

## **Spotlight on a TLAW Member: Marietta Shipley launches new mediation group**

Long-time TLAW member and retired Davidson County Second Court Judge Marietta Shipley has been a pioneer for the legal community in many ways. She first came to Tennessee when she married her husband, an attorney. Through that community of friends, she saw that going to law school might open some doors for her that her career as a German teacher might not have. Shipley commented, “I thought the field of law would offer me many opportunities to either be a regular lawyer, work in business or work in academia.” When she graduated from the Nashville School of Law in 1976, she was amongst the first class where there were a significant number of females graduating from any law school in the state. Besides forging ground into a previously male-dominated career trajectory, she would ultimately also change the culture of the field by being a founding partner in Tennessee’s first all-women’s law firm, becoming a judge at a time when there were previously only four women judges in the state, and ultimately introducing mediation to the legal community of Tennessee.



It was through a 40 hour mediation training put on by the ABA at Stanford University, that Shipley was introduced to some of the best trainers and now most well known mediators in the country. She said, “It really turned my head around as a litigator. I was really blow away by concepts like ‘win-win’ and ‘enlarging the pie’ and being able to recognize the sides of the other which would be helpful to my client.” At that time, she was one of three or four people in the state that had exposure to mediation. Through this, she was given a new mission.

After speaking with Martha Craig Daughtrey, former Tennessee Court of Criminal Appeals Judge and now United States Sixth Circuit Court of Appeals Judge, who referred her to Judge Gladys Kessler of the United States District Court for the District of Columbia, she continued to learn more about the merits of the mediation process and went onto have a successful political platform. Once she was elected to her judicial position, she continued with her mediation movement and forged a proposed rule. While it was hard at the beginning, ultimately the Tennessee Supreme Court came out with rule 31 which was significant because it gave judges the authority to order mediation, a non-binding process. Initially, there were few mediators so Judge Haynes and Judge Shipley started doing settlement conferences for civil cases and Judge Shipley started training her law clerks to mediate family law cases. As there were more mediators, they began to refer cases. Once the Supreme Court blessed mediation by putting out this rule, many people were trained and now there are 900 mediators in Tennessee. Shipley observed, "It really continued to gain momentum in the civil field where there was strong judicial support and there were mediators." At that time, she was chair of the Judicial Alternative Dispute Resolution Committee for the Judicial Conference. They had approximately four different trainings for judges in mediation and settlement conferences. That enabled judges to either be settlement judges or to be knowledgeable so they felt comfortable referring cases to an outside process.

***A message from Marietta Shipley:***

*To women attorneys, organizations like TLAW and LAW are still extremely important even though there are many female lawyers. "For my generation of women lawyers, it provided a source of friendship and referral base. It really is no different for young women today." Shipley encourages TLAW members to get to know the women in other cities and other fields of law. Not only can you form a friendship because they can understand what you are going through, be it as a lawyer, family person or member of the community at large, it is also a great way to meet others around the state who may refer clients your way or to help you make lateral or upward movements in your career trajectory.*

Because of these change, Shipley thinks "The net result is that mediation is now just a part of the whole process. And it is seen from the beginning as being part of the process. Attorneys are preparing as much for evaluation of the case to go to mediation as they are to go to trial." This has had an effect on the court's docket. It used to be that approximately five percent of civil cases went to trial, but now Shipley estimates that less than one and a half percent of cases that are filed go to trial. While that may not seem that significant at first glance, consider that when Judge Shipley was first on the bench, she had 30 to 40 trials per year however, last year she tried 11 jury trials up until her retirement.

**Are you interested in becoming a mediator? See Tennessee Supreme Court Rule 31, Section 17 to learn about the qualifications.**

While the number of mediators and the use of mediation in civil cases has increased, even as a retired judge, Marietta Shipley is continuing to improve the legal process by launching The Mediation Group of Tennessee because she also wants to improve the quality of the mediations. She currently has a co-hort of 16 independent contractors with extremely high qualifications coming from judicial backgrounds or expertise in their substantive field of law who will all continue to receive additional training. By contacting the Mediation Group of Tennessee, they will determine which of their mediators best fits the needs of the case, schedule a pre-mediation meeting with the parties so the mediator will know about the logistics, the case and who should be present. Then after the mediation takes place, the Mediation Group sends an evaluation form to the participants so they can continue to make sure their clients are satisfied and they can continue to improve their process.

Shipley said, "I wanted to have some control over the quality. And I wanted to be able to take a group like this and expand mediation beyond court cases and into use in government. I think with this kind of group, it carries more weight than a single mediator. This really is a whole new field. I think which will keep expanding especially geographically. We can participate in how mediation will change the future."

### **How to Contact The Mediation Group of Tennessee:**

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### **History note:**

While they may not have known it, the early years of Judge Shipley's career was a significant time for female lawyers. During those early years, the pioneers included: Martha Craig Daughtrey, former Tennessee Court of Criminal Appeals Judge and now U.S. Sixth Circuit Court of Appeals Judge, US District Court Judge Aleta Trauger, Judge Barbara Haynes, Davidson County Third Circuit Court, and attorney Margaret Behm. Along with Marietta Shipley, these women formed a strong network of women attorneys through their membership in TLAW, have changed the face of the legal community and brought new issues and considerations to the table to better serve the public.

