

IN THE SUPREME COURT OF FLORIDA  
No. SC21-284

In re: Amendment to Rule Regulating The Florida Bar 6-10.3,  
Case No. SC21-284

Nancy Cayford Wear submits the following comments in order to assist the Court in assessing the need for a “policy regulating the composition of faculty at section-sponsored continuing education programs,” as recently addressed by the Business Law Section of The Florida Bar, and essentially disapproved by the Court in its Order dated April 15, 2021.

Ms. Wear’s comments are intended to call the Court’s attention to the dearth of woman presenters at CLE seminars, and to suggest a policy which affirmatively encourages CLE organizers to recruit qualified women as presenters.

**LOBBYING FOR VOLUNTARY COMPLIANCE  
WITH RESPECT TO WOMEN PRESENTERS  
HAS BEEN UNAVAILING**

1. Nancy Cayford Wear (“Ms. Wear”) has been a member of The Florida Bar since 1974, and has been attending Florida Bar-sponsored and/or -approved CLE seminars since rules requiring continuing legal education were instituted. Throughout the years, women have either been absent as presenters, or they have been allotted only a minimal role (such as sharing one segment, or only introducing [male] speakers).

2. Ms. Wear has been Florida Bar Board-certified in Criminal Appellate Law since 1992 (a certification requiring 50 hours of specialized CLE during each five-year reporting period). She has been a member of the Criminal Law Section for many years, and is a Charter Member of the Appellate Law Section. Each of those sections is notable for the large numbers of women among its membership.

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3. Throughout Ms. Wear's service on The Florida Bar's CLE Committee (2002-2007), she regularly and emphatically raised the issue of the lack of woman presenters at CLE seminars. Each time, she was told that the CLE Committee left the choice of faculty entirely up to the individual sections holding a seminar. She was wholly unsuccessful in persuading the CLE Committee to take any affirmative position that even encouraged inclusion of women as presenters, let alone one that insisted on the inclusion of women as presenters.

4. But otherwise, although she privately lobbied for more women (and accepted the few opportunities presented to her personally to be one of the woman presenters), Ms. Wear reluctantly accepted the situation, in part because she thought that she would be targeted and criticized if she publicly advocated for the inclusion of women, or even publicly commented on women's absence and/or their under-representation as presenters at CLE seminars.

5. It turned out that Ms. Wear's fears were well-founded, as she learned in early 2013. She wrote in December, 2012, to *The Florida Bar News*, complaining about the dearth of woman presenters at seminars, and giving particulars about women's non-inclusion at then-recent major seminars put on by the Criminal Law and Appellate Practice sections. A copy of the letter is attached as Exhibit A.

6. Ms. Wear was urged, in the first place, to withdraw her letter before its publication in the *Florida Bar News*. In an unprecedented action by the *News*, the then-chairs of each section were offered an opportunity to defend, published in the same issue as Ms. Wear's. (Those responses are included in Exhibit A: they focused on the irrelevant fact that women have chaired the respective sections.)

7. The absence of woman presenters has not been remedied much since Ms. Wear's letter was published in the January 15, 2013, issue, although both sections have large

numbers of woman members (who all pay the same hefty dues as the men):

a. For example, at the January, 2014, Advanced Federal [Criminal] Practice seminar, of 8 presenters, 6 were men; the two woman presenters shared one segment.

Seven years later, only lip service was paid to women: At the May 7, 2021, Advanced Federal [Criminal] Practice seminar, although several invited speakers were women, they were all judges, limited to giving “views from the bench.” The two substantive lectures were presented by men.

b. For example, the January 17, 2020, Appellate Practice Section’s Advanced Appellate Practice and Appellate Certification Review all-day seminar had 8 presenters: Six of them were men, and only two were women (and one of the women was the program chair).

8. Many of the seminars draw a statewide and even out-of-state attendance, and thus afford opportunities to highlight the presenting lawyers’ skills to a wide audience, and provide a prestigious networking platform for them. (The potential audience has grown over the years, both at live events, and because of audio and video circulation of each seminar, yet further increased during the pandemic and the rise of Zoom.)

Thus, by omitting women or by limiting their inclusion to one segment or less, the status quo has been maintained, even as The Florida Bar continues to wonder publicly why woman lawyers consistently report low levels of professional satisfaction, unexpectedly slow rates of professional advancement to partnerships or management positions, and measurably higher rates of departure altogether from active Bar membership.

9. The Court focused on case law in its April 15, 2021, Order, but in doing so it relied on cases addressing college

admissions programs, such as *Grutter v. Bollinger*, 539 U.S. 306 (2003), and *Regents of University of California v. Bakke*, 438 U.S. 265 (1978).

Ms. Wear respectfully suggests that the Court did not frankly address the reality that while women make up over 50% of the U.S. population and around 40% of The Florida Bar's membership, they have been systematically denied opportunities to participate in The Florida Bar-sponsored and -accredited CLE seminars --- seminars which were created so that attendees could comply with the Court's rules with respect to continuing legal education.

10. It is true that the Court was correct in disapproving the Business Law Section's "diversity" policy, because that policy failed to acknowledge frankly that "voluntary" inclusion has not been enough to open the ranks of CLE seminars to the largest subset of non-male Florida Bar members: Women.

The Business Law Section's "diversity" policy would continue to limit the participation of women by leveraging other specialized subsets over women who are not already members of one of those admittedly worthy subsets. Such "diversity" policies seek to cover every possible variation, as it marginalizes, even buries, the most obvious omission: Women.

11. Women exist in every "race, ethnicity, . . . , religion, national origin, disability or sexual orientation," but they are still being marginalized and ignored, as they have been for centuries.

It appears that the Court and The Florida Bar have overlooked or forgotten that black men got the vote, at least on paper, some 60 years before women did. And long after public elementary and higher education became available to black men, it was still perfectly acceptable not to allow women to read, to attend schools and universities, and to practice law. The Civil Rights Act of 1964 was enacted chiefly to end discrimination on account of race; gender was added by an

opponent in a move to make passage less likely. And despite lip service paid to women by such hard-to-enforce and often meaningless laws, the exclusion and marginalization of women has continued unabated.

12. The Court and The Florida Bar must take an affirmative and firm stand: Organizers of CLE seminars, required by the Court and sanctioned by The Florida Bar, must take steps to ensure that women are included as presenters at those seminars. Indeed, as Ms. Wear suggested back in 2013, if all CLE panels from now on were to consist solely of women, it would be decades before equity would be reached.

13. The Court is urged to withdraw its April 15, 2021, Order, and to issue one that is based on the reality that woman lawyers have been systematically denied access to a major professional opportunity because they have not been recruited, invited, or even encouraged to be presenters at CLE seminars presented to comply with the Court's rules.

**CERTIFICATE OF SERVICE**

I CERTIFY that a true copy of the foregoing was served via the ePortal this 20th day of June, 2021, to the Office of the Clerk, Supreme Court of Florida, 500 South Duval Street, Tallahassee, Florida 32399-1927.

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By: \_\_\_\_\_/s/ N.C. Wear\_\_\_\_\_

**CERTIFICATE OF COMPLIANCE**

I certify that the typeface used in the foregoing is 14-point Bookman Old Style, complying with Florida Rule of Appellate Procedure 9.045(b) and (e). The word count is 1408 words.

By: \_\_\_\_\_/s/ N.C. Wear\_\_\_\_\_