

Is Hope Ahead?

Paths to Defeating a Rash of Rising Anti-Trans Legislation

Sam G. Brinker

It's rare that an author doesn't give some biographical information somewhere in their writing—sometimes it's lurking on the sleeve of an inside book cover, other times it can be found in a footnote at the bottom of a webpage. In other cases it may only be evident from reading between the lines of any number of pages that author penned.

However, because of where this article both middles and ends—on the topic of the existence of trans people and the attempted regulation of that existence—it seemed not just important to put the context of the author's existence before the reader first, but rather: paramount—if for no other reason than to have a place to start.

Having a place to start, as it turns out, is a privilege that many trans people are not so fortunate to know. This author, in recognition of his many privileges (including this one), however, did have a place to start. He started out, over 31 years ago, with hope for the future—a future that would allow him to be who he is.

My name is Sam Brinker and—to get the basics out of the way—I'm a constant-work-in-progress, I grew up in Dayton, Ohio, I'm an advocate and board member, I'm a pretty decent home cook, I'm a planner, I'm an attorney and, yes, I am a trans man.

The beginning of my transition began in a very similar way to the beginning of the rest of my journey before that—with hope. The hope was, like biographical information of an author, sometimes prominent and clear—like in the support of my family, friends, and the law firm where I have spent my entire legal career—and other times it was harder to discern—like the fact that, even if I didn't know any other trans people yet, I wasn't going to be the first to ever be trans or to transition.

My hope now, as I middle my way through life, is that it won't get harder for other—especially young—trans people to find their own hope...that the hope doesn't turn into hoops to jump through or hurdles to jump over...that the end will be marked with just as much, if not more, hope as the beginning.

So now that you know I am trans you also know that trans people are not new. Jennifer Finney Boylan, a transwoman, recently wrote an Op/Ed for the *New York Times* in which she pointed out this obvious fact,

Trans people have been a part of human history for as long as there has been history. But with the exception of a few brave souls until relatively recently, trans individuals were rarely in the public eye in the United States.

Jennifer F. Boylan, Opinion, *Keeping Trans Kids from Medicine Doesn't Make Them Disappear*, N.Y. Times (April 7, 2021).

Today, however, trans people are in the public eye in a big way. As primarily Republican-led legislatures focus in on trans legislation, increasingly and across the country legislation has been introduced that would: (i) prohibit or limit access to healthcare for transgender youth (by, for example, banning the use of puberty blockers); (ii) require identification documents to reflect a person's gender-assigned-at-birth (regardless of how that person identifies); and (iii) exclude transgender athletes from participating in sports amongst groups of athletes that are consistent with their gender iden-

ties. The areas of trans lives that are, thusly, under attack span from healthcare, to sports, and even simple forms of identification.

The chart below reflects the status of these kinds of legislation in the states in which it has been introduced as of the writing of this article.

Legislation	States Proposed	Legislation Still Pending	Died in Committee	Adopted	Statute
Prohibiting Healthcare for Transgender Youth	20 states AL, AR, AZ, FL, GA, IA, IN, KS, KY, LA, MS, MO, MT, NC, OK, SC, TN, TX, UT, WV	14 states AL, AZ, FL, GA, IA, KS, LA, MO, NC, OK, SC, TN, TX, WV	IN, KY, MS, MT, UT	1 state AR - HB 1570 – “The Arkansas Save Adolescents from Experimentation (SAFE) Act”	Makes it a criminal offense for a doctor to provide gender-affirming medical care for transyouth
Restrictions on ID Documents	MT, SD	MT - LC 2997 – Sent to senate 4/13/21	SD		
Excluding Transgender Youth from Athletics	31 states AL, AR, AZ, CT, FL, GA, HI, IA, KS, KY, LA, ME, MI, MN, MO, MS, MT, NH, NJ, ND, NM, OH, OK, PA, SC, SD, TN, TX, UT, WI, WV	24 states AL, AZ, CT, FL, GA, HI, IA, KS, LA, ME, MI, MN, MO, MT, NH, NJ, ND, OH, OK, PA, SC, TX, WI, WV	KY, SD (ve-toed), UT	3 states AR SB 450 – “Gender Integrity Reinforcement Legislation for Sports (GIRLS) Act” MS SB 2536 TN SB 0228	

Priya Krishnakumar, *This Record-Breaking Year for Anti-Transgender Legislation Would Affect Minors the Most*, CNN (Apr. 15, 2021).

As you can see, legislation has specifically been introduced in the Kentucky General Assembly that would prohibit the provision of certain types of healthcare for transgender youth and would exclude transgender youth from participating in sports consistent with their gender identities. So far in Kentucky, however, all of this legislation has died in committee—not so, however, in other states where anti-trans legislation is apparently still under consideration.

The legislation which is still pending in the states of Texas and Alabama, for example, illustrate the sad, horrifying and hope-depleting features of anti-trans legislation. Texas Senate Bill 1646 would make it a crime for parents to allow their transgender children to access gender-affirming medical procedures and would even go so far as to authorize the removal of trans or gender-queer children from their homes if their parents affirm their gender identity. Alabama Senate Bill 10 goes to a different extreme—and would make it a felony for doctors to even offer gender-affirming medical care to trans children younger than the age of 19. This proposed legislation would also require teachers and other school employees to “out” trans children to their parents if their child shows any gender-nonconforming behavior or signs. Alanna Vagianos,

Transgender Children Across the U.S. are Fighting for Their Lives, HuffPost (Apr. 16, 2021).

When Governor Asa Hutchinson of Arkansas, a Republican, recently vetoed anti-trans legislation in that state it signaled some potential hope. He said, “The bill is overbroad, it's extreme and, very importantly, it does not grandfather in those

young people who are currently under hormone treatment, which means that those in Arkansas who are undergoing, under the doctor's care and the parents' care, hormonal treatment—that would be withdrawn in the middle of that.

That's a terrible consequence of this bill. This is the most extreme law in the country. Arkansas would be the first state to have adopted this bill. And I could not in good conscience sign it with the concerns that I have.”

Lisa Lerer, *Asa Hutchinson on Arkansas's Anti-Trans Law and the G.O.P Culture Wars*, N.Y. Times (Apr. 9, 2021).

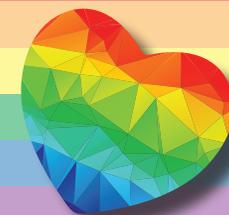
It is important to note that, to be effective, certain hormonal treatments—specifically, puberty blockers—to which Governor Hutchinson referred, must be administered before the onset of puberty. Once puberty has begun, and the further along it progresses, the more difficult and ineffective some gender-affirming medical treatment can become. Thus, legislation which forbids puberty blockers will have a permanent and most likely profoundly negative impact on trans children. Still, against the beacon of hope, the Arkansas

legislature overruled Governor Hutchinson's veto.

Just one state to the south, however, hope remains as Governor John Bel Edwards of Louisiana, a Democrat, vetoed legislation which would have had similar effects as the bill passed in Arkansas—the Louisiana legislation would also restrict trans athletes' participation in sports and the availability of certain medical care for trans youth. In vetoing the bill (which veto so far has yet to be overridden), Edwards expressed concern to reporters, “about emotionally fragile people” and said that he is “hopeful” that the legislature in his state will not advance the bills further. Will Sentell, *John Bel Edwards won't support bills that ban transgender athletes, restrict medical treatment*, The Advocate (Apr. 19, 2021).

Notwithstanding the move by the Arkansas legislature, recent polling suggests that the American people may agree with Governors Edwards and Hutchinson and are largely opposed to anti-trans legislation—again, hope. Joseph Guzman, *New Poll Finds Americans Oppose Transgender Laws by Wide Margin*, The Hill (Apr. 16, 2021).

In fact, 66% of adults polled oppose legislation that would prohibit transition-related medical care for minors while only 28% support it. Moreover, 67% of adults oppose legislation that would bar transgender student athletes from joining sports teams that correspond to their gender identities. In response,



the United States Congress is considering the 2021 Equality Act which would prohibit discrimination based upon sex, sexual orientation and sexual identity. This legislation passed the House of Representatives on February 25, 2021 and is currently being considered by the Senate Judiciary Committee. H.R. 5, 117th Cong. (2021).

Although the Equality Act may hold the key to many locks, it hasn't been passed. So the rash of anti-trans legislation begs the question, does the hope of defeating the regulation of so many aspects of trans existence lie in the Constitution? It might. In some cases related to anti-trans policies the equal protection clause had already been invoked.

In *Ray v. McCloud*, an Ohio United States District Court considered a challenge to whether a policy of the Ohio Department of Health, which forbade transgender people from changing the sex marker on their birth certificates, violated the equal protection clause of the United States Constitution. The court held that trans people are a quasi-subject classification of people and, thus, are entitled to heightened scrutiny. No. 2:18-cv-272, 2020 WL 8172750, at *21 (S.D. Ohio Dec. 16, 2020).

The court so concluded based upon the application of the traditional factors associated with determining whether heightened scrutiny should be applied. Specifically, the court found that, "there is not much doubt that transgender people have historically been subject to discrimination including in education, employment, and access to healthcare." *Id.* at *21.

Additionally, the district court found that trans people: (i) are no less capable of contributing value to society than others; (ii) have a common immutable characteristic that defines them as a discrete group primarily in that their gender identity does not align with the gender they were assigned at birth; and (iii) constitute a minority lacking in political power given that they represent only approximately 0.6% of the adult population of the United States. *Id.* at *21-22.

Several United States Circuits Courts of Appeal and District Courts have likewise held that discrimination against transgender people is sex discrimination subject to heightened scrutiny and violates the equal protection clause of the United States Constitution. A good example is *Glenn v. Brumby*, 663 F.3d 1312 (11th Cir. 2011). Specifically the Court found that:

(i) "A person is defined as transgender precisely because of the perception that his or her behavior transgresses gender stereotypes." *Id.* at 1316.

...

(ii) Thus, "discrimination against a transgender individual because of [his, her, or their] gender-nonconformity is sex discrimination." *Id.* at 1317.

...

(iii) discrimination against a transgender individual because of [his, her, or their] gender-nonconformity is sex discrimination . . . that is subject to heightened scrutiny under the Equal Protection Clause." *Id.* at 1319.

Similarly, the Sixth Circuit held in *Dodds v. U.S. Dept. of Educ.*, 845 F.3d 217, 221 (6th Cir. 2016) that, "[u]nder settled law in this Circuit, gender nonconformity . . . is an individual's 'fail[ure] to act and/or identify with his or her gender. . . Sex stereotyping based on a person's gender non-conforming behavior is impermissible discrimination."

Perhaps these cases or others like them will find a path to the United States Supreme Court to decide if hope in defeating the regulation of trans peoples' existence lies in the Constitution. Perhaps the hope lies in the Equality Act. Or perhaps the hope is more personal than that. Maybe it comes down to the power of the personal narrative, like this author's or Brandon Boulware's.

Boulware, a business lawyer in Missouri, in testimony before the Missouri House of Representatives, testified about a pending anti-transgender sports bill and his beloved daughter. This testimony heartrendingly illustrates the urgency of defeating anti-trans legislation and their efforts.

One thing I often hear when transgender issues are discussed is: "I don't get it." "I don't understand" . . . I didn't get it either for years. I would not let my daughter wear girl clothes. I did not let her play with girl toys. I forced by daughter to wear boy clothes and get short haircuts and play on boys' sports teams. . . . My child was miserable. I cannot overstate that she was absolutely miserable. Especially at school. No confidence, no friends, no laughter. I honestly say this, I had a child who did not smile. We did that for years. . . . The moment we allowed my daughter to be who she is, to grow her hair, to wear the clothes she wanted to wear, she was a different child. I mean it was immediate. It was a total transformation. . . . I need you to understand, that this language, if it becomes law, will have real effects on real people. It will mean she cannot play on the girl's volleyball team or dance squad or tennis team. I ask you please don't take that away from my daughter or the countless others like her who are out there. Let them have their childhoods. Let them be who they are.

Full transcript available at: <https://fox2now.com/news/missouri/missouri-dad-goes-viral-after-emotional-testimony-on-transgender-daughter-and-sports/>.

And this trans author would add to Boulware's plea—let them have hope. Let them have a place to start, which means finding the way—through the Equality Act, through the Constitution, or through stories of everyday people—to make this legislation end.

This article was written with great assistance and contribution from John E. Selent and Jameson Gay, each also of Dinsmore & Shohl — thank you to both for your hard work and input.

Sam Brinker currently resides in Columbus, Ohio and is also a self-proclaimed part-time New Orleanian, but he was born to be bearded in Dayton. Sam currently serves on the Board of Directors of Living With Change and of Rainbow Elder Care of Greater Dayton. Sam volunteers with a number of LGBTQ+ organizations such as the Point Foundation, his local cohort for the Human Rights, and Equitas Health. Sam has been an associate attorney at Dinsmore & Shohl since 2015 and currently works out of its Columbus, Ohio office. He focuses his practice on commercial real estate matters, primarily in the acquisition, disposition, development, and leasing spaces. Sam has been trans his whole life, but he began his transition in 2014 at the age of 24—completing his medical transition in 2017 (an aspect of transition which, it's worth noting, is not part of every trans person's journey for a myriad of potential reasons). ■



The Louisville Bar Association Diversity & Inclusion Committee Presents:



June 22 | 6:30 PM
Featuring Tristan Vaught

June 29 | 6:30 PM
Featuring Sam Brinker

Watch your email and/or the LBA's social media for additional details about this month's Community Conversations!

These will be virtual presentations streamed live beginning at 6:30pm on the LBA's Facebook page or you may register for a Zoom link online at www.loubar.org or call 502-583-5314 or email lanspach@loubar.org

An Altered Perspective: Becoming “Other” in America

Ellie Krug

We all know the saying: “Don’t judge a person until you’ve walked in their shoes.”

As a transgender woman, I am someone who has literally walked in a completely different set of shoes. A dozen years ago I transitioned from male to female; it was an intense emotional and physical journey that changed my perspective about so many things, including what it means to be “Other” in America.

Moving from One of “Us” to One of “Them”

First, how I got here.

For more than five decades, I presented as a white male—initially as a gangly awkward boy, then as a teen jock who sported a mustache, and ultimately as a short-haired male lawyer with a booming voice—something which gave me both privilege and simplicity.

I had privilege because my maleness, along with my white skin, put me at the top of society’s pyramid.

It was simple because apart from needing to exercise initiative and work hard, there were no real obstacles in my pathway to great success. For example, I really never needed to worry about being stopped by the local police due to my skin color or because I was driving in the wrong neighborhood.

That was a good thing too, because often my buddies and I had beer in the car, drinking underage.

Despite all that I had in my favor, for decades I struggled with the idea that really, I was something other than male. Frankly, for the longest time I didn’t want to figure out exactly *what* I was, and instead I desperately sought to shut out weird thoughts about my gender not being right. (The technical phrase for this is “suppression.”) After all, it was the 1980s and ‘90s and by then I had married my high school sweetheart, who I loved with all my heart. I was certain that I would not only lose my wife but also my very lucrative law practice if the secret about my true gender ever came to light.

For nearly a decade, I met with therapists and demanded that they give me a magical mantra to help me stay male and married. Two different therapists bluntly advised that I needed to tell my wife about my true gender identity, and by then, my attraction to other men. They warned that I’d die by suicide if I didn’t. I fired those therapists and was on yet another therapist when the unexpected happened: September 11, 2001.

It was on 9/11 when I really first thought about dying. Quite unexpectedly, the unforgiving takeaway was that despite all the love and wealth I had accumulated while living as a man, I was certain that I’d lay on my deathbed regretting that I hadn’t been braver to be the true me: a woman. Thus, it was on the night of September 11th that I decided to leave my wife and start the long, arduous journey toward living my life authentically.

That journey culminated in 2009 when I became the first Iowa lawyer to ever transition genders. And, just as I had feared, I lost both my wife and my civil trial practice as a result. (Hold on—in the end, everything turned out just fine; I’m incredibly happy living as Ellie Krug.)

Why do I tell you this, and how does this relate to why we lawyers—and the legal profession at large—have so much difficulty around skin color?

The simple answer: when I came out as me—as a woman and not a man—I effectively moved from one of “us” to one of “them.” Literally overnight, I became “Other,” whom many in society feel perfectly comfortable shunning and marginalizing.

Indeed, as I prepared this article, I found that just this year, Kentucky elected officials, like those in at least 20 other states, introduced several bills targeting transgender children and youth, humans who are part of *my community*. Reading about that legislation hurt my heart and made me wonder why people—mainly white men who enjoy immense privilege—feel they have right to tell transgender people that they don’t matter, that they’re “lesser” compared to everyone else.

I never felt lesser or “Other” as a white man. Now, as a transgender woman who looks female but is still stuck with a masculine booming voice, I’m reminded almost every day that I don’t quite fit the mold that society demands.

Tied to society’s messaging about being lesser and “Other” is the very real experience of being marginalized (e.g., discriminated against). This stark reality registered shortly after I transitioned genders, when my health insurer saw fit to unilaterally cancel my insurance coverage simply because I was transgender. At age 52, I went naked without health insurance of any kind for six months—all because the system was against me, a transgender person.

Being made to feel lesser or “Other,” and to then experience marginalization directly, is something that I deal with to this very day. I contend with those feelings despite also having the confidence of a successful former trial lawyer with more than 100 trials to my credit. You simply cannot escape the loss of dignity when those in power publicly message repeatedly and consistently that transgender people are unwelcome, or even a risk to children.

Now here is the point: my experience in being marginalized forced me to look around and open my eyes (and heart). As I did that, I quickly began to comprehend that transgender people have some things in common with people who don’t have white-color skin. I realized that people of color are also treated as “lesser” or “Other” simply by virtue of who they are.

For example, long before Breonna Taylor’s killing in Louisville, I had come to understand that policing and the use of excessive or deadly force are ways that Black and Brown people are marginalized by a system that messages they are a threat.

I also began to appreciate how people with darker skin colors are marginalized by uncaring, or ignorant, or structurally racist, education and health care systems. For example, according to a 2019 *The Nation’s Report Card*, 75% of white-color Kentucky eighth graders read at basic expected standards compared to only 49% of Black eighth graders. This certainly isn’t because Black kids aren’t as smart as white kids. Rather, something else is at play here.

(By the way, Minnesota, where I live, has some of the worst skin color disparities in the country. In no way am I trying to single out Kentucky as being unique.)

After coming to understand America’s problems around skin color, I started another journey: I signed up to be a Big Sister for a seven-year-old girl of mixed skin color identities (she identifies as Black), the daughter of a single mother. I’ve been with Jasmine (a pseudonym) for almost nine years now. In that time, she’s greatly educated me about what it means to be non-white in America, like the time she announced that she was sure all white people have wonderful lives compared to hers. She’s since told me several times that she wished her skin color were white.

Why in the world would a Black kid wish to be white?

Because society overtly and implicitly messages that by

far, white is the preferred skin color. Just look at how the largely white-color U.S. Capitol insurrectionists were treated compared to how Black Lives Matter protestors (who are overwhelmingly peaceful) were treated last summer. The differences are striking, and people of color and their allies readily understand this. If you’re Black (or Brown or Asian or of Indigenous heritage), it’s a given that you’re lesser and “Other” in America.

I know that what I’ve written above may very well make some white readers uncomfortable; some may even react with anger or denial and decide to skip my “Getting Past the Bumpiness” CLE training set for June 3 via the Louisville Bar Association as a result. If so, that would be too bad since those folks are precisely who I need to talk to.

The Legal Profession’s Problem with Skin Color

Dominated by white men who enjoy all the fruits of success in a society that has historically favored whiteness over all other skin colors, the legal profession has long had a problem with letting in anyone who is “Other.” At first, the door was shut to women, and then to Jews, and then later to anyone who identified as lesbian, gay, bisexual or transgender. While the profession has made great progress in opening the door to those groups of humans, we continue to struggle with skin color. The reasons for this vary, but it mainly comes down to fear or procrastination or both.

“What will our longstanding family business client (made up of all white people) that accounts for twenty percent of the firm’s revenues think if we send Joe, a Black lawyer, to represent the company at the deposition, or god forbid, take the lead at trial?”

“We just can’t find ‘qualified’ diverse candidates for the open associate positions.” (Of course, “qualified” is always defined through the lens of a white person’s biases and limited perspective.)

“I’m personally good with having a Black or Brown lawyer at the firm, but I’m worried about making some of the other folks here uncomfortable.”

The list of excuses made by our profession is literally endless.

Thankfully, many national corporations are no longer putting up with the excuses. For example, this past January, Bradley M. Gayton, then Senior Vice President and General Counsel of the Coca-Cola Company, issued a blunt letter to each of the company’s U.S. law firms. After noting that at current elevation rates, “Black equity partners will not reach parity with the Black U.S. population until 2391,” he wrote:

The hard truth is that our profession is not treating the issue of diversity and inclusion as a business imperative. We are too quick to celebrate stagnant progress and reward intention. We have a crisis on our hands and need to commit ourselves to specific actions that will accelerate the diversity of the legal profession. Our profession needs to be representative of the population it serves.... As a consumer of legal services, we believe that diversity of talent on our legal matters is a critical factor to driving better business outcomes. We will no longer celebrate good intentions or highly unproductive efforts that haven’t and aren’t likely to produce better diverse staffing. Quite simply, we are no longer interested in discussing motivations, programs, or excuses for little to no progress—it’s the results that we are demanding and will measure going forward.

If your firm represented Coca-Cola and wanted to keep it as a



Confronting Hate at the Pride Parade

Scott Furkin

client, I think it safe to conclude that getting Mr. Gayton's letter was certain to motivate firm leaders to change their perspective and practices relative to hiring diverse attorneys.

(By the way, just to reinforce how difficult it is to change the legal profession's diversity landscape, in late April, Mr. Gayton resigned from Coca-Cola after only eight months on the job. There is speculation that his January letter was a factor; still, the company has now retained Mr. Gayton as a diversity and inclusion consultant for the next year. None of this detracts from the truths stated in Mr. Gayton's letter.)

In one form or another, letters similar to Mr. Gayton's have been going out to law firms across America from hundreds of Fortune 1000 companies. The question is whether lawyers can responsively overcome their fears and biases to actually make the legal profession more diverse.

It's certainly my goal to try to help with that.

Truthfully, this shouldn't be as difficult as we've made it out to be. Our clients in corporate America are way ahead of the legal profession on diversity and inclusion. They devote people and resources to making sure their workplaces and marketing reflect the broader America we all live in relative to skin color, country of origin, and all the other wonderful things that make us great.

We lawyers simply need to be more imaginative, determined, persistent and brave. As I often say, this isn't rocket science; rather, it's just about being human. With that comes understanding that we can't change the landscape by hiding in our offices and believing that life is rooted to six-minute increments.

Finally, for those who may think the situation is hopeless, I highly recommend a short essay by the late writer and poet, Tony Hoagland, that appeared in the September 2018 issue of *The Sun* magazine. Titled, "The Cure for Racism is Cancer," Hoagland writes about how cancer is the great leveler where one comes to realize that the skin colors of the people struggling with cancer and those who care for them don't matter one iota. He went on to say that deep within each human is a "reset button" which allows for us to get past our skin color biases.

The problem, of course, is with reaching that button.

Ever the optimistic idealist, I think everyone has the capacity to reset. Will you join me on June 3 to explore these issues and start (or continue) your own personal journey toward finding your reset button? I would love to see you and I promise this: you won't be bored.

Together, we can make our profession more welcoming and diverse, and where someone being "Other" shouldn't be a reason for exclusion.

In 2009, when she was a civil trial attorney in Cedar Rapids with 100+ trials, Ellen (Ellie) Krug transitioned from male to female; she later became one of the few attorneys nationally to try jury cases in separate genders. The author of *Getting to Ellen: A Memoir about Love, Honesty and Gender Change (2013)*, Ellie has trained on diversity and inclusion to court systems, law firms, Fortune 100 corporations, and colleges/universities on nearly 1000 occasions. A hopeless idealist, Ellie has presented her inclusivity training, *Gray Area Thinking®*, across the country. In 2016, *Advocate Magazine* named Ellie one of "25 Legal Advocates Fighting for Trans Rights" and in 2019, *OutFront Minnesota* conferred Ellie its Legacy Award. She is also a monthly columnist for *Lavender Magazine* and *Minnesota Women's Press*, and a weekly radio host on AM950 radio. Her monthly e-newsletter, *The Ripple*, reaches 9000+ readers and can be found at www.elliekrug.com. Ellie presently lives outside Minneapolis and is the founder and president of *Human Inspiration Works, LLC* (www.humaninspirationworks.com). ■



I donned a new t-shirt—imprinted with Springdale Presbyterian Church on the front and the watchwords "open, loving, thinking, doing" on the back—as I headed out to walk the eight blocks from my office to the staging area. I was about to march in my first Pride Parade.

Even before installing an openly gay pastor, Rev. Dwain Lee, in 2016, church members had discussed how to communicate to the wider community our commitment to inclusivity. Carrying our banner in the Pride Parade seemed like an effective and fun way to do just that.

Rev. Lee enthusiastically agreed but offered some advice: "We are going to be on LGBTQ+ turf, not the church's. We don't get to set the rules, they do." He cautioned that some might view our participation with skepticism or even be hostile to the presence of "church people" in their midst.

"LGBTQ+ people have come by whatever negativity they have for the church honestly and with good reason. Many, if not most, of us have stories of negative church experiences that would set your hair on end. We need to validate that and allow them their own reality," he said.

Knowing that parade participants and spectators often dress or behave in ways some find outrageous, we were counseled to consider the context. Yes, some folks would likely be "flamboyant" and go "over the top" to "flaunt" their differences from us. After all, celebrating difference is pretty much the whole point of the parade.

Rev. Lee reminded us that LGBTQ+ people have long faced rejection by both church and society. Some choose to "reject the rejection" by establishing a set of alternative social norms that are often intentionally contradictory to the norms of the groups that rejected them.

"So, if you see something jarring, understand that the outrageousness reaction has the initial rejection itself as its roots," he explained. "If the initial rejection hadn't occurred, the reaction wouldn't have either."

His points were well taken. Over time organized religion has been especially cruel to LGBTQ+ people, barring them from serving as clergy, refusing to acknowledge their marriages and, in some instances, expelling them from church membership. Thoughtful Christians must recognize their complicity in hurting them and humbly seek to build trust through acts of compassion and repentance.

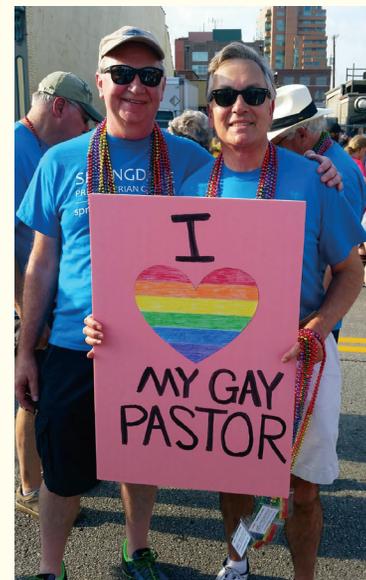
As Rev. Lee noted, it's not enough to say "A lot of churches discriminate against LGBTQ+ people but we're not like that." We must also say "We were wrong, we're sorry and we're trying to be better now."

Rev. Lee also had some practical advice for handling potential confrontations with extremist religious or conservative protestors who might be at the parade. He offered three simple rules: Rule #1 – Do not engage. Rule #2 – Do not engage. Rule #3 – While not engaging, do not engage.

"Seriously, just ignore them," he advised. "They're only looking for attention and they obviously aren't interested in any meaningful discourse. We don't have to accept every invitation to an argument."

I was tested early in the parade. Near the start, just after rounding the corner from Preston Street onto to Main Street, we

encountered a small but vocal group of sidewalk protestors—think of the Westboro Baptist Church folks and their appalling "God Hates Fags" rhetoric. As they shouted and waved signs warning that we would all be spending eternity in hell, I flashed my own sign which read "I (heart) My Gay Pastor."



Rev. Dwain Lee and Scott Furkin (June 2017)

What happened next lasted only a few seconds but seemed to unfold in slow motion. Apparently, my sign's message—that being gay and a Christian clergyman are *not* mutually exclusive—was too much for one of the protestors. For this nondescript middle-aged man, it was like pouring gasoline on a fire. We locked eyes as he stepped off the sidewalk and made a beeline in my direction. He was just a couple of feet away when, his face twisted in anger, he thrust a Bible toward me and snarled "Satan, I rebuke you! The blood of Jesus is against you!"



Springdale Presbyterian Church members (June 2019)

My fight-or-flight response kicked in, but I kept marching and my heart rate quickly returned to normal once I realized I was in no real danger. Reflecting on the incident later, I understood that what I experienced in those brief moments is but a taste of the hatred too many LGBTQ+ people routinely face in their daily lives. While the homophobia they endure may be more covert, it is nonetheless painful and wrong. To have it perpetrated against them in the name of God must be especially hurtful. It shows how much work remains to be done in the struggle for LGBTQ+ equality.

Happily, for me and my cohorts, there was no more ugliness on the parade route that day. To the contrary, cheering LGBTQ+ people and their allies lined both sides of Main Street. The mood was decidedly celebratory and I saw nothing more outrageous than I'd seen before on Bourbon Street during Mardi Gras or the Churchill Downs infield on Derby Day.

It may have been my first Pride Parade but it was not my last. And I still love my gay pastor.

Scott Furkin is the Executive Director of the Louisville Bar Association. ■