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February 10, 2016

[By email to chris@clsessq.net]

Christopher L. Seaton, Esq.
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Dear Mr. Seaton:

Thanks for your interesting open letter to the Indigent Representation Task Force posted on October 26, 2015, on the MimesisLaw website. While I was glad to read that the Court's press release amused you, the tenor of your letter reflects great dissatisfaction in the current way in which Tennessee currently provides representation to indigent persons facing criminal prosecution. I share many of your concerns, as do my colleagues on the Task Force despite your apparent low opinion of their qualifications.

Because you seem to value honesty, permit me to provide you with this reality wake-up call. If you ask just about any current member of the General Assembly, they will tell you that the annual appropriation to fund indigent representation programs is among the least popular appropriation they make every year. In fact, many legislators lean toward cutting this appropriation, and it has been a challenge for quite some to maintain the status quo. I mention this only to help you understand that there is no chance – no chance – that the General Assembly will agree to appropriate more money to fund the current system. Thus, any proposal to increase the current appropriation for the purpose of increasing the hourly rate paid to private attorneys appointed to represent indigent criminal defendants is and will continue to be dead on arrival.

The shared challenge facing all of us is to examine the current system from top to bottom and then to consider and recommend significant structural changes after receiving input from the stakeholders and considering the best practices in other states. These recommended changes must be grounded in the imperatives in the Sixth Amendment and Article I, § 9 of the Tennessee Constitution. However, to receive serious consideration, they must also be accountable, efficient, and effective. In my opinion, anything short of this will not convince the General Assembly to increase funding.

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There is a great deal of work to do. The Task Force is currently compiling historical and current data and other information. This data will be posted on the Task Force's page on the www.tncourts.gov. In addition, we are currently planning a series of fact-finding meetings around the state to enable lawyers, judges, and other interested persons to talk directly with Task Force members about the strengths and weaknesses of the current system.

You advocate "three actions" in your open letter. Each of these are already on the Task Force's agenda for consideration. If you would like to be part of the solution, I hope you will considering attending and speaking at one of the meetings in East Tennessee. I also invite you to submit any additional written proposals that you believe will, as you say in your open letter "dramatically improve the quality of representation for court appointed cases in Tennessee."

I look forward to hearing what you have to say.

Very truly yours,

A handwritten signature in blue ink, appearing to read "William C. Koch, Jr.", with a stylized flourish at the end.

William C. Koch, Jr.