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2020: A Year of Challenges through the Prism of Social Justice
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COVID-19 PANDEMIC AND THE DIGITAL DIVIDE: THE NBA ON THE FRONTLINES

When Tricia “CK” Hoffer was sworn in as president of the National Bar Association, she identified three priorities that she plans to address during the bar year: 1). Police Brutality

2). Election Protection; and 3). Covid-19. Laverne Largie, Karen Evans, and I are honored to serve as Co-Chairs of NBA Covid-19 Task Force, which has provided personal protective equipment (PPEs) to a variety of cities around the country and sponsored a webinar series with the NBA Health Law Section to address mental health wellness in our communities.

News broadcasts, online news publications, and social media remind us about the importance of using PPEs and wellness programs to reduce the large number of Americans that have been infected with the Covid-19 virus and have unfortunately died. Although these important precautions remind us of the grave danger that Covid-19 poses to our physical and mental health, far too little has been written about how Covid-19 is exacerbating the digital divide for African American students in grades K-12. This digital divide is depriving many students of the equal educational opportunities that Thurgood Marshall, Nathaniel Jones, Constance Baker Motley, and so many other lawyers fought so hard to obtain. The stark and cruel reality of the digital divide is much easier to ignore because, unlike the challenges faced by prior generations of African American students, the egregious disparities and intentional segregation carefully documented in *Brown v. Board of Education*, *Reed v. Rhodes*, and other desegregation cases were more plainly visible. ¹ *Brown v. Board of Education*, 347 U.S. 483, 495 (1954); ² *Reed v. Rhodes*, 422 F. Supp. 708, 755-56 & 796-97 (N.D. Ohio 1976); United States President Dwight D. Eisenhower Executive Order 10730: Desegregation of Central High School (September 23, 1957). In many of these cases, politicians boldly stood outside schools in front of television cameras, and they joined with school boards across the country to mandate or deliberately maintain dual school systems. These politicians used these disparities to advance their careers with the full understanding that schools for African American students were underfunded and overcrowded and schools for white students were fully funded.

When Covid-19 forced a number of school districts to remotely educate their students through laptops with internet connections, this condition exposed grave educational disparities that make it difficult for African American students to perform on the same level as their white counterparts. For example, 45% of African American K-12 students live and attend public school in districts with high-poverty rates. (Jinghon Cai, *Black Students in Condition of Education 2020*, NATIONAL SCHOOL BOARD ASSOCIATION (June 23, 2020), www.nsha.org). According to the Journal of Blacks in Higher Education, “The Census Bureau's latest survey found that there were more than 9.6 million African American households with children in K-12 public and private schools throughout the United States. Of these, only 61.6 percent said they had the technology to allow children to do their online schoolwork at all times.” (*How the Racial Digital Divide Impacts Online Education during the Pandemic*, THE JOURNAL OF BLACKS IN HIGHER EDUCATION (May 25, 2020), www.jbhe.com/2020/05/how-the-racial-digital-divide-impacts-online-education-during-the-pandemic).

At the beginning of the Covid-19 pandemic in the United States, teachers and administrators in wealthy school districts, with relatively few African Americans, were able to travel door-to-door to ensure that all of their students had laptops and hotspots to effectively participate in remote education. (Benjamin Herold, *The Disparities in Remote Learning under Coronavirus* (charts), (Apr. 10, 2020), www.edweek.org/ew/articles/2020/04/10/the-disparities-in-remote-learning-under-coronavirus.html). Meanwhile, the large percentage of African American students in high-poverty school districts received

written packets, without the benefit of having teachers to assist them online. In fact, “of the K-12 school districts surveyed, 47% of high-poverty districts emphasized physically distributed materials such as paper packets as a ‘primary component’ of their distance learning rollout.” (Pia Ceres, A Covid Slide Could Widen the Digital Divide for Students, *Wired* (Aug. 7, 2020), www.wired.com/story/schools-digital-divide-remote-learning). According to Dr. Ralph *9 L. Simpson, superintendent of Clayton County Schools in Georgia, this disparity is the hallmark of the “digital divide [that] highlights the inherent inequity that already exists in education. This is another reflection of the economic divide in impoverished communities.”

African American students in high-poverty districts who are being relegated to learn from written packets have vastly different educational opportunities and outcomes than students in more affluent districts who are able to use laptops to continue to attend classes, complete homework assignments, and take tests during the midst of the Covid pandemic. These disparities are of even greater importance in light of the testing regime ushered in by the No Child Left Behind Act and its more flexible replacement, the Every Student Succeeds Act (ESSA). Pursuant to ESSA, students that are unable to master essential subjects can be forced to repeat grades and/or can be denied high school diplomas, which can bar entry to college that is a well-recognized gateway to substantially higher wages and career opportunities. (Jennifer Cheeseman Day, *Black High School Attainment Nearly on Par with National Average*, U.S. CENSUS BUREAU NEWS (June 10, 2020), www.census.gov/library/stories/2020/06/black-high-school-attainment-nearly-on-par-with-national-average.html). For African American students who navigate through ESSA and are able to graduate from high school, nearly 60% of them are forced to collectively spend millions of dollars to take remedial, non-credit courses in college to make up for the substandard education often received in grades K-12, which has been exacerbated by the digital divide before and after the Covid pandemic. (Nate Davis, OP-ED: *We Have to Get Real about the Achievement Gap between Black and White Students*, NATIONAL NEWSPAPER PUBLISHERS ASSOCIATION (Aug. 31, 2018), www.nnpa.org/essa/op-ed-we-have-to-get-real-about-the-achievement-gap-between-black-and-white-students).

Through the leadership of NBA President CK Hoffler and the Covid-19 Task Force, the NBA has launched a laptop donation project with PCs for People. As a part of the project, the NBA is encouraging members to donate used laptops to PCs for People, which has the highest-available certification to remove all data from the donated laptop. (AAA certification from the National Association for Information Destruction). PCs for People can then load the donated laptop with Microsoft software, and donate it to urban school districts for students in need in the target cities of Cleveland/East Cleveland, Ohio; Atlanta, Georgia; Chicago, Illinois; Baltimore, Maryland; Detroit, Michigan; Memphis, Tennessee; Kansas City, Missouri; and Jackson, Mississippi. (givecomputers.pcsforpeople.org). Since PCs for People is a nonprofit organization, laptop donations are potentially tax deductible. In effort to ensure that every student in need has a laptop, PCs for People has also partnered with Go Fund Me to enable NBA members to donate money directly to this important effort, which can be directed to the school districts in the aforementioned target cities or a school district of choice.

The digital divide and the educational disparities were created long ago and cannot be completely solved by one NBA project. However, with your support and participation, we can continue the great work of so many iconic NBA lawyers, and each do our part to close the digital divide to enable a new generation of African American students to thrive today, tomorrow, and far into the future.

Footnotes

- a1 **Marlon A. Primes** has served as an Assistant U.S. Attorney for the Northern District of Ohio for the past twenty-nine years. Mr. Primes, who works in the Cleveland office, handles a wide variety of complex civil litigation in state and federal courts. Marlon A. Primes is Co-Chair NBA Covid-19 Task Force, Mr. Primes served as Vice President of the National Bar Association (NBA), and he served as President of the Cleveland Metropolitan Bar Association (“CMBA”), which is one of the largest associations of lawyers and judges in Ohio. Mr. Primes also served as President of the William K. Thomas Chapter of the American Inns of Court and as President of the Cleveland NBA affiliate chapter, the Norman S. Minor Bar Association. Mr. Primes served as the Chairman of the Litigation Section of the Ohio State Bar Association. Mr. Primes received his law degree from Georgetown University, and he received his undergraduate degree from Ohio University’s E.W. Scripps School of Journalism.

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