is insufficient to establish the existence of a genuine issue of material fact for trial. Tenn. R. Civ. P. 56.04, 56.06. The focus is on the evidence the nonmoving party comes forward with at the summary judgment stage, not on hypothetical evidence that theoretically could be adduced, despite the passage of discovery deadlines, at a future trial.

Rye, 2015 WL 6457768, at *22. The standard adopted by the Court is virtually identical to the Tenn. Code Ann. § 20-16-101, essentially sidestepping any future separation-of-powers challenge to that statute's authority.

In adopting a standard consistent with the Federal Rules, litigants may no longer rely on the possibility that evidence may be produced at trial, but instead must produce specific evidence *at the summary judgment stage* sufficient to establish the existence of a genuine issue of material fact. Under this standard, the Supreme Court has definitively held that litigants who bear the burden at trial must be prepared to "put up or shut up" in order to survive summary judgment.

Ten years later, our immigration system remains broken

by Linda Rose

My 89-year old mother visited me recently over the holidays. On her first day, she handed me a copy of an editorial piece I had written for The Tennessean more than 10 years ago. (These are the things that only a mother keeps.) My article addressed the broken immigration system and why many employers rely on the undocumented foreign workforce.

While reading the article, I remembered saying 10 years ago, “There is a void in the system.” I continued reading and had to scratch my head in wonderment: Nothing, I repeat, nothing, has substantially changed for the better. Our immigration laws still provide no meaningful temporary work visas for lesser-skilled occupations such as construction workers, landscapers, and dish-washers – workers who keep the wheels of our economy rolling. For that reason, many employers in Tennessee must rely on the undocumented workforce.

I’m not saying that employing undocumented workers isn’t a problem. It’s a problem for the employers and for the workers themselves. I meet these workers almost every day, and none wants to live underground in undocumented status. And the employers don’t want to break laws to keep their businesses running; instead, they want to retain legally their valued employees and help them to establish a life in the United States. In short, employers and employees alike both want visa options for essential skills workers. Unfortunately, the immigration laws do not significantly accommodate the foreign workers who lay the bricks to build your home, paint the walls in your offices, prepare food in your favorite restaurants, and change the sheets in your hotel room.

Through executive action, President Obama has attempted to address the problem by directing the U.S. Immigration and Customs Service (USCIS) to modernize its procedures. Just last month USCIS issued a final rule relaxing the types of evidence high-level researchers and professors can use to qualify for permanent residence (green cards). Shortly before that USCIS proposed a rule that would grant temporary work authorization for spouses and children of certain high-tech workers. But none of these initiatives goes to the problem of essential skills workers. And to add further hurdles to fixing the broken system, the President’s initiatives to expand benefits for childhood arrivals and their parents have been stalled in litigation. This is such an important issue that the U.S. Supreme Court has decided to review the President’s executive actions.

According to the U.S. Congress Joint Economic Committee, unemployment is at a low 5.6% in Tennessee and 5% nationwide. Without sufficient U.S. workers, we need foreign workers to fill the gap in the workplace and the economy. Not only do foreign workers bring important skills to us, they infuse more money into the economy by purchasing goods and paying taxes. And no, they don’t drain our public resources either. According to the Cato Institute, foreign workers use public benefits such as Medicaid at a rate lower than low-income U.S. citizens. Providing legal visa options to this segment of the workforce would further reduce their need for public assistance. Finally, I’d be remiss if I didn’t mention national security. Providing visa options for essential skills workers and the undocumented workers will only increase our security because it would allow the government to track who is here and what they are doing. For these reasons, we need to support change to the immigration system and the President’s efforts to fix it.

I hope, in ten years from now, when my mother hands me a copy of this article, I’ll be able to nod my head in satisfaction that the broken immigration system finally has been fixed. She’ll be 99 by then.



Linda is the managing member of Rose Immigration Law Firm, PLC, in Nashville. The firm represents international corporations and artists in the music industry, and has a special interest in the plight of undocumented workers, their employers, and their families.

New Member Spotlight: Caraline Rickard



1. Where did you grow up? Tell us about your family. Are you married? Do you have children? Pets? I grew up in Henderson, a small town in West Tennessee. My family now lives in Jackson. I am a middle child in every stereotypical way, with an older sister and a younger brother. I'm not married, no kids, and no pets (though I'm in the market for a small, apartment-friendly rescue dog, if anyone has a recommendation).

2. What do you do professionally? I work as a Staff Attorney at the Nashville District Attorney's Office in the General Sessions Division. I am part of Vanderbilt Law School's Public Service Initiative, a program through which Vanderbilt provides stipends to new graduates who wish to begin their careers in public service. It's a great office and a fantastic program, and I'm proud to be a part of both.

3. What is your favorite thing about being a member of LAW? My third year of law school, I was awarded the Julie Alexander Grinalds Memorial Scholarship from the Anne Schneider Chapter of LAW in Jackson, TN. I was honored and grateful for the money, and even more that they took the time to send me a very thoughtful letter of congratulations and publish the award in my hometown newspapers. In addition to making my family very proud, I received a number of phone calls and notes from old friends, and even a letter from a 95-year-old woman I didn't know who was an alumna of my fraternity, Chi Omega, who just wanted to congratulate me. It was a wonderful example of the ways women can come together to support each other.

4. What is your favorite quote, piece of advice you have received, or a motto you try to live by? I have a beautiful watercolor print of a quotation by author David Allen hanging by my front door: "You can do anything, but not everything." As women and as professionals, I think we have a tendency to want to do everything for everyone every time. I use it as a constant reminder to be wary of my tendency to overbook myself.

5. Any "fun facts" about you that other LAW members might not already know? I play on a trivia team once a week with several friends, including three other young lawyers, and we nearly always win. I'm the history and politics specialist.

6. What do you like to do in your spare time? I like to try new restaurants with friends, paint, write, do yoga, spend time with my family, play with my 16-month-old nephew, and watch Netflix until I get the "Are you still watching?" prompt. (I am. I always am.)

7. What are you reading right now, and what book could you read over and over again? Right now I'm reading *Michelangelo and the Pope's Ceiling* by Ross King, about the painting of the Sistine Chapel, and *Sisters in Law* by Linda Hirshman, about Sandra Day O'Connor and Ruth Bader Ginsburg. I have read the *Harry Potter* series at least 15 times, no exaggeration. I think it was a really important influence on my generation and our understanding of love, justice, and equality. I still learn from it every time.

8. If someone hit "shuffle" on your iPod, what are five songs that might play? Anything by Michael Buble or Adele.

DAY ON THE HILL

Talk about women's issues!

The Women's Political Collaborative, LAW, along with other area women's organizations have planned a day to discuss the issues facing women in Tennessee on, March 16, 2016, 511 Union Street, Suite 2700. Breakfast is FREE. Lunch is \$20.00. Guest Speaker, Mayor Megan Barry. [Click Here](#) to register and review the events of the day!

LAW Committee Corner

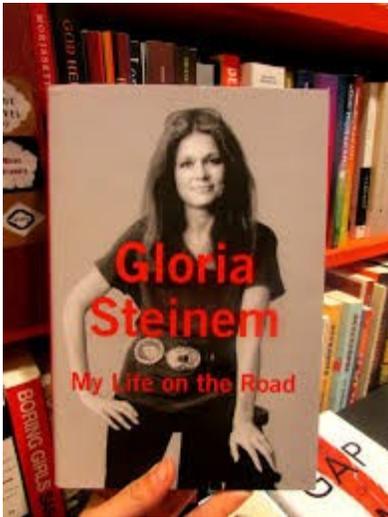
Diversity and Networking Joint Event to Celebrate Women's History Month

Join the Diversity and Networking Committees of the Lawyers' Association for Women – Marion Griffin Chapter on March 24th from 5:30 – 7:30 pm for a networking event to highlight Women's History Month. Network with professional women in Nashville to highlight the power of diversity. Mayor Megan Barry will kick off the event at approximately 5:30!

Location: Bone McAllester Norton PLLC, 511 Union Street, Suite 1600

Reservations not mandatory but appreciated! www.law-nashville.org

Wellness Book Club



The LAW book club will meet on Thursday, March 31, 2016, at 6:00 p.m. at the home of Meera Ballal, 3513 Woodmont Boulevard. The selection is My Life on the Road by Gloria Steinem, in which Ms. Steinem discusses her journey as a Traveling Feminist. “I find that a traveling woman — perhaps especially a traveling feminist — becomes a celestial bartender,” she writes. Become recognizable enough “as part of a movement that gives birth to hope,” she continues, and “people say things they wouldn’t share with a therapist.” Her book provides a lesson in how to stay relevant when your name is synonymous with a decades-old movement that has fallen in and out of popular favor: Keep moving. And keep asking questions.

We anticipate a lively discussion! Finishing – or even reading! – the book is never required, although certainly helpful. Bring a snack, bring wine, bring a friend, bring your opinion, and share a fun and stimulating evening! Please RSVP, so Meera knows how many to expect at her home. Hope to see you there!!

Community Relations

Tusculum Elementary School Grateful for Children's Clothing Donations

LAW members stepped up at our February luncheon, donating two overflowing boxes of clothing for children at Tusculum Elementary School. It was fitting that Judge Dinkins mentioned the school during his remarks at the luncheon.

Tusculum has 725 students, with more than half currently placed in portable classrooms. Along with a message for teachers, the school hallway has a map of the children's counties of origin. Tusculum's Family Engagement Specialist Becky Hulse (pictured next to the map) noted that the school had to stop scheduling parent gatherings in January because some of the parents would walk to the school even if their only footwear was a pair of flip flops. Talk about engaged, dedicated parents! Becky is always interested in food and clothing donations for the families served by Tusculum Elementary.

If you are interested in participating in LAW's Community Relations Committee projects, including our support of Tusculum Elementary and the Girl Scouts Win/Win Negotiation patch event on Saturday April 23, 2016, contact co-chairs, Tracy Alcock (tracy.alcock@tn.gov) and Marnie Huff (Marnie@MargaretHuffMediation.com).



LAW / Girl Scouts – Win/Win negotiation patch opportunity for 4th and 5th grade girls and LAW volunteers Sat. April 23, 2016

A fun upcoming activity is the Win/Win negotiation patch for Girl Scouts. We teach negotiation to girls, using materials developed for the Girl Scouts. For more info, see Marnie Huff's article at http://www.margarethuffmediation.com/Article_Win-Win-negotiation---Girl-Scouts.html

Date, Time & Location of Event: Saturday April 23, 2016 at 10 am - 2 pm at the Girl Scouts building on Granny White. Lunch is provided.

Training. Marnie will email volunteers about a short pre-event training session at her home. If you would like to volunteer for LAW's Win/Win negotiation patch event for the Girl Scouts, please email Marnie at Marnie@MargaretHuffMediation.com.

**If your daughter is a Girl Scout in the 4th or 5th grade, she may want to her troop to sign up . Contact the Girl Scouts directly for more information at 615-460-0217.

Members on the Move



Ellery Richardson formerly of the State of TN Commerce and Insurance, Regulatory Boards Commission where she worked with cemeteries (Burial Services and the Board of Funeral Directors and Embalmers, and architects, soil scientists and geologists has moved to the Office of General Counsel in the Department of Environment and Conservation.

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Sarah Baker
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Erika Barnes
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