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'People Are Livid': Lawyers React to Texas Bar Committee's Decision on Implicit-Bias Training

"There are a lot of things in this country and things in the world where people got upset. But you do what is right because it is right," said Rudy Metayer, chairman of the State Bar of Texas African American Lawyers Section.

By Angela Morris | January 26, 2021



Rudy Metayer, chairman of the State Bar of Texas African American Lawyers Section; Judge Victor Villarreal of Webb County Court-at-Law No. 2; Texas Bar President-elect Sylvia Borunda Firth; Sarah Springer, founding attorney in The Springer Law Firm in Katy; Rudy Gonzales Jr., a partner in Hilliard Martinez Gonzales in Corpus Christi Courtesy photos

Livid.

It's the word that Rudy Metayer used to describe the feelings of himself and other members of the State Bar of Texas African American Lawyers Section when they learned that a bar committee unanimously recommended against mandatory implicit-bias training for Texas attorneys.

Metayer, the section's chairman, saw a flow of emails from members expressing extreme disappointment about the decision, the reasoning behind it, and the conversation that unfolded at a Jan. 22 Texas Bar board of directors meeting where the news came out.

The bar's minimum continuing legal education committee wanted to offer implicit-bias training as ethics CLE credit on a voluntary basis. Yet fearing "pushback" from some lawyers with strong feelings against such training, the committee was unanimous in deciding against a mandatory requirement.



Rudy Metayer

"People are livid about it. It is very disappointing to see where the bar is on this. This is not an issue that is going to go away," said Metayer, a litigator at Chamberlain McHaney in Austin. "If the standard is that because people will get upset, we shouldn't do something. Well, there are a lot of things in this country and things in the world where people got upset. But you do what is right because it is right."

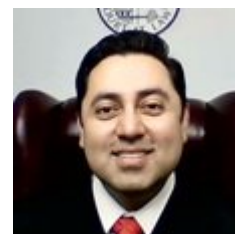
Committee Chairman John Boyce, who delivered the update about the training, declined to comment. The committee's recommendation is preliminary and has not yet been voted on by the board of directors.

Read more: Texas Bar Committee Give Thumbs-Up to Voluntary Implicit-Bias Training, But Some Board Members Wanted Mandatory (<https://www.law.com/texaslawyer/2021/01/22/texas-bar-committee-give-thumbs-up-to-voluntary-implicit-bias-training-but-some-board-members-wanted-mandatory/>)

The initial push for such training was one solution the African American lawyers section had suggested (<https://www.law.com/texaslawyer/2020/07/21/amid-controversy-texas-minority-lawyers-call-for-action-against-racism-in-profession/>), with backing from the bar's other minority, LGBT and women's sections, in the wake of the huge controversy last summer when bar President Larry McDougal posted a Facebook comment (<https://www.law.com/texaslawyer/2020/07/13/lawyers-call-on-texas-bar-president-to-resign-over-black-lives-matter-comments/>) about Black Lives Matter, which offended many attorneys (<https://www.law.com/texaslawyer/2020/07/27/shame-is-not-strong-enough-texas-bar-meeting-sees-61-speakers-line-up-to-address-larry-mcdougals-online-comments/>) and launched a discussion about racism and discrimination (<https://www.law.com/texaslawyer/2020/07/28/texas-bar-board-pledges-action-to-erase-systemic-racism-boost-diversity-after-marathon-meeting-over-larry-mcdougals-comments/>) in the Texas legal profession.

Judge Victor Villarreal, chairman of the bar's Hispanic Issues Section, which supported the implicit-bias training proposal, wrote in an email that it's a symbolic first step that the bar committee wanted to offer the training to lawyers on a voluntary basis. But it doesn't go far enough, he said.

"Implicit-bias training benefits all involved. For example, to provide the best quality legal representation, the most perceptive lawyers grasp the necessity to comprehend both their client and opposing counsel and their clients, as well as institutional, individual, and systemic factors. In short, awareness of unintentional behaviors and biases is in the interest of justice," said Villarreal, who presides over Webb County Court-at-Law No. 2. "Concerns about pushback should be met with firm resolve. The section applauds the courage of State Bar of Texas directors who boldly and publicly advocated for mandatory training."



There was also a lot of pushback when Congress passed the Civil Rights Act of 1964, said Jason Smith, one of the board members who told the MCLE committee chairman that the training should be mandatory.

Judge Victor Villarreal

"Sometimes you are going to have pushback, even though it is a good idea. That doesn't mean you don't go forward with the idea," Smith said. "I think the state bar missed a chance to be leaders. I understand why so many of the minorities and women, who shared story after story about experiencing racist and sexist behavior in the practice of law, would feel like the state bar is just sweeping it under the rug."

Smith said if the bar makes the training voluntary, only lawyers who already "have an antennae" for issues about racism or discrimination would choose the course.

"Institutional racism and sexism is sadly still a problem that limits opportunities for women and minorities," said Smith, a Fort Worth solo practitioner. "It's such a huge structural problem that every lawyer needs to get some training on how to recognize it and move past it."

Board member David Calvillo, who didn't respond to a call seeking comment, also said at the meeting that implicit-bias training should be mandatory, perhaps on alternating years. But others said that making the training mandatory may cause so much resentment that attorneys would not take in the information. That camp favors creating incentives that would lead reticent attorneys to take the training on their own.



Sylvia Borunda Firth

"The people who are resisting it are probably the people who would benefit the most, but forcing them to attend a course they are resisting is not going to get the message across. They are not coming with the right mindset to receive the information," said Bar President-elect Sylvia Borunda Firth, who is leading a new bar task force on diversity and inclusion that will also ponder the implicit-bias training proposal. "It's a step in the right direction to say it will count to ethics hours. Ethics hours are always the hardest for people to get."

Also, perhaps there could be a diversity and inclusion certification that an attorney could display on her website or letterhead, Firth said. Judges may look favorably on such certifications when they appoint attorneys to represent indigent litigants, she added, noting that the bar is in the beginning stages of brainstorming these incentives.

Katy attorney Sarah Springer said she agrees that implicit-bias training should be voluntary.

"To force everybody to say there is implicit bias in everybody and we need to flush it out, that is not something that excites me," said Springer, founding attorney in The Springer Law Firm.

She said that training about implicit bias should be incorporated into other CLE seminars, professionalism courses or ethics and civility discussions.

"I don't like things rammed down my throat. If I was someone who needed the training, and it was rammed down my throat, I would be resistant to it," said Springer, who is also chairwoman of the bar's professionalism committee. "I would resent my time being wasted on training that I do not need."



Sarah Springer.

Corpus Christi litigator Rudy Gonzales Jr. would disagree. He said lawyers need the training and the Texas Bar should require it, whether attorneys accept it, or go kicking and screaming.



**Rudy Gonzales
Jr.**

"All of us can benefit from listening to and being educated on potential biases that exist within our profession. It's not asking us to take up arms. We are not asking anyone to get radicalized. It is a simple aspect of our society that we should be aware of," said Gonzales, a partner in Hilliard Martinez Gonzales. "Since when should the state bar be concerned about pushback from anyone? Who will do the pushing back? Those who do not want the training? Those who are not accepting of this important aspect of our professional lives? ... They need the training the most."

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