

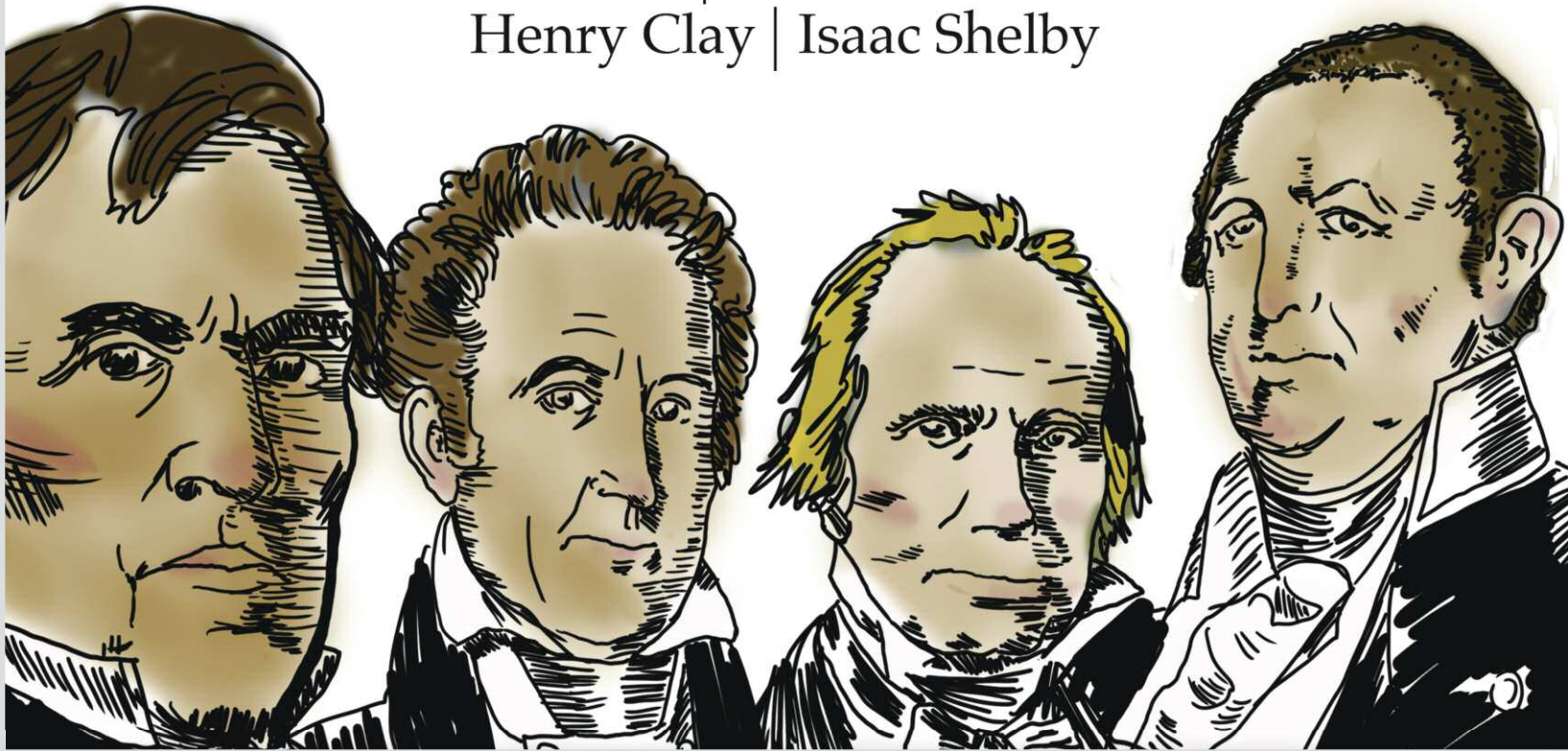
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PRESIDENT'S PAGE

By: William E. Johnson



The grand jury has taken a beating lately. It may be that the purpose and actions of the grand jury are not well known. The average citizen has very little contact with a grand jury. Unless you are called to serve on a grand jury or you are subpoenaed to appear before the grand jury as a witness, you are not likely to know much about the grand jury.

The grand jury comes to us from England where it originated by way of a challenge to a king. English

noblemen, believing they should have some say about individual rights, compelled a king to recognize those rights, including the right of bringing issues of importance before a grand jury composed of eligible citizens in the community.

This body was a part of the governmental fabric of the colonies. When we became the United States of America the grand jury became an important body in the states and national government.

The grand jury has been called "the conscience of the community." The grand jury is frequently provided for in a state's constitution. The Fifth Amendment to the Constitution of the United States provides for "a presentation or indictment by a grand jury." In state court in Kentucky a grand jury is composed of 12 citizens. In federal court the grand jury may have as many as 23 citizens. The number necessary to indict varies in the different states.

How does a grand jury function? The first thing after being called as a grand juror pursuant to a subpoena, is the judge administers an oath to the grand jurors. One is elected or appointed foreperson, depending on state or federal law. It is generally the responsibility of the foreperson to administer an oath to each witness called before the grand jury. The grand jury has substantial power. It can decide when to meet, what persons to call as witnesses and whether an indictment for a criminal charge should issue from the grand jury. In Kentucky the Commonwealth Attorney brings matters to the attention of the grand jury. In federal court cases the United States Attorney for the district brings cases to the grand jury. Most grand juries rely heavily on the prosecuting attorney. However, periodically a grand jury will show its independence and to some extent strike out on its own. The grand jury can subpoena as many or as few witnesses as it wishes to hear. Generally prosecuting attorneys will not bring a case to the attention of the grand jury unless he or she believes that a conviction at trial can be obtained. However, a grand jury can insist on the prosecutor presenting whatever evidence is available.

Grand juries provide an important service in the criminal justice system. They determine whether there is probable cause to indict. In state court in Kentucky it takes nine of the 12 grand jurors to vote in favor of issuing an indictment. Grand juries generally get a more complete picture of the facts than does the general public. This sometimes leads the general public to misjudge the totality of the circumstances. Grand juries, being made up of humans, sometimes make mistakes. However, most often they are right, and certainly conscientious in doing their duty.

While I was writing this there came about assassinations of police officers. I first want to make a full disclosure. My dad was a policeman, including serving as chief of police of Falmouth. Being a policeman is a dangerous occupation. A policeman may be called upon to break up a bar fight, go in search of thieves and burglars, go to domestic disputes, and face death and harm in many ways and events. When I use the term policeman I am also referring to the many women police officers who face the same dangers in carrying out their duties.

However, there are occasions when police officers use excessive force. There are numerous causes for this, but none should be an excuse. If a police person commits a crime, he or she, like any other citizen should be prosecuted.

In summary, grand juries are generally composed of conscientious citizens who want to do right in doing their duty. They render a valuable service to the rest of us.

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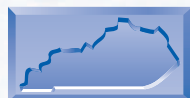


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By: Brad Sayles,
YLD Chair

YLD YOUNG LAWYERS DIVISION
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THE POWER OF YOUTH: THE YOUNG LAWYERS ISSUE OF THE BENCH & BAR



This issue's featured authors:



Krista A. Dolan



Shon R. Hopwood



Justin Walker



Ben Leonard



Judge Erica Lee Williams



Senator Morgan McGarvey

Less than four years ago, I accepted an offer from the incoming Young Lawyers Division Chair, Rebekkah Rechter, to serve on the YLD's executive committee. If Rebekkah had known anything about me, she would have found another young lawyer far more talented and at least a year removed from taking the bar exam. If I had known better, I would have recommended that she do so. But, I naively said yes. Springing from the same pool of naivety, I agreed to serve in other capacities within the YLD, somehow ending up as this year's YLD chair.

I have learned two things over my brief time with the YLD: one, I am no more qualified than I was four years ago and two, there are a host of incredibly talented and impressive Kentuckian young lawyers. It is this second item that has allowed me to "play" YLD chair for the past year without entirely mucking things up. But it is also the work being performed by these young lawyers today that gives me confidence of the bright future for our profession, state and nation. Not for what young attorneys will do when the mantle is passed on to them, but for the future they presently participate in shaping.

The significance of work being performed everyday by young lawyers should come as no surprise to Kentuckians. Kentucky lawyers have a rich history of leading at young ages. The cover of this month's *Bench & Bar* displays those that have pioneered this tradition. And this issue features articles authored by some of today's young lawyers who are keeping the tradition alive.¹

The authors in this issue have been recognized for their achievements and expertise both at the state and national level. They are law professors, judges, politicians, and practitioners. The authors are only a sample of the wealth of talented young lawyers, who are not just a sign of a promising future, but are making contributions today.

We talk often of how the Bar can assist and shape young lawyers, but in doing so let's not forget how young lawyers are assisting and shaping the Bar and beyond. And young lawyers should not underestimate themselves (as we are prone to do) or let others do the same. Instead, as Paul instructed the younger Timothy, "Let no man despise thy youth; but be thou an example[.]"² Herein are just some of those "examples," you will find plenty of others in courtrooms, your offices, and your inboxes.

¹ The By-Laws of the Kentucky Bar Association, Section 19(b), includes as young lawyers those who are less than 40 years old or within their first 10 years of practice. A copy of the KBA By-Laws is available at c.ycmdn.com/sites/www.kybar.org/resource/resmgr/By-laws/KBA_bylaws.pdf.

² King James Bible, 1 Timothy 4(12).

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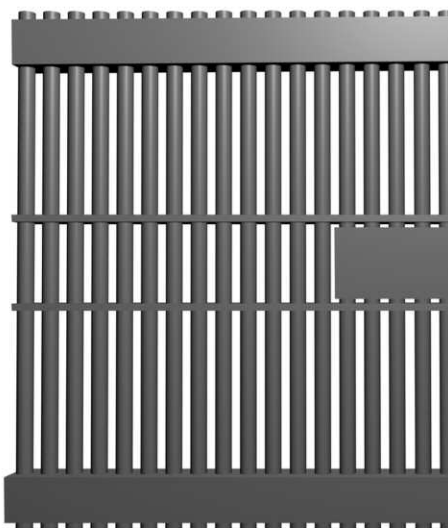
KENTUCKY'S PENAL CODE PROGNOSIS: IS FURTHER TREATMENT NECESSARY?

By: Krista A. Dolan & Shon R. Hopwood

In March 2011, the Kentucky legislature became a pioneer in drug reform when it passed the Public Safety and Offender Accountability Act, also known as House Bill 463,¹ which, among other things, reduced the penalties for many drug offenses.² The legislation was passed in response to Kentucky's fast-growing prison population.³ Prior to the implementation of HB 463, the Commonwealth had one of the fastest growing prison populations—up 45 percent over the 10-year period in 2009, compared with 13 percent for all states, while having a crime rate below the national average.⁴ Despite reported crime remaining relatively flat during that 10-year period, arrests increased by 32 percent during that time, and 70 percent of that increase was arrests for drug offenses.⁵ Further, the Kentucky Department of Corrections (DOC), reported that during that same time, the proportion of incoming inmates who were drug offenders rose from 30 percent to 38 percent, and 25 percent of the entire population was serving time for drug offenses.⁶ Of those incarcerated drug offenders, 75 percent were imprisoned for possession or first-time drug trafficking offenses.⁷

In an attempt to address these issues, the bill made sweeping changes to Kentucky's drug laws, with the goal of reducing Kentucky's fast-growing segment of the prison population through the reduction of recidivism.⁸ Despite this reform, there may be areas for improvement, as evidenced by reports that the reform has not resulted in the realization of two of its goals⁹—specifically, cutting costs, and reducing inmate

populations.¹⁰ When the legislation was passed, it was predicted that there would be a savings of \$400 million over 10 years.¹¹ These savings were to be realized by improving recidivism rates and improving the outcomes for reentry, which would in turn positively impact public safety and reduce corrections spending.¹² While the bill has provided savings, some suggest there are additional, unrecognized savings that could be had.¹³ Kentucky Public Advocate **Ed Monahan** has called for "10 Commonsense ways to reduce waste in Kentucky's criminal justice system: Lasting and Unrealized Benefits of HB 463."¹⁴ While Monahan notes that there have been significant savings as a result of HB 463, his plan calls for 10 additional ways the Commonwealth could decrease spending.



Among the changes Monahan suggests are reclassifying low-level felonies to misdemeanors, and low-level misdemeanors to violations.¹⁵ Monahan is not the only one calling for reform. While not specifically addressing HB 463, the Third Annual Forum on Criminal Law Reform held on Nov. 7, 2014, was a forum where the need to reform Kentucky's penal code was discussed.¹⁶

While some believe that HB 463 was just the beginning of criminal law reform, others believe the legislation ignored the potential community impact on safety.¹⁷ For example, Kenton County Commonwealth's Attorney Rob Sanders noted that recasting certain misdemeanors as violations

negatively impacts the community quality of life.

"Most legislators don't live in neighborhoods with prostitutes walking the streets or junkies shooting up in the alley so they don't see the impact of ordering police to hand criminals a citation and

let them go."¹⁸ Fayette County Commonwealth's Attorney Ray Larson has also expressed concerns that HB 463 was too friendly toward those who commit crimes, describing the bill as a "catch and release" for felons.¹⁹

Despite differing opinions on the impact of HB 463, according to a December 2014 national report, prison populations are not declining,²⁰ and Kentucky is no exception. Among all states, Kentucky ranks 13th in its incarceration rate per 100,000 adults.²¹ While the prison population has declined some,²² it is not entirely clear why. Some data suggests that declines in prison population are resulting from an increase in grants of parole, as opposed to reforms made by HB 463.²³ Also, some state





inmates have been shifted to local jails,²⁴ which, while reducing the cost to the state, does not necessarily show the impact of HB 463 or that problems are being addressed.

This article focuses on one area of reform that the legislature could consider—specifically, the current use of enhancements to increase penalties for non-violent offenders. The term “non-violent offender” for purposes of this article is defined as those offenders who commit crimes that are not inherently dangerous, such as drug crimes, and those crimes that would not be categorized as violent offenses under Kentucky’s violent offender statute.²⁵

HB 463 reduced penalties for some drug offenses. Other drug offenses, particularly those involving repeat offender sentencing, still carry a much more severe penalty than the national average. For instance, when considering a crime like drug trafficking,²⁶ looking at the national average from 2006, the last time such data was available, the median of the maximum sentence length for felons was 36 months, with the mean being 57 months.²⁷

Kentucky’s numbers are slightly higher but generally in line with the national average for first-time offenders charged with trafficking. First-time offenders who traffic in certain quantities²⁸ can be punished as Class C felons; Class C felonies carry a sentence of five to 10 years.²⁹ However, Kentucky’s divergence from the national average becomes glaring for repeat offenders. Again looking at the national averages for trafficking, the mean maximum prison sentence imposed on drug traffickers in 2006 was just over four years for offenders with one prior conviction, and just under six years for an

offender with two or more convictions.³⁰ In Kentucky, however, for a second or subsequent offense, the potential penalty range increases from one to 10 years, depending on the quantity, to five to 20 years, with five years being the minimum mandatory sentence.³¹ This is despite the relief provided by HB 463, which limited the penalties for trafficking based on the quantity and type of drug trafficked.³² Specifically, HB 463 added cocaine, heroin, and methamphetamine instead of just Schedule I or II narcotics; further, it specified quantities.³³ For trafficking in four or more grams of cocaine, two or more grams of heroin or methamphetamine, or 10 or more dosage units of Schedule I or II narcotics, the penalty is a Class C felony for the first offense, and a Class B felony for a second or subsequent offense.³⁴ For an amount less than the statutorily delineated amounts, it is a Class D felony for the first offense, and a Class C felony for a second or subsequent offense.³⁵

Despite the disparity between Kentucky’s sentencing scheme and the national sentencing scheme, many believe repeat offenders should be punished more harshly. The Fayette Commonwealth Attorney, for instance, tracks repeat offender cases in his office on his blog “Straight Talk,” and notes that repeat offenders should remain incarcerated “to protect the public from property crimes.”³⁶

At least one statutory provision of HB 463 appears to run counter to legislative goals. While HB 463 reduced penalties for possession, a misdemeanor³⁷ possession conviction may still be used to enhance a second offense, so long as that offense is

not trafficking.³⁸ One such example would be the use of a possession conviction to enhance a charge of manufacturing methamphetamine.³⁹ This is precisely what happened in the case of Brian Damrell.⁴⁰ Damrell was charged with manufacturing methamphetamine; however, because of prior convictions for complicity to possess a controlled substance, first degree,⁴¹ and for possession of marijuana,⁴² the manufacturing charge was amended to manufacturing methamphetamine, second or subsequent offense, which carried a *minimum* penalty of 20 years.⁴³ Damrell was convicted and sentenced to serve 20 years.⁴⁴ Further, manufacturing methamphetamine, second or subsequent offense is a Class A Felony, subjecting Damrell to a minimum 17 year serve out and 17 years before his initial review by the parole board.⁴⁵

Thus, while the legislative intent appears to be to punish harshly those who repeatedly manufacture methamphetamine, the reality is harsh punishment is dealt out to many who commit a manufacturing offense for the first time. On the other hand, some believe that manufacturing methamphetamine, irrespective of whether it is a first or subsequent offense, is a serious enough offense that harsh punishment is always warranted. For instance, in New York, a Senate bill was passed to increase penalties for both manufacturing methamphetamine, and for possessing materials to manufacture methamphetamine,⁴⁶ and in Illinois, penalties were increased for those who manufacture methamphetamine within 1,000 feet of schools.⁴⁷

A second enhancement statute, which was unmitigated by HB 463, is KRS §218A.992, which provides for the enhancement of a penalty when an offender is in possession of a firearm at the time of the offense. Kentucky is not alone in its use of firearm enhancements. The federal government, for instance, provides an enhanced penalty for those who simply carry a firearm while trafficking, with a more stringent penalty for certain types of firearms.⁴⁸ Enhancements are necessary, according to some, because of the link between drug crimes and firearms crime.⁴⁹

The Kentucky Supreme Court recently handed down an interpretation of Kentucky’s firearm statute in *Mills v. Dep’t of Corr. Offender Info. Servs.*⁵⁰ Mills, like Damrell, was convicted of manufacturing methamphetamine. But, unlike Damrell, Mills’ sentence was not enhanced by virtue of being a second or subsequent offense; instead, it was enhanced to a Class A felony



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by imposition of the firearm statute.⁵¹ Consequently, Mills was subjected to serve 85 percent of his sentence before becoming eligible for parole under the violent offender statute. The firearm enhancement statute states as follows:

- (1) Other provisions of law notwithstanding, any person who is convicted of any violation of this chapter who, at the time of the commission of the offense and in furtherance of the offense, was in possession of a firearm, shall:
- (a) Be penalized one (1) class more severely than provided in the penalty provision pertaining to that offense if it is a felony.

At issue in *Mills* was whether the language suggested an enhancement in the penalty range, or the class of felony itself. The language of the firearm statute seems to call for an enhancement in penalty due to the word "penalized," while the violent offender statute requires that an offender be "convicted" in order to be subjected to its provisions. While acknowledging that the plain reading favored Mills, the Supreme Court ultimately decided against Mills, resting its legal conclusion on a jurisdictional issue:

This result avoids the certain absurdity of reading KRS 218A.992 to apply only post-conviction and, therefore, permit district courts to impose felony sentences or, more confusing yet, transfer the case to circuit courts for sentencing. With regard to creating or reading into the statute a transfer mandate or methodology, we find it not only unwise or unnecessary, but contrary to RCr 1.04's salutary prescription that our Rules of Criminal Procedure "be construed to secure simplicity in procedure, fairness in administration and the elimination of unjustifiable expense and delay." Surely, a post-conviction transfer for the purpose of sentencing does not secure simplicity in procedure or eliminate unjustifiable expense or delay.⁵²

In its ruling, the Supreme Court suggested that if the legislature intended there to be violent offender immunity for nonviolent drug offenses, "legislative action can easily be taken, political climate aside."

All 50 states and the federal government have some form of enhancements for recidivists via statutes or sentencing


guideline provisions.⁵³ What separates Kentucky is its use of prior simple drug possession convictions as "strikes" in its recidivist provisions.⁵⁴

At the federal level, there is a special recidivist statute, the career offender provision, which specifically excludes prior simple possession offenses as crimes that can be used to enhance.⁵⁵ However, the federal sentencing scheme uses all prior convictions, even misdemeanor simple possession drug offenses, to calculate criminal history which, in turn, can increase the applicable sentencing range.

The last few years have seen dramatic reform in sentencing of both federal and state defendants convicted of drug offenses. Attorney General Eric Holder has called for reduced penalties for nonviolent drug offenders.⁵⁶ And recognizing that an increasingly sizable portion of the state's budget was going to its penal system, California reformed its three-strikes law so that it targeted offenders who had committed serious prior crimes.⁵⁷ Other states have also passed similar reforms.⁵⁸

The reasons underpinning these changes should be of interest to Kentucky taxpayers. For one, empirical studies cast serious doubt on the notion that longer prison terms can significantly reduce recidivism, and, in fact, they may even be counterproductive.⁵⁹ States have also realized that recidivist provisions that increase sentences for nonviolent drug offenders do little to address over-incarceration and the concomitant drain of state tax dollars.⁶⁰ Because of this, several states have moved to alternatives to incarceration such as drug courts and treatment for repeat drug offenders, which cost far less than incarceration.⁶¹ There is also evidence, at least with respect to Federal Sentencing Guidelines, that sentencing enhancements based on prior drug convictions exacerbate racial disparities in the criminal justice system.⁶² And finally, strict recidivist sentencing enhancements can break down the plea bargaining process. The enhancements may be used as leverage in plea negotiations, which can cause defendants who may have otherwise gone to trial to enter into plea bargains out of fear of a possible enhanced sentence.

So should Kentucky reform its sentencing enhancement provisions to further reduce unproductive incarceration and its concomitant tax burden? Can that be done while maintaining public safety?

There are clearly competing concerns, but perhaps these competing sentencing goals could be reconciled by a sentencing provision which allowed a more gradual increase in sentencing, so that both public safety concerns and treatment could be realized. For example, Kentucky could structure its sentencing enhancements in a more measured manner, either by starting with smaller increases and working toward larger increases as the number of prior convictions increases, or by increasing the amount of time served before an initial parole review and not increasing the sentence at all. And perhaps the best alternative for all parties would be to create these reforms with a layer of mandatory drug treatment. Drug treatment is far cheaper than incarceration and offers to reduce recidivism (and hence, increase public safety) for more offenders than incarceration alone.⁶³ Regardless of what changes are made, to truly realize the sentencing policy goals of the Kentucky General Assembly to reduce recidivism and save tax dollars while protecting public safety, additional legislative action should be considered. 

references continue on next page...



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University Washington College of Law; her J.D. from Florida State University College of Law; her MSc in political science from Florida State University; and her B.S. in communications from the University of North Florida. The views expressed in this article are solely her own and do not represent the opinions of the Department of Public Advocacy.



Shon Hopwood is a Gates Public Service Law Scholar at the University of Washington School of Law, where he received a J.D. He also received a B.S. in legal studies from Bellevue University.

- ¹ HB 463 amended multiple statutes and created several new sections. See generally, Legislative Record, HB 463, available at www.lrc.ky.gov/record/11rs/hb463.htm.
- ² See, e.g., *Justice Reinvestment Initiative State Assessment Report: Kentucky*, THE URBAN INSTITUTE (Jan. 2014) (describing how the bill created distinctions between different types of drugs, as well as alternative sanctions for low-level nonviolent offenders) [hereinafter Urban Institute Assessment].
- ³ *Id.* See also, 2011 Kentucky Reforms Cut Recidivism, Costs, Broad Bill Enacts Evidence-Based Strategies, PEW CENTER ON THE STATES PUBLIC SAFETY PERFORMANCE PROJECT, 1, 2 (July 2011), available at www.pewtrusts.org/~media/legacy/uploaded-files/pcs_assets/2011/2011KentuckyReformsCutRecidivism.pdf [hereinafter Pew Report].
- ⁴ Pew Report, *supra* note 3.
- ⁵ *Id.*
- ⁶ *Id.*
- ⁷ *Id.*
- ⁸ HB 463 created a new section of KRS Chapter 532 to establish a sentencing policy. KRS § 532.007 reads, “the primary objective of sentencing shall be to maintain public safety and hold offenders accountable while reducing recidivism and criminal behavior and improving outcomes for those offenders who are sentenced.” Further, “[r]eduction of recidivism and criminal behavior is a key measure of the performance of the criminal justice system.” *Id.*
- ⁹ See *Criminal Justice Reform: A Culture Change Before the United States Committee on the Judiciary* (Nov. 6, 2013) (statement of Rep. John Tilley, Chairman, Kentucky House Judiciary Committee) available at www.judiciary.senate.gov/imo/media/doc/11-6-13TilleyTestimony.pdf [hereinafter Tilley Testimony].
- ¹⁰ John Cheves, *After 3 Years, Overhaul of Kentucky’s Drug-Crime Laws Hasn’t Created Expected Savings*, THE LEXINGTON HERALD LEADER, Feb. 13, 2013, available at www.kentucky.com/2014/02/15/3090669_after-3-years-overhaul-of-kentuckys.html?rh=1
- ¹¹ *Id.*
- ¹² Tilley Testimony, *supra* note 9.
- ¹³ Ed Monahan, 10 Commonsense ways to reduce waste in Kentucky’s criminal justice system: Lasting and Unrealized Benefits of HB 463, THE ADVOCATE, March 2014, available at dpa.ky.gov/NR/rdonlyres/24D2AFDA-4F6F-427F-A6414E2A9F0F55A8/0/AdvocateMarch2014Part2FINALFULLPAGEREDUCED.pdf. Monahan presented these at Interim Joint Judiciary Committee on Oct. 3, 2014.
- ¹⁴ *Id.*
- ¹⁵ *Id.*
- ¹⁶ Ernie Lewis & Dan Goyette, *The Kentucky Penal Code: Forty Years of Unresolved Tension and Conflict Between Sentencing Philosophies*, THE ADVOCATE, October 2014, available at dpa.ky.gov/NR/rdonlyres/8908105A-1833-4AA4-83943823A46BCA3E/0/AdvocateOctober101614FINALREDUCED.pdf.
- ¹⁷ See, e.g., *Kenton Co. Prosecutor on Prostitution: Police Are Handcuffed*, RIVER CITY NEWS (Sept. 9, 2012), available at rcnky.com/articles/2012/09/10/kenton-co-prosecutor-prostitution-police-are-handcuffed.
- ¹⁸ *Id.*
- ¹⁹ Ray Larson, *The Unintended Consequences of Kentucky’s Criminal-Friendly House Bill 463 “Catch & Release” Should Be For Fish Not Felons*, CRIME FIGHTERS NETWORK NEWS, available at www.lexingtonprosecutor.com/the-unintended-consequences-of-kentuckys-criminal-friendly-house-bill-463-catch-release-should-be-for-fish-not-felons/.
- ²⁰ U.S. Department of Justice, Bureau of Justice Statistics, *Correctional Populations in the United States*, 2013, Dec. 19, 2004, NCJ 248479, available at www.bjs.gov/content/pub/pdf/cpus13.pdf.
- ²¹ *Id.*
- ²² Urban Institute Assessment, *supra* note 2.
- ²³ *Id.*
- ²⁴ Cheves, *supra* note 10.
- ²⁵ KRS §439.3401 enumerates a list of offenses wherein offenders are classified as violent offenders, which impacts parole eligibility, among other things.
- ²⁶ It is important to note that the statistics being used here do not distinguish between types of drugs being trafficked, whereas Kentucky has different penalties for trafficking in a controlled substance versus trafficking in marijuana. See KRS 218.1415; KRS §218A.1421.
- ²⁷ U.S. Department of Justice, Bureau of Justice Statistics, *Felony Sentences in State Courts, 2006—Statistical Tables*, December 2009, NCJ 226846, available at www.bjs.gov/content/pub/pdf/fss06st.pdf [hereinafter BJS Felony Statistics].
- ²⁸ Four grams or more of cocaine, two grams or more of heroin or methamphetamine, and ten or more dosage units of a Schedule I or II narcotics are Class C felonies for the first offense. KRS § 214A.1412.
- ²⁹ KRS § 532.010.
- ³⁰ BJS Felony Statistics, *supra* note 27.
- ³¹ KRS § 214A.1412
- ³² *Id.*
- ³³ *Id.*
- ³⁴ *Id.*
- ³⁵ *Id.*
- ³⁶ See, e.g., www.lexingtonprosecutor.com/repeat-offenders-by-the-number-for-last-week-4/#more-12024.
- ³⁷ HB 463 created a new section to allow deferred prosecution for possession cases. KRS § 218A.14151.
- ³⁸ KRS § 218A.010(41).
- ³⁹ While the definition of trafficking includes manufacturing, KRS § 218A.010(49), manufacturing methamphetamine is separately defined. KRS § 218A.1431.
- ⁴⁰ *Damrell v. Commonwealth*, No. 2011–SC–000627–MR, 2012 WL 4327800 (Ky. Sept. 20, 2012).
- ⁴¹ This charge is a Class D felony.
- ⁴² This charge is a Class B misdemeanor.
- ⁴³ KRS § 218A.1432.
- ⁴⁴ *Damrell*, No. 2011–SC–000627–MR, 2012 WL 4327800, at *1.
- ⁴⁵ Under KRS § 439.3401, all Class A felonies are violent offenses carrying 85 percent parole eligibility.
- ⁴⁶ www.nysenate.gov/press-release/senate-bill-creates-harsher-penalties-methamphetamine-production.
- ⁴⁷ www.wgem.com/story/26328450/2014/08/20/illinois-law-carries-strict-punishment-for-meth-near-schools.
- ⁴⁸ 18 U.S.C. § 924(c).
- ⁴⁹ www.ndaa.org/pdf/drug_linked_firearms_cases_05.pdf.
- ⁵⁰ 438 S.W.3d 328 (Ky. 2014).
- ⁵¹ *Id.*
- ⁵² *Mills*, 438 S.W.3d at 334.
- ⁵³ See NAT’L CTR. FOR STATE COURTS, *STATE SENTENCING GUIDELINES: PROFILES AND CONTINUUM 3-6* (2008); Michael G. Turner et al., “Three Strikes and You’re Out” Legislation: A National Assessment, 59 FED. PROBATION 16, 17 (1995).
- ⁵⁴ KRS §218A.010(41).
- ⁵⁵ U.S.S.G. 4B1.2; see also *Salinas v. United States*, 547 U.S. 188 (2006).
- ⁵⁶ Charlie Savage, *Dept. Of Justice Seeks To Curtail Stiff Drug Terms*, NEW YORK TIMES at A1 (Aug. 12, 2013).
- ⁵⁷ California Proposition 36, WIKIPEDIA, last visited Jan. 3, 2015.
- ⁵⁸ Maya Rhodan, *States Lead The Way on Sentencing Reform*, TIME (Feb. 14, 2014).
- ⁵⁹ See, e.g., Don M. Gottfredson, NAT’L INSTITUTE OF JUSTICE, U.S. DEP’T OF JUSTICE, *EFFECTS OF JUDGES’ SENTENCING DECISIONS ON CRIMINAL CAREERS* (1999) (finding that sentence length had little effect, other than to incapacitate the offender, on recidivism); Cassia Spohn & David Holleran, *The Effect of Imprisonment on Recidivism Rates of Felony Offenders: A Focus on Drug Offenders*, 40 CRIMINOLOGY 329 (2002) (comparing recidivism rates of felony offenders sentenced in Kansas City and finding that offenders sentenced to prison have higher recidivism rates than those sentenced to probation); Sara J. Lewis, *The Cruel and Unusual Reality of California’s Three Strikes Law: Ewing v. California and the Narrowing of the Eighth Amendment’s Proportionality Principle*, 81 DENV. U. L. REV. 519, 542-43 & n.241 (2003) (noting that California’s three strikes statute did not result in any significant drop in crime rates).
- ⁶⁰ Jeffrey Fagan, Tracey Meares, *Punishment, Deterrence and Social Control: The Paradox of Punishment in Minority Communities*, OHIO STATE J. OF CRIM. L., Vol. 6 (2008).
- ⁶¹ Amanda B. Cissner & Michael Rempel, *The State of Drug Court Research: Moving Beyond ‘Do They Work?’*, CENTER FOR COURT INNOVATION (2005).
- ⁶² U.S. Sentencing Commission, *FIFTEEN YEARS OF GUIDELINES SENTENCING: AN ASSESSMENT OF HOW WELL THE FEDERAL CRIMINAL JUSTICE SYSTEM IS ACHIEVING THE GOALS OF SENTENCING REFORM 133-34* (2004).
- ⁶³ Doug McVay, Vincent Schiraldi & Jason Ziedenberg, *Treatment of Incarceration? National and State Findings on the Efficacy and Cost Savings of Drug Treatment Versus Imprisonment*, JUSTICE POLICY INSTITUTE, at 5 (2004).



A link to an additional article has been placed on the KBA website under the Hot Topics page. To find this additional article visit kybar.org/?hottopics

The Kentucky Penal Code: Forty Years of Unresolved Tension and Conflict Between Sentencing Philosophies

by Dan Goyette and Ernie Lewis

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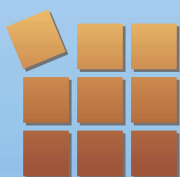
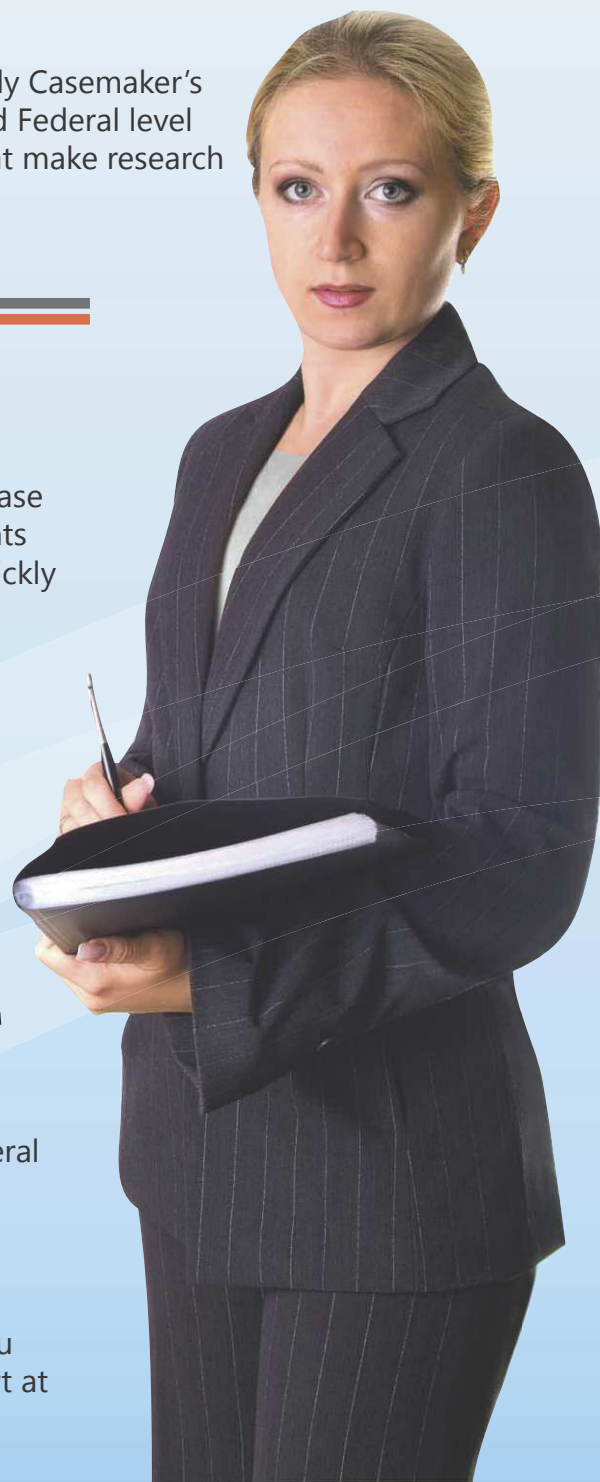
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BATSON V. KENTUCKY: A RETROSPECTIVE

By: Justin Walker

Thirty years ago, a Louisville attorney named **David Niehaus** made history at the United States Supreme Court. In just his second year as an appellate advocate and in his first argument before the high court, he argued that the government violates the Constitution when it keeps men and women off juries because of the color of their skin. On the 30th anniversary of that oral argument, and in an era of renewed dialogue about race and crime – from protests in places like Ferguson, to pushes for criminal justice reform by leaders as ideologically diverse as **Attorney General Eric Holder** and **Senator Rand Paul** – the anniversary of Niehaus’s argument in *Batson v. Kentucky* offers an opportunity to consider how much has changed at the intersection of race and the selection of American juries, and how much remains the same.

In the years before Niehaus’s oral argument, the practice of excluding African American jurors through race-based peremptory challenges was “widespread”¹ and “flagrant.”² For example, in 15 federal trials involving African American defendants in western Missouri in 1974, prosecutors peremptorily struck four out of every five African American jurors.³ In Spartanburg County, South Carolina, the number was roughly the same.⁴ In 53 similar cases in the Eastern District of Louisiana, prosecutors used nearly 70 percent of their peremptory strikes against African American jurors, even though they constituted less than a quarter of the venire.⁵

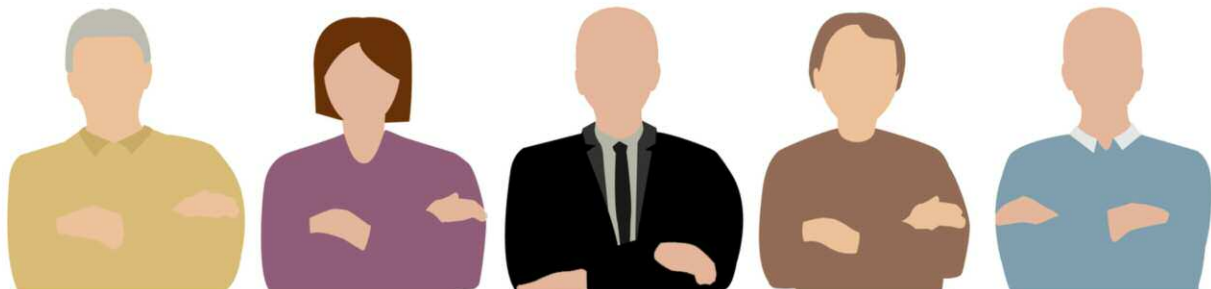
The prosecutor’s office in Dallas County, Texas even used an instruction book advising prosecutors to eliminate “any member of a minority group.”⁶ An earlier book instructed them, “Do not take Jews, Negroes, Dagos, Mexicans or a member of any minority race on a jury, no matter how rich or how well educated.”⁷ Not

surprisingly, in Dallas County, the likelihood of a qualified African American sitting on a jury was only one in 10, while a qualified white resident’s chances were one in two.⁸

At the center of the attempt to disrupt that status quo in the mid-1980s were three unlikely agents of constitutional change, all working at the public defender’s office in Louisville: **Doug Dowell**, a trial attorney with a seemingly hopeless case; **Chris Polk**, a third-year law student; and Niehaus.

Dowell made a habit of reading advance sheets – paper-bound publications of court opinions that kept lawyers informed of recent decisions in an age before Lexis, Westlaw, SCOTUSblog, the *Wall Street Journal’s* Law Blog, and the Volokh Conspiracy. After Dowell came across a few other states’ decisions in advance sheets invalidating race-based peremptory challenges as inconsistent with state constitutions’ guarantees of the right to trial by jury, he made a mental note to preserve the issue for appeal the next time he saw a prosecutor use peremptory strikes in a manner that resulted in an all-white jury.

On Valentine’s Day of 1984, the first day of Dowell’s trial defense of burglary charges against James Batson, Dowell seized his opportunity. He moved to discharge the jury after the government used its peremptory challenges to remove all four African Americans on the jury venire. “Does the Court agree,” asked Dowell, “that there were four black jurors on the panel and that the Commonwealth exercised its peremptories as to those, all four black jurors?”⁹



“Well,” said Judge George Ryan, “they can do it if they want to.”¹⁰

With that, Dowell’s motion was denied – but preserved for appeal.¹¹

After Batson was convicted in a two-day trial of what appeared to be an open-and-shut case, the appeal went to Niehaus, in part because the more senior appellate advocate in the office was preoccupied with three death penalty cases. Niehaus in turn asked a third-year law student interning at the public defender’s office, Chris Polk, to search the trial record for appellate issues. There weren’t many. When Polk walked across the second floor of Louisville’s Advocacy Plaza to David Niehaus’s desk, the intern said, referring to Doug Dowell’s preservation of his objection to the government’s peremptory challenges, “Doug raised this issue. What do you think?”¹²

Niehaus was skeptical. In 1965, the U.S. Supreme Court’s decision in *Swain v. Alabama* had foreclosed equal protection challenges of peremptory strikes unless the defendant could show a pattern of discrimination across multiple cases. Niehaus asked, “Is there anything else?”

When Polk said there wasn’t, Niehaus replied, “Well, go ahead and write it up and we’ll see.”

Niehaus’s first appeal was to Kentucky’s Supreme Court. In a memorandum opinion, it quickly dismissed his argument. “We have recently affirmed our reliance upon *Swain*,” it explained, “and we decline to adopt another rule.”¹³

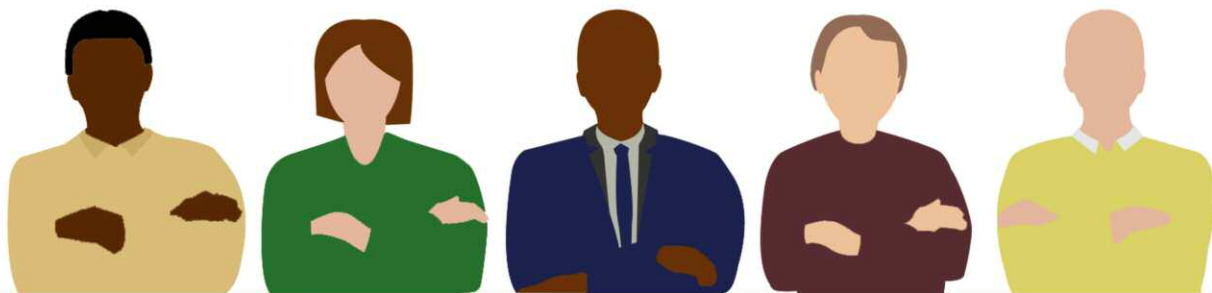
Niehaus then filed a petition for certiorari with the United States Supreme Court. Since 99 percent of petitions are denied without comment, his odds did not, at first glance, seem strong. But the issue raised in Niehaus’s petition was different from those in the mine-run of petitions sent to One First Street, because the Court had recently sent signals that it was ready to reconsider the merits of *Swain*. The year before Batson’s trial, in a dissent from the denial of certiorari in *McCray v. New York*, Justice Brennan had joined

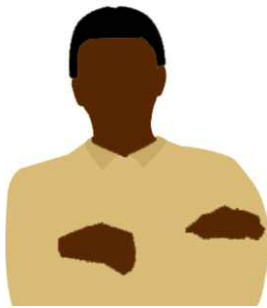
Justice Marshall’s statement that “[i]n the nearly two decades since it was decided, *Swain* has been the subject of almost universal and often scathing criticism. Since every defendant is entitled to equal protection of the laws and should therefore be free from the invidious discrimination of state officials, it is difficult to understand why several must suffer discrimination because of the prosecutor’s use of peremptory challenges before any defendant can object.” Ominously for *Swain*, three other Justices signed an opinion explaining that their votes to deny certiorari should not be misread as endorsing *Swain*. Rather, they considered it “a sound exercise of discretion for the Court to allow the various States to serve as laboratories in which the issue receives further study before it is addressed by this Court.”¹⁴

Since the two dissenters plus the three skeptics added up to five votes, the writings in *McCray* left little doubt that the experiment of the state “laboratories” would one day produce results to be “addressed by this Court.” As Niehaus told me in his self-deprecating style, “I am not a genius, as pretty much anybody can tell you, but I did learn to read once.” He knew the question was not whether the result of *Swain* would be reconsidered. It was how.

Niehaus assumed that the interests of stare decisis would compel the Court to look for a way to abrogate *Swain*, rather than expressly overrule it. He saw a potentially winning argument in the Sixth Amendment’s right to a jury trial, rather than the Fourteenth Amendment’s right to equal protection. Since *Swain* had not addressed whether the Sixth Amendment requires courts to consider a defendant’s objection to allegedly race-based peremptory challenges, even without evidence of a pattern in previous cases, Niehaus raised that question in his petition for certiorari.

On April 22, 1985, the petition was granted. Niehaus, who had spent the better part of his brief legal career litigating insurance contracts before arriving at the public defender’s office in 1983, was heading to the Supreme Court – with one of the most important issues of racial justice in a generation.





For much of the rest of the year, Niehaus researched, drafted, redrafted, and practiced his Sixth Amendment argument. He was so exhausted by Thanksgiving that he slept through it. But when oral argument arrived on Dec. 12, 1985, he was in for something of a surprise: the Justices were open – in fact, eager – to overrule *Swain's* Fourteenth Amendment

holding, rather than abrogate it through a Sixth Amendment argument.

When *Batson v. Kentucky* was decided four months later, it was grounded in “[t]he core guarantee of equal protection, ensuring citizens that their State will not discriminate on account of race.”¹⁵ The Court held that the Fourteenth Amendment’s equal protection clause “forbids the States to strike black veniremen on the assumption that they will be biased in a particular case simply because the defendant is black.”¹⁶ Race-based peremptory strikes unconstitutionally injure the defendant on trial, the jurors who are challenged and thereby stigmatized as unqualified for jury service, and the “entire community” by “undermin[ing] public confidence in the fairness of our system of justice.”¹⁷

Overruling *Swain*, over two dissenting votes arguing that inquiry into the reasons for peremptory challenges would strip such challenges of their value – a value that courts have recognized for almost as long as there have been jury trials – seven justices established a three-step process for courts to consider objections to the government’s alleged use of race in peremptory challenges. First, the defendant must show “that the totality of the relevant facts gives rise to an inference of discriminatory purpose.”¹⁸ Second, if such a prima facie showing is made, the government must provide “a neutral explanation for challenging black jurors.”¹⁹ Third and finally, the trial judge must “determine if the defendant has established purposeful discrimination.”²⁰

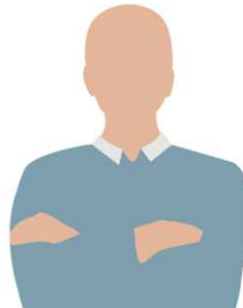
Since then, *Batson* has been cited in more than 20,000 cases – and in countless more trial courts. The seemingly simple case from Louisville – the one that began with a rather ordinary robbery and that landed on David Niehaus’s desk because the other appellate advocate in his office was too busy to take it – became, by many accounts, a landmark in criminal procedure. But in the 30 years since it was argued, just how important has *Batson* been to the cause of racial justice in our country’s criminal courts?

In some ways, *Batson* has proven even more robust than some members of the Court’s majority expected. In his *Batson* concurrence, **Justice Byron White** (who had written *Swain* 21 years earlier) wrote, in reference to *Batson’s* first step, “The judge may [sometimes] not require the prosecutor to respond at all.”²¹ He – and perhaps the rest of the majority – expected a fair number of *Batson* claims to fail to make out a prima facie case at this first step. But the Supreme Court’s decision in *Johnson v. California* made clear in 2005 that all plausible *Batson* claims satisfy the requirements of step one. “The *Batson* framework is designed to produce actual answers to suspicions and inferences that discrimination may have infected the jury selection process,” said the Court.²² “The inherent uncertainty present in inquiries of discriminatory purpose counsels against engaging in needless and imperfect speculation when a direct answer can be obtained by asking a simple question.”²³

Batson has also been expanded beyond the context of a member of a racial minority challenging the peremptory strikes of a prosecutor. Thirty years later, it now covers strikes in civil cases,²⁴ strikes by a criminal defendant,²⁵ and strikes based on gender.²⁶

But in other ways, *Batson’s* promise has proven illusory. As the Supreme Court of Mississippi stated in 2007, “racially-motivated jury selection is still prevalent.”²⁷ The Equal Justice Initiative (EJI) reports that in Louisiana’s Jefferson Parish, for example, “there is no effective African American representation on the jury in 80 percent of criminal trials,”²⁸ even though African Americans make up a quarter of the population.²⁹ EJI also reports that in Houston County, Alabama, eight in 10 qualified African Americans are struck by the government in death penalty cases.³⁰ Just south of Kentucky’s border, “[m]ore than 100 criminal defendants have raised *Batson* claims on appeal in Tennessee, but this state’s courts have never reversed a criminal conviction because of racial discrimination during jury service.”³¹ EJI’s Bryan Stevenson stated in 2010 that “there is perhaps no arena of public life or governmental administration where racial discrimination is more widespread, apparent, and seemingly tolerated than in the selection of juries.”³²

There are at least two theories for why *Batson* has not had a more profound effect. First, according to EJI, “many defense lawyers fail to adequately challenge racially discriminatory jury selection, because they are uncomfortable, unwilling, unprepared, or not trained to assert claims of racial bias.”³³ David Niehaus considers this the biggest reason why *Batson* violations sometimes go unchecked, especially in less populated counties where “the commonwealth’s attorney is somebody [defense attorneys] know.” They go to church and Rotary Club together. Their kids play soccer together. It can be awkward making a motion in court that accuses your friend or neighbor of intentionally discriminating on race. As Niehaus deadpans: “Not the nicest thing to say.”



Circuit Court **Judge Olu Stevens** of Louisville has written about variations of this phenomenon. “During one of my recent trials,” he reports, “an attorney rose to address the court: ‘Your Honor, I apologize, but I have a *Batson* challenge.’”³⁴ Judge Stevens told him he shouldn’t be apologizing for making a legitimate motion in his client’s interests, but “the truth

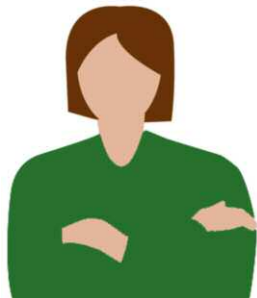
is I understood his angst,” because “*Batson* is synonymous with racism,” which “makes *Batson* a particularly sensitive issue. And not unlike other segments of society, we in the law tend to avoid our most sensitive subjects.”³⁵

Another obstacle to *Batson’s* promise is the difficulty of defendants prevailing on *Batson’s* steps two and three. In inquiries into the motivations behind a peremptory strike, it is often impossible for trial judges and reviewing courts to distinguish the legitimate from the illegitimate, the race-neutral from the race-based.

Justice Thurgood Marshall foresaw this difficulty in his *Batson* concurrence: “Any prosecutor can easily assert facially neutral reasons for striking a juror, and trial courts are ill equipped to second-guess those reasons.”³⁶ Marshall asked, “How is the court to treat a prosecutor’s statement that he struck a juror because the juror had a son about the same age as defendant, or seemed ‘uncommunicative,’ or ‘never cracked a smile’ and, therefore,

'did not possess the sensitivities necessary to realistically look at the issues and decide the facts in this case?'"³⁷

Of course, there can be no doubt that many, many prosecutors reject racial prejudice, and many, many prosecutors take seriously their responsibility as officers of the court to abide by *Batson*. But Marshall worried about them as well. "A prosecutor's own conscious or unconscious racism may lead him easily to the conclusion that a prospective black juror is 'sullen,' or 'distant,' a characterization that would not have come to his mind if a white juror had acted identically."³⁸ According to Marshall, judges aren't off the hook either. "A judge's own conscious or unconscious racism may lead him to accept such an explanation as well supported."³⁹




As a late history professor of mine used to say, those aren't softballs he's throwing. The most accomplished civil rights attorney of his or any generation, Marshall had, by the mid-1980s, lived long enough to see not just the promise, but also the limits, of judicial opinions proclaiming racial justice – most notably

Brown v. Board of Education, which he argued. He believed that *Batson* requires members of the bar "to confront and overcome their own racism on all levels – a challenge I doubt all of them can meet."⁴⁰ He reminded his colleagues and readers that more than a century after the Civil War, "racial and other forms of discrimination still remain a fact of life, in the administration of justice as in our society as a whole."⁴¹

Regardless of whether one agrees with Marshall's diagnosis of what he saw as *Batson*'s inadequacies – and regardless of whether one agrees with his rather radical solution: the elimination of all peremptory challenges – his words remind us that 2015 is not just the 30th anniversary of *Batson*'s argument; it is also the 150th anniversary of a Civil War fought in large part over questions of equality and opportunity that remain with us today – questions that profoundly affect the lives and liberty of the men whose active cases fill all five drawers in the file cabinet of David Niehaus's office.

Three decades after his winning argument in *Batson*, a graying Niehaus is still at the public defender's office, where his clients still face the most daunting of legal predicaments, and where he still feels a bit like a stranger in a strange land – a quiet man, easy-going by nature, whose job is to disrupt just about everything in a system disinclined to be disrupted. But Niehaus still loves his work, because he loves his colleagues. He is still often in the office six days a week, because he cares about his clients (although he says it's merely because he's too slow to get it done any faster). And he still lives by the words of a framed quotation that hangs down the hall: "Justice doesn't just happen. You have to make it happen."

With his habitual humility, Niehaus told me he does not consider *Batson* to be a landmark case. Perhaps not. But it at least stands for a landmark principle – equal justice under the law. And the limits of its legacy show that landmark principles, even those written with elegance and authority in the United States Reports, are easier to proclaim than to practice – because justice doesn't just happen; you have to make it happen. 



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A graduate of Harvard Law School, he clerked for Justice Anthony Kennedy on the U.S.

Supreme Court and for Judge Brett Kavanaugh on the U.S. Court of Appeals for the D.C. Circuit.

In the fall of 2015, he will become an assistant professor at the University of Louisville Louis D.

Brandeis School of Law, where he will teach legal writing. He lives in Louisville with his wife Anne and their daughter Isabella.

¹ *Batson v. Kentucky*, 476 U.S. 79, 101 (1986) (White, J., concurring).

² *Id.* at 103 (Marshall, J., concurring).

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.* at 104.

⁷ *Id.* at 104 n. 3.

⁸ *Id.* at 104.

⁹ Brief of Petitioner, *Batson v. Kentucky*, 476 U.S. 79 (1986).

¹⁰ *Id.*

¹¹ The then-prosecutor, Joe Gutmann, has an outstanding record of outreach and service within Louisville's African American community. He told the *Courier-Journal* in 2005 that he used his peremptory challenges to strike the jurors in question because he thought they would sympathize with the defendant based on their youth – a claim that I for one do not doubt. Today, Gutmann mentors students at Louisville's Central High School, where he is a widely admired teacher and the Law and Government Magnet Coordinator. In 2010, he was named Educator of the Year by the national non-profit *Street Law*.

¹² Information regarding Niehaus and his colleagues in this and other paragraphs was learned during an interview in his office on Dec. 22, 2014.

¹³ The Kentucky Supreme Court's memorandum opinion is quoted in the Brief of Respondent, at 8-9, *Batson v. Kentucky*, 476 U.S. 79 (1986).

¹⁴ *McCray v. New York*, 461 U.S. 961, 964-65 (1983) (Marshall, J., dissenting from denial of cert.); *id.* at 963 (Stevens, J., concurring in denial of cert.).

¹⁵ *Batson*, 476 U.S. at 97.

¹⁶ *Id.*

¹⁷ *Id.* at 87.

¹⁸ *Id.* at 93-94.

¹⁹ *Id.* at 97.

²⁰ *Id.* at 98.

²¹ *Id.* at 101 (White, J., concurring).

²² *Johnson v. California*, 545 U.S. 162, 172 (2005).

²³ *Id.*

²⁴ *Edmonson v. Leesville Concrete Co.*, 500 U.S. 614 (1991).

²⁵ *Georgia v. McCollum*, 505 U.S. 42 (1992).

²⁶ *J.E.B. v. Alabama*, 511 U.S. 127 (1994).

²⁷ *Flowers v. State*, 947 So. 2d 910, 937 (Miss. 2007).

²⁸ www.eji.org/raceandpoverty/juryselection.

²⁹ quickfacts.census.gov/qfd/states/22/22051.html.

³⁰ www.eji.org/raceandpoverty/juryselection.

³¹ www.eji.org/files/EJI%20Race%20and%20Jury%20Report.pdf (p. 22).

³² www.eji.org/files/EJI%20Race%20and%20Jury%20Report.pdf (p. 4).

³³ www.eji.org/raceandpoverty/juryselection.

³⁴ olustevens.com/wp-content/uploads/2014/01/Batson_Challenge_Olu_Stevens.pdf (p. 22).

³⁵ *Id.*

³⁶ *Batson*, 476 U.S. at 106 (Marshall, J., concurring).

³⁷ *Id.* (citations omitted).

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Id.* 106-07 (internal quotation mark omitted).

Nowadays, any lawyer is certainly no stranger to having his or her legal advice questioned. With access to legal information through the Internet, Judge Judy, *Law & Order*, and other sources being easier than ever, clients are equipped, if not armed, with more and more information. This information, whether right or wrong, oftentimes can cause a client to seek out a second opinion. For example, an individual may simply want further consideration and deliberation on whether to plead guilty or to proceed to trial. Alternatively, some individuals' intentions are less than exemplary, and they simply need a warm body with a law license to be the light saber for their hidden agenda. Whether you are the lawyer being questioned or the lawyer called upon by the suspicious client, the importance of understanding the ethical ramifications of this situation is paramount.

Attorneys hear regularly about second opinions in the medical field and even about doctors recommending the obtaining of such. However, there may be some misunderstandings concerning second legal opinions or the encouragement of the second opinion. Many practitioners may be concerned that second opinions are in violation of Kentucky Supreme Court Rule (SCR) 3.130 (4.2). This rule provides that "[i]n representing a client, a lawyer shall not communicate about the subject of the representation with a person the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized to do so by law or a court order."

This prohibition is only applicable to those situations in which an attorney is "in a matter" and that attorney attempts to communicate with the represented party on the other side of that same matter. Therefore, the prohibition on contact does not extend to a lawyer who is approached by a represented person who merely wants a second opinion from a lawyer who does not represent anyone in the matter.

The reality is that second legal opinions are in fact allowed by the rules of professional conduct. The dilemma of the second legal opinion was addressed by the Kentucky Bar Association in an ethics opinion^{1*} from

SECOND OPINER— TO BE OR NOT TO BE

By: Ben Leonard

1987.² Specifically, the guidance given was that an attorney may consult with a client who already has representation for the purpose of obtaining a second opinion.

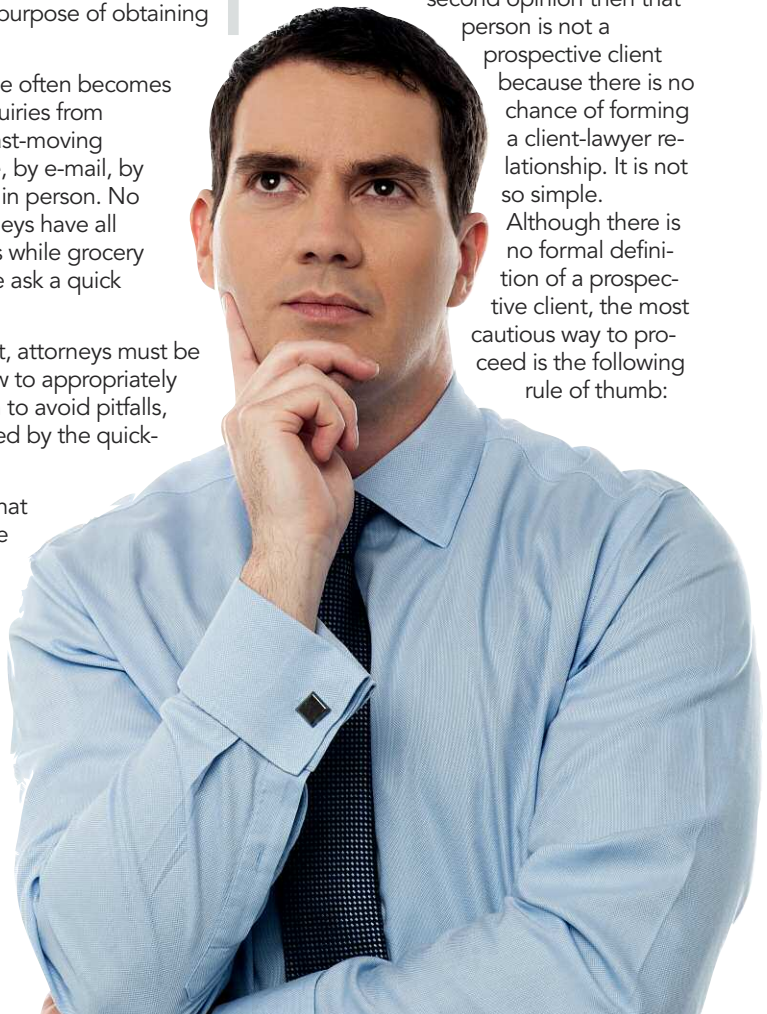
In this context, the issue often becomes that attorneys field inquiries from individuals in today's fast-moving environment by phone, by e-mail, by text, by snail mail, and in person. No doubt that most attorneys have all heard the magic words while grocery shopping: "Hey, let me ask a quick question."

In such an environment, attorneys must be knowledgeable on how to appropriately handle such a situation to avoid pitfalls, such as being swallowed by the quicksand of ambition.

One of the first steps that an attorney should take when speaking with an individual about a legal matter is to inquire whether the individual is represented by counsel, and whether other counsel has advised the individual on the situation at hand. If the individual has been previously advised, but just wants to "bounce a few things around," then certain rules apply.

In the context of second opinions, Kentucky Supreme Court Rule (SCR) 3.130 (1.18) applies when dealing with a prospective client in this circumstance. A person who discusses with a lawyer the possibility of forming a client-lawyer relationship is a prospective client.³ This rule provides that a lawyer who has had discussions with a prospective client shall not use or reveal information learned in the consultation. While these provisions seem clear cut, they are not. The ethics opinion cited states that the lawyer giving the second opinion should make every effort not to impair the individual's relationship with his or her primary attorney. It could certainly be surmised that if attorneys are not to impair the relationship with the primary attorney during the course of providing a

second opinion then that person is not a prospective client because there is no chance of forming a client-lawyer relationship. It is not so simple. Although there is no formal definition of a prospective client, the most cautious way to proceed is the following rule of thumb:



anytime a person contacts any attorney to discuss a legal matter, that person instantly becomes a prospective client.

How can a secondary attorney advise a prospective client without interfering with the existing attorney-client relationship? Kentucky Bar Association Ethics Opinion 325 provides that the second opinion consultation may not be used to solicit the prospective client's business. Kentucky Supreme Court Rule (SCR) 3.130 (7.09(1)) states no lawyer directly or indirectly through another person shall, in person or by telephone, initiate contact or solicit professional employment from a prospective client with whom the lawyer has no family or direct prior professional relationship. However, there are additional considerations.

Persuasive authority suggests that when a client initiates the contact with a new lawyer resulting in the discharge of the first lawyer and the subsequent hiring of the new lawyer, "no intentional and unjustified interference is present."⁴ Put simply, "[t]he conduct of the lawyer in meeting with the client in this case does not amount to interference because the client came to the new lawyer; the lawyer did not solicit the client."⁵ These rules are analogous to another Kentucky Bar Association ethics opinion in which the following was expressed:

The client has the power to discharge a lawyer and hire another, and in the absence of a conflict, prohibited solicitation, or some kind of overreaching, there is no bar to . . . taking a case from someone who is already represented. On the other hand, the prospective client should be advised of any risks or potential consequences of a change in counsel.⁶


As a result of the complexity of the attorney-client relationship or attorney/non-client relationship in the second opinion context, there are other safeguards that should be followed. Attorneys must make sure that no one's toes are stepped on while doing this dance. This information could put an attorney in a situation in which Kentucky Supreme Court Rule (SCR) 3.130 §§ (1.7), (1.8), and (1.18), pertaining to conflicts of interests, are violated. As a result, the lawyer so desiring to give a second opinion must do the initial talking at the consultation. In other words, be sure to ask preliminary questions, such as "Who is involved in this matter?" and "Who is on the other side of the case?" Furthermore,

always remember that any time an attorney discusses a matter with a prospective client or someone seeking a second opinion, he or she can potentially be limiting his or her ability to take cases in the future, even if he or she does not undertake the actual representation. Consequently, note five (5) under Kentucky Supreme Court Rule (SCR) 3.130 (1.18) should certainly be taken advantage of under the context of second opinions. According to this note, "A lawyer may condition conversations with a prospective client on the person's informed consent that no information disclosed during the consultation will prohibit the lawyer from representing a different client in the matter." Kentucky Supreme Court Rule (SCR) 3.130 (1.10) defines informed consent in this context. "Informed consent denotes the agreement by a person to a proposed course of conduct after the lawyer has communicated adequate information and explanation about the material risks of and reasonably available alternatives to the proposed course of conduct."⁷ Obviously, this arrangement should be informed and in writing.

Ethics opinion 325 on second opinions states that an attorney should consider getting the person requesting a second opinion's consent to talk to the primary lawyer. The fair presumption is that such consent should be informed and in writing. Whether the person consents to contacting the attorney of record or refuses, such consent or lack thereof should also be in writing. Obviously, following this consent procedure ensures all interests are protected. The reason for contacting the primary lawyer is to ensure that the secondary attorney obtains all the facts.⁸ The primary lawyer, who has been in the heat of battle, is many times the best source to fill in the gaps. Conversely, the secondary attorney may be put into a situation where the individual seeking a second opinion refuses to provide any such consent, for any number of reasons.

One other safeguard should be observed. Practicing law is not fun enough to do for free. It is important to explain to the person seeking the second opinion the cost for doing so, and to immediately establish the limit of the scope of the services being provided.⁹

There is nothing wrong with being like a caged bird dog ready to hunt. However, attorneys will be far less likely to be gun shy if the rules are known. The attorney considering giving a second opinion should inquire about prior representation, not solicit the individual, check for conflicts of

interest, consider getting the primary attorney's consent, and put the scope of services and the fee for them in writing. The ingredients in the recipe laid out in this discourse are some of the considerations necessary when undertaking a second opinion. Happy Hunting! 



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in business administration from Eastern Kentucky University, a Master's degree in business administration from the University of Memphis, and his law degree from Saint Louis University. He has been an active practitioner since 2004 and represents individuals, businesses, municipalities, and taxing districts throughout western Kentucky. Leonard lives in Providence with his wife, Allison, and daughter, Millie.

¹ Kentucky Bar Association Ethics Opinion 325, Issued September 1987.

^{*} Pursuant to Kentucky Supreme Court Rule (SCR) 3.530, a committee formed through the Kentucky Bar Association, known as the Ethics Committee, is authorized to issue informal and formal opinions on questions of ethics. Informal and formal opinions are advisory only. Nonetheless, no attorney shall be disciplined for any professional act performed by that attorney in compliance with such an opinion furnished by the Ethics Committee so long as the professional act contemplated by the attorney falls within the specific purview of the opinion. Nonetheless, any ethical issue that an attorney has uncertainty about should be submitted to the Ethics Committee.

² Kentucky Supreme Court Rule (SCR) 3.130 (1.18).

³ *Loreen I. Kreizinger, P.A. v. Sheldon J. Schlesinger, P.A.*, 925 So.2d 431 (Fla. 4th DCA 2006); *Potts v. Mitchell*, 410 F. Supp. 1278 (D.C.N.C. 1976); *Gilbert v. Jones*, 187 Ga. App. 303, 370 S.E.2d 155 (Ga. Ct. App. 1988).

⁴ *Loreen I. Kreizinger, P.A. v. Sheldon J. Schlesinger, P.A.*, 925 So.2d 431 (Fla. 4th DCA 4/5/2006).

⁵ Kentucky Bar Association Ethics Opinion 385, Issued September 1995.

⁶ Kentucky Supreme Court Rule (SCR) 3.130 (1.0).

⁷ Kentucky Bar Association Ethics Opinion 325, Issued September 1987.

⁸ Kentucky Supreme Court Rule (SCR) 3.130 (1.2).

DISTRICT COURT 101

A VIEW FROM THE BENCH

By: Judge Erica Lee Williams

A person's first interaction with the judicial system most often occurs in district court. In fact, there is a very good chance that you or someone very close to you has had (or will have) an encounter with district court. That is because district court is somewhat of a "full service" court. As I like to say, you can literally begin and end with us. In trouble as a juvenile? You are in the right place. Want to get married? We do that too. Need a name change? We have got you covered. Have a will going into probate? We handle those cases. Need an order regarding a cremation? Look no further than district court.

In Kentucky, state trial courts are divided into district and circuit courts. District court is the lower court and has limited jurisdiction. With respect to criminal cases, the district courts have exclusive jurisdiction to make final disposition of all criminal matters, including violations of county, urban-county, or city ordinances or codes, with the exception of felony or capital offenses and offenses punishable by death or imprisonment in the penitentiary.¹ However, district court does not have jurisdiction over misdemeanors or violations if they are joined with a felony.²

District court and circuit court have concurrent jurisdiction to hold a preliminary hearing for a felony or capital case, and to commit the defendant to jail or to hold the defendant to bail or any other form of pretrial release. Unless and until an indictment is returned to the circuit judge, a district court may exercise its jurisdiction to enter any order or judgment it deems appropriate, including setting and reviewing bail.³

In civil matters, the district courts have jurisdiction over several areas of law. District courts maintain jurisdiction over forcible

entry and detainer cases, as well as small claim matters where the amount in controversy does not exceed \$2500 (exclusive of interest and costs). Small claims plaintiffs are limited to 25 claims in one calendar year and must file an affidavit stating the same when filing the claim.⁴ However, claims brought by city, county or urban governments do not have a limit on the number of claims filed per year.⁵ In addition to the areas of law highlighted above, district courts maintain jurisdiction over the following:

- arraignments;
- juvenile cases;
- city and county ordinances;
- traffic offenses;
- probate of estates;
- felony probable cause hearings;
- voluntary and involuntary mental commitments;
- civil cases involving \$5000 or less;
- child support cases; and
- disability cases.

The citizens that move in and out of district court are as diverse as the cases over which the courts preside. There is not a "typical" day in district court. There are 120 counties in Kentucky with 60 judicial districts and 116 district court judges who are elected to serve a four-year term. Due to factors such as the varying size of the population per county, district courts function somewhat differently depending on the county. I will begin with Jefferson County, the 30th Judicial District, where I preside. I will also provide some insight regarding district court in a few of the other counties, but in order to explore and explain the inner workings and nuances of the courts in all of the counties in our Commonwealth, this article would take up an entire issue of the *Bench & Bar*.

Jefferson County has 17 district court judges. The Jefferson County District Court was formed in 1976 and has been housed in the same building since – the Hall of Justice. The Hall of Justice is not only one of the busiest buildings in Jefferson County; it is one of the busiest buildings in the entire Commonwealth. In 2014, this court handled over 161,000 cases. Currently, the Jefferson County courts are divided into criminal dockets, civil dockets and a juvenile docket. At the beginning of each year, the judges rotate into a different court. Regardless of the division in which a judge sits, each day is different from the next. There are five civil courts that hear cases involving small claims, evictions, probate, civil motion hour (claims of \$5,000 or less), minor guardianships, disability, and mental inquests. The court has 10 criminal dockets that run simultaneously from 9:00 a.m. to 12:15 p.m. Courts continue to hear dockets three afternoons a week, while the other two afternoons are reserved for trials and hearings. It is not uncommon to have well over 125 cases on the docket for one day. Cases are assigned to the courts alphabetically, using the last name of the defendant. In addition to the judge, two clerks sit in the criminal courts to enter in the data for each case. During the course of one hour, a myriad of interesting events will unfold that bring to mind a criminal law final exam.

One person is in court today to withdraw his previous plea of not guilty and enter in a plea of guilty to the charge of driving under the influence. Another person is in court to provide proof that he completed his diversion for the theft by unlawful taking charge he had a few months back. Another is preparing for his probable cause hearing for felony charges of robbery, wanton endangerment

and possession of controlled substance heroin. Yet another is there to plead guilty to speeding. Another person is given a date to come back to court so that she can cure her housing code violations and get her three cats licensed. Finally, another is meeting with his attorney to prepare for his jury trial before six (not 12) jurors for the charge of carrying a concealed deadly weapon.⁶

Stay just another hour and one may witness a number of different hearings: competency, bond, suppression, revocation, probable cause, and a contempt hearing. While all of this is going on, defendants are conferencing cases with his/her attorney and the prosecutor. If a defendant is pro se, he/she is speaking with the prosecutor directly about the case.

For the “on call” judge, the day is even longer. The “on call” judge’s day began well before the 9:00 a.m. docket, because he or she is on call for 24 hours. Around 12:15 a.m. you receive a call that an officer is in need of a search warrant and is on her way to your house to review. During the wee hours of the morning, you receive a call that an emergency protective order warrant needs to be reviewed; another call to grant or deny an emergency custody order, and yet another to listen to a petition for a mental inquest. You also receive four calls at designated times to set bonds on those arrested. Later that night you conduct a session of night traffic court that begins each evening at 7:00 p.m. You will remain on call until 11:59 p.m. There is a judge on call every night of the year and that means each judge is officially on call every 17 days. District court judges in Jefferson County also preside on Saturdays in custody arraignment court, and in night traffic court in two satellite locations.

In other parts of the Commonwealth, one or two judges may preside over multiple counties. In the 53rd Judicial District, which covers Anderson, Shelby and Spencer counties, there are two district court judges. In 2013, the judges presided over approximately 19,000 cases. In order to ensure there is a judge in each county every week, the judges work on a weekly rotating schedule. One judge sits in Shelby County for a week while the other judge presides in Anderson and Spencer counties. They switch the next week and continue with this schedule throughout the year. Additionally each judge is on call a month at a time.


The 11th Judicial District has two judges presiding in four counties- Green, Marion, Taylor and Washington. In order to serve the citizens in these four counties, these two District Court judges maintain a very busy schedule. Not only are they on call 24/7 every day of the year, they rotate from county to county each day and they serve in both the eastern and central time zones. Their weekly calendar reads like a riddle: Judge number 1 presides over arraignment court and pretrial hearings on Monday mornings in County A and Monday afternoons in County B. Judge number 2 maintains the same Monday schedule in Counties C and D. On Wednesday and Friday the judges conduct in-custody arraignments in addition to their regular caseload in counties A and C. The smaller counties (B and D) only see a judge one afternoon per week. Trials are held on Tuesdays and Fridays. This schedule is rotated weekly.

The 52nd Judicial District (Graves County) has only one district court judge. **Judge Deborah Crooks** is on call 24 hours a day, 365 days a year. The police visit her home an average of two to three times a week for emergency protective orders, search warrants, and mental inquest warrants. She has reviewed and signed documents at restaurants, ballgames, funeral homes, church, and at her Sunday school class Christmas party. In addition to her regular dockets each day, Judge Crooks usually holds in custody arraignments on Monday, although the frequency of this particular docket depends on the arrests made over the weekend. On Wednesday mornings the criminal arraignment docket is held, while Thursday mornings are reserved for arraignment of traffic offenses.

In the 24th Judicial District, **Judge John Kevin Holbrook** and **Judge John Chafin** preside over Johnson, Lawrence and Martin Counties. The judges are on call 24 hours a day, 365 days a year and are responsible for reviewing emergency protective orders, mental health inquests, search warrants and the like. Arraignment court is held once a week in each of these three counties. Just to get a feel for what it is like to travel not only from one courtroom to another, but to travel to another courthouse (in some districts another time zone) Judge Holbrook shared a calculation of his average weekly caseload per county. Of the three counties, Johnson County has the largest volume of cases on average with 200 cases per week. In contrast, the number decreases by half in Martin County with 100 cases. Right in the middle is Lawrence County with 150 cases per week. In all of these counties he presides over in custody arraignments, show cause hearings, guardianship (emergency and jury

trials), pretrial conferences, preliminary hearings, probate, civil motion hour and small claims hearings, juveniles, criminal and civil jury trials as well as drug court.

In addition to the regularly-scheduled dockets, district court also has specialty courts, including Drug Court, Veterans Treatment Court, and Teen Court. Judges around the Commonwealth preside over these courts in their respective counties. Judges serve on various committees to enhance district court. For example, Judge Karen Thomas of the 17th Judicial District (Campbell County) serves on the District Judges Association as both the Legislative and Education chair. Judge Thomas is the chair of the Chief Justice’s Pretrial Release Committee.

I hope that you enjoyed your whirlwind and brief visit into district court. District court can be thought of as the gatekeeper, the point of entry if you will. So many events in our daily lives are affected by district court. Now that you have had a glimpse, I would like to take this opportunity to invite you to observe a district court near you. 



Erica Lee Williams has served as the presiding judge in Jefferson District Court Division 17 since 2009. She also serves as the presiding judge for Teen Court in Jefferson County. Judge Williams was honored as

Business First Enterprising Woman to Watch for 2013 and is a graduate of Leadership Louisville class of 2014. She received her undergraduate degree from Western Kentucky University. She later received her Juris Doctor from the University of Kentucky. Judge Williams serves on the Board of Directors for the Governor’s Scholars Program, Canaan Christian Church, as well as the University of Kentucky College of Law Alumni Association. As a member of the Louisville Bar Association, she serves on the Diversity Taskforce, Summer Law Institute Program Committee, and Summer Internship Program Committee. She is a former member of the Board of Directors of the Louisville Bar Association and Family & Children’s Place. Judge Williams is married to, Jason C. Williams, an equity member at Frost Brown Todd LLC. In 2012, both Judge Williams and her husband were recognized as Business First “Forty under 40” honorees. They have one child, Jacqueline Chase.

¹ KRS 24A.110 (1).

² KRS 24A.110 (2).

³ KRS 24A.110 (3) (4).

⁴ KRS 24A.250.

⁵ KRS 24A.250.

⁶ District court juries are composed of six persons, while circuit court juries are composed of 12 persons. KRS 29A.280(1).

YOUNG LAWYERS CALLED TO PUBLIC



In the beginning, young lawyers enriched the public life of Kentucky.

They still do.

Our first governor, **Isaac Shelby**, was all of 29 when elected to the Virginia House of Delegates. He served twice as Kentucky's chief executive and still found the energy to have 11 children. So much for the notion that you can't do both politics and family.

Shelby's current successor, **Steve Beshear**, was also 29 when he first interrupted what would become a long and successful legal career to get himself elected to the Kentucky House of Representatives. He may not have met Shelby's mark in offspring, but he has held more state offices – a total of four. He insists young lawyers can and should get involved in politics.

One of his University of Kentucky buddies also thought about becoming governor. First in his law school class and offered a prestigious clerkship with the chief judge of the U.S. Eighth Circuit in St. Louis, **Sheryl Snyder** chose among competing offers, accepting the one made by the Louisville firm of Wyatt, Grafton & Sloss. He also immediately got involved in U. S. Rep. Ron Mazzoli's re-election campaign.

As Snyder describes it, "Like a lot of campus politicians, my undergraduate aspirations were obvious... my career plan was to return home to Owensboro and enter local politics and from there state politics. Among my friends from campus politics with similar goals were Winston Miller and Steve Beshear. One of us succeeded!"

Snyder is happy with the choices he made on his way to becoming one of Kentucky's most prominent, successful and connected

attorneys, "While I have been intimately involved in campaigns – Paul Patton for Governor, Charlie Owen for Senate — and my practice has included high-stakes cases for governors, I have derived more personal satisfaction from civic endeavors, such as the Unity campaign for consolidation of Louisville-Jefferson County government, the original Citizens for Better Judges effort to improve the quality of the bench, and the campaign for gubernatorial succession amendment."

Franklin Circuit Judge **Phillip Shepherd** reaches back to Justice Louis Brandeis for his view on lawyers in civic life. Brandeis insisted, "In a democracy, the most important office is that of citizen."

"As lawyers," Judge Shepherd argues, "We all deal with clients faced with problems of government regulation in an increasingly complex world. We struggle to help clients navigate the increasingly

SERVICE

By: Senator Morgan McGarvey



complex world of government regulation. The legislature is where the rules of the road for our society are adopted. In our world, it is increasingly important that those rules reflect the need for common sense and flexibility. For that reason, we need more lawyers involved in the legislative process."

Often in Frankfort it's watchdogs of the public interest versus lapdogs of the special interests, which prompts this plea from Judge Shepherd for more young attorneys to get involved:

"The census of lawyers in the General Assembly is declining, partly as a result of the increasingly full time nature of legislative work, and partly because of the increased difficulty of political campaigns with all the negative advertising and the need for constant fundraising," Judge Shepherd said.

"A generation ago, legislative leadership was dominated by attorneys, with lawyers leading the Appropriations and Revenue Committees, and most leadership positions in both House and Senate. Today fewer lawyers serve in the General Assembly. The vacuum is increasingly filled by lawyer-lobbyists who seek legislation that is slanted to advance the private interests of their clients. We need more lawyers who understand the complexity of legislative drafting, and the need for protection of the public interest, to be a part of the legislative process," Judge Shepherd said.

"Lawyers serving in the legislature have the public as their client. They are uniquely qualified to be watchdogs to protect the public interest from the schemes of lobbyists and private interests that have no accountability to the public. Our clients will have to live with the laws enacted by the General Assembly. The legal profession cannot afford to abdicate its historic role in the legislative process," Judge Shepherd said.

"If we are going to achieve the goal of better legislation that provides better protection for the public interest, we need more public spirited lawyers involved in the process as legislators," Judge Shepherd said.

Starting young has worked out for many attorney-politicians, including some of the big names in modern American politics. **Franklin Roosevelt** was elected to the New York Senate at age 28; **John F. Kennedy** was elected to Congress at 29; **Richard Nixon** made it to Congress at 33; **Gerald Ford** won his first race for the U.S. House at 36; **Mitch McConnell** was elected Jefferson County Judge Executive at age 35; **Bill Clinton** was chosen Attorney General of Arkansas at 30, and **Barack Obama** became an Illinois State Senator at age 35. All did well later.

For young **Ben Chandler**, choosing politics was easy. Having toddled after his grandfather, "Happy," who was one of the most fabled and successful politicians in Kentucky history, Ben came not as a stranger to a career that has included serving as auditor, attorney general and U.S. Representative. He was barely into his thirties when he ran for his first office.

In a long and colorful political journey, his grandfather endured everything from personal insults to death threats. "Happy" knew great successes but also the inevitable failures. Didn't that give young Ben pause? Did his family really want more

of the same for him? The answers are "no" to the first question, and "yes" to the second. Ben explains, "My family has always believed public service to be among the highest callings one could have, and it never would have even occurred to them to raise a question about it. It is assumed that everyone should have an interest in a profession that we all, in fact, have an interest in."

For Chandler, who remains in civic life as executive director of the Kentucky Humanities Council, here's what it comes down to, "Public service is a fabulous career for a young attorney for many reasons. Many people go into the law BECAUSE they are interested in public matters. The very nature of law is public. All law is created by the public for the purpose of ordering the public's affairs. Public service is at the very heart of the profession. Without public service you have no law and you have no legal profession. It is only natural that a young lawyer would want to take an interest in what is the basis of the profession."

Chandler believes it's all of a piece, "What flows from this in terms of becoming a well-rounded legal professional should be obvious. You learn about how the laws are constructed within the society in the most basic way. Laws have no purpose whatsoever other than to delineate human relationships with other humans and their environments. All institutions, such as corporations, governments, courts, even churches, are the result of laws made by people in the service of the public. So, organically, the practice of law, in all its iterations, flows directly from, and is secondary to, public service. Why would a young lawyer NOT be interested in something so very basic to the profession?"

Obviously **Henry Clay** was interested. He was a fledgling 26 when appointed to serve in the Kentucky House where he was elected speaker. At 29, he was elected by the General Assembly to serve in the U.S. Senate. He was younger than the minimum age of 30 to serve required by the U.S. Constitution, but no one moved to disqualify him. At the age of 34 he was elected to the U.S. House of Representatives, where he became speaker. One client, Aaron Burr, served as vice president and killed Alexander Hamilton in a duel. His law career was no less interesting for all the politics he practiced.

U.S. Senate Majority Leader Mitch McConnell, who reveres Clay and occupies Clay's desk in the Senate chamber, is another example of a young attorney who got an early start to his career in public service. Sen. McConnell served as chief legislative assistant to Senator Marlow Cook and as deputy assistant attorney general to President Gerald Ford before being elected Jefferson County Judge Executive at age 35. Sen. McConnell was elected to the U.S. Senate at age 42 and is now Kentucky's longest serving United States Senator.

On his way to becoming U.S. Attorney General and 17th governor of Kentucky, **John Crittenden** started even younger. A mere 24 when he served a first term representing Logan County in the state House, he was 27 when asked to serve in the U.S. Senate (forcing him to return to his

Kentucky House seat because he was 3 years shy of the constitutional age requirement for senators). He served as the speaker of Kentucky's House of Representatives that year instead, still early in a distinguished career in law and state and national politics, including service as governor and U.S. Attorney General. Crittenden County on the Ohio River in western Kentucky is named for him.

Richard Mentor Johnson was 23 when elected to represent Scott County in the Kentucky House. (Although the state constitution imposed an age requirement of 24 on House members, no one raised an objection, and he was allowed to take his seat.) Johnson was 25 when elected to the U.S. House but met the minimum age

requirement before actually taking his seat. Later, of course, he was the nation's ninth vice president. He was last elected to the Kentucky House of Representatives in 1850 but he died on November 19 that year, just two weeks into his term. Johnson County in eastern Kentucky is named for him.

Back then, there was one obvious reason to start young in politics: The average life expectancy someone born in 1850 was 38.3 years.

These days, delaying one's start as an attorney-politician runs other obvious risks. Sheryl Snyder offers this cautionary anecdote, "When I represented the old City of Louisville in the annexation wars in 1980, prior to a Board of Alderman meeting Milburn Maupin asked me very seriously, 'Have you ever considered running for Governor?' I replied, 'Yeah, but I outgrew it.' The obvious point of my sardonic reply to Maupin was that I felt, at 35, that particular brass ring had eluded my grasp."

Here the author of this piece will offer a personal note. When I was trying to decide whether to run for the state Senate, I was in my early thirties. I was learning the legal ropes and hoping to prove myself at a law firm founded by my grandfather, having worked earlier at the Louisville office of Frost Brown Todd. To make matters more complicated, my wife, Chris, and I had just survived an awful scare when our twins, Clara and Wilson, were born drastically premature and required months of special medical care in the Neonatal Intensive Care Unit.



They survived and are doing better than we could have imagined. But at the time, trying to make sure they would have a full life – not making sure I had a full campaign treasury - was front-of-mind. And finally, I needed to support Chris, who was moving well in her own career at Yum! Brands. Was there really room in our life for the demands of what proved to be a vigorously contested political campaign? If I won, would there be time for all those early morning trips up I-64 to Frankfort when the General Assembly was in session, not to mention the committee meetings and the visits with constituents, and the speeches to civic and political groups, and the study that's necessary in order to have a clue about complex and important issues? We decided the answer was yes, and I've never been sorry.

What's important is this: If you say yes to politics, you can make a difference. You can work life's lessons into your public service. Personal experience intersects with political opportunity if you are on the road. A small but significant example: Once elected to the Senate, I was able to pass legislation that will help other couples obtain insurance coverage for nutritional supplements needed after early births.

Another lawyer who said yes early on was Republican **Louie Nunn**. He became County Judge in Barren County at the age of 29. He went on to become one of the toughest chief executives in modern Kentucky history, bucking his own party's instincts and a Democratic legislature's resistance, in order to raise significant new revenue for Kentucky. He said later that he saw need and "could not turn away."

Judge Nunn's example – jumping into elective office early – didn't take with another young Glasgow attorney, **Phil Patton**, who graduated from the UK College of Law in 1973. He had at least as much interest in music gigs as in legal briefs or political adventures. It would be 20 years before he was elected to public office – commonwealth's attorney – at age 47. He was named Circuit Judge in 2001, elected in 2002 to fill out that term and re-elected in 2006 and 2014.

His own wait to run didn't dim his enthusiasm for other young lawyers taking the early leap. He says, "Young lawyers by training and temperament are particularly well suited for public office. Attorneys are trained to analyze issues, make logical

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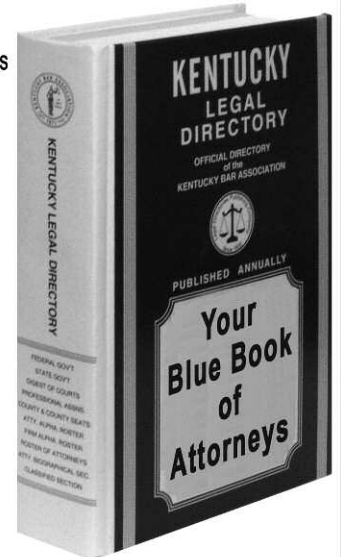
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arguments and to seek and accomplish reasonable compromise. We all need young lawyers to run for public office!! They can help lead us out of the gridlock."

"The number running has declined sharply in the last 40 years," he adds. "In the past, particularly in rural counties, young lawyers would run for county attorney or for the State Legislature. The minimum age for those posts is 24. Years ago it was an ethical violation to advertise your law practice. By campaigning, a young lawyer could 'get their name out' along with doing public service. Of course annual legislative sessions is the biggest reason for the steep decline in the number of lawyers serving. The General Assembly historically was a first step in public office. The result is fewer and fewer attorneys of any age serving at any level. This is bad news for all of us."

At 67, Judge Patton is still into politics, and the guitar.

Ben Chandler sums it up well, "Public service has been rewarding in that it has allowed me to make contributions to my fellows, both individually and collectively, in ways that bring much personal fulfillment. To see others move forward in positive ways as a result of your contribution is tremendously fulfilling. Of course, we all hopefully make contributions to our fellows and public service allows you to do this on a both a personal and a societal scale."

Some of the best and brightest young attorneys have said yes to elective public service, and we're all the better for it. **B&B**



Senator Morgan McGarvey has been employed with the Louisville firm of Morgan & Pottinger since 2010. He concentrates his practice in litigation.

Sen. McGarvey has served in the Kentucky Senate since 2012. He represents Jefferson County's 19th District, and serves on the Appropriations & Revenue Committee and the Banking & Insurance Committee, among others. He holds a Bachelor's Degree in journalism from the University of Missouri and a law degree from the University of Kentucky.





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Kentucky Bar Association ★ 2015 Annual Convention

Annual Convention at the Lexington Convention Center in downtown Lexington, Wednesday through Friday, June 17-19.

Our Annual Convention CLE Committee, chaired by William R. Garmer, has secured speakers which epitomize this year's theme, "**Justice for All: Securing Access in a Diverse Society.**" The convention offers attendees a diverse selection of CLE sessions, offering more than 60 programs, including our feature speakers, Bryan Stevenson, founder of the Equal Justice Initiative; Justice Alan Page, Minnesota Supreme Court and NFL Hall of Fame member; and Travis Tygart, with the U.S. Anti-Doping Agency, as well as several spotlight speakers, such as Justice James W. Kitchens of the Supreme Court of Mississippi.

In addition to our abundance of wide-ranging CLE programming and superb featured speakers, Anita M. Britton, the 2015 Annual Convention chair, has arranged many assorted opportunities for attendees to enjoy themselves while attending the convention, including our Kick-Off Event in Triangle Park on Wednesday afternoon and the Annual Banquet, scheduled for Thursday evening, which will feature the University of Kentucky Acoustikats.

Please come and join us for an excellent opportunity to network with your friends and colleagues statewide. I look forward to seeing you in Lexington this summer.

Sincerely,
William E. Johnson, President



Dear Colleagues:

It is my sincere pleasure to invite you to attend the **2015 Kentucky Bar Association**

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J. Stephen Smith, Ft. Mitchell

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Eileen M. O'Brien
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Peter Perlman
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Judge Megan L. Thornton
E. Christine Trout
Judge Gregory F. Van Tatenhove

2015 Annual Convention CLE Program Planning Committee



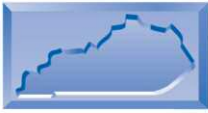
CLE Program Chair
William R. Garmer

Chief Judge Glenn E. Acree
Anita M. Britton
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Prichard Committee for Academic Excellence

SPECIAL EVENTS

TUESDAY, JUNE 16

MEMORIAL SERVICE

3:30 p.m. – 4:30 p.m.

First Presbyterian Church
174 North Mill, Lexington

The Kentucky Bar Association will celebrate the lives and legacies of those KBA members who have passed since June 1, 2014, during its 24th Annual Memorial Service at the First Presbyterian Church, 174 North Mill Street in Lexington.

The planning committee encourages members who are arriving in town just prior to the convention, and those who reside locally, to participate in this beautiful, ecumenical service held in honor of our fellow Kentucky attorneys who have passed. The dignity of the event will be underscored by the Supreme Court of Kentucky Justices dressed in their robes. Additional members of the judiciary have also been invited to participate. The service will feature various musical selections and will be led by representatives from different faiths. Family members of the deceased will receive personal invitations, but all KBA members are encouraged to attend.

The following counselors will be fondly remembered:

Gregory Wayne Bailey
Howard C. Berry
Kenneth Don Bishop
Charles R. Boyer
Stephen John Brewer
James R. Carter
William T. Cheshire
Ralph L. Collins
Ronald Glenn Combs
R. F. Cooper, Jr.
John L. Cox
Thomas Estel Crafton
James Allen Crawford
Robert I. Cusick, Jr.
Vincent Dimasi
Charley Greene Dixon, Jr.

William J. Driscoll
George Lucian Drury II
Erin Brown Faulkner
Joseph Enoch Fineman
Donald Ralph Freese
Virgil Thomas Fryman, Jr.
Donald Ray Fulcher
David L. Gittleman
James A. Grider
Daniel G. Grove
John Richard Hamilton
Deborah Lee Haney
David L. Harrington
Edward F. Harrington, Jr.
Maxie Higgason
Paul E. Hunley

Gary Edward Johnson
Joseph Lee Johnson
Debra R. King
Ben Lee Kessinger, Jr.
John M. Leahy
Ann Scholl Long
George J. Long, Jr.
Robert Martin Losey
Henri L. Mangeot
Samuel Gray McNamara
Henry Meigs II
Rodney Arthur Miller
Elizabeth A. Myerscough
Richard H. Nash, Jr.
Mathew David Nelson
Clarence A. Noble, III

John A. Nold
Jonathan R. Norris
John Wesley Oakley
John L. Pendley
Paul D. Rehm
Hugh M. Richards
James M. Richardson
James D. Ritter
Thomas J. Roberts
Steven K. Robison
Richard Kyle Rose
Robert Kendall Rowe
Charles W. Runyan
John P. Runyon
Merrill S. Schell
Glenn L. Schilling

Ronald V. Simpson
Andrew Trevor Smith
Barry Layne Standley
Mark Joseph Stanziano
James Alvin Tidwell
Thomas F. Towles
David G. Webb
Charles B. West, Jr.
Norman L. Wilson, Jr.
James R. Wood

Shown are memoriams at the time of printing.

NEW LAWYERS — 2015 New Lawyer Program — 8:00 a.m. - 4:45 p.m.

The June 2015 New Lawyer Program is being held in conjunction with the 2015 KBA Annual Convention. **Those attorneys who are required to take the New Lawyer Program (NLP) must attend Wednesday, June 17, and Thursday, June 18, in order to fulfill their requirement.** Wednesday is planned for you; however, on Thursday you can choose from the Convention programming available. Please keep in mind that you must attend a minimum of six (6) hours on Thursday, including the Feature CLE program at 1:25 p.m. Your Wednesday programming will be held in the Regency Ballroom at the Hyatt Regency, except for the Feature CLE program which will be held in the convention center.

You also have the option of attending Annual Convention programming on Friday, June 19, at no additional charge

and earn extra CLE credits. These credits do not count toward your NLP requirement but do count toward the general CLE requirement and “may” be carried over. You are also encouraged to attend the various social events described in the brochure. Many of the events are complimentary and offer a great way to network and meet lawyers from across the Commonwealth. There is no fee to attend the New Lawyer Program if it is to fulfill your NLP requirement. You will need to register for the program by completing the Annual Convention registration form and marking the box for New Lawyer Program attendee.

If you have questions regarding the New Lawyer Program and your requirement, please contact Jennifer Keitz at (502) 564-3795 ext. 226 or jkeitz@kybar.org.

WEDNESDAY, JUNE 17

KICK-OFF EVENT

4:45 p.m. — 6:45 p.m.

TRIANGLE PARK

Complimentary with registration
Pre-Registration Required



Join us in Triangle Park for an evening of fun and laughter as you dine on food provided by Double H BBQ and visit with colleagues. Explore this spacious outdoor area and relax while listening to classic rock provided by KBA member William Wilhoit's band, The Hung Jury.



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Our gathering place is conveniently located within walking distance of the Lexington Convention Center – just across the street, in fact – so getting there will be easy. With live music and complimentary food and beverage throughout the evening, everyone is guaranteed a good time!

THURSDAY, JUNE 18

YOUNG LAWYERS DIVISION LUNCHEON

12:00 p.m. – 1:30 p.m.

HYATT REGENCY HOTEL

\$20 per person

The Young Lawyers Division (YLD) wishes to extend an invitation to all KBA members and guests to attend its annual luncheon. The Division will honor recipients of the **2015 Outstanding Young Lawyer Award, Service to Young Lawyers Award and Young Lawyer Service to Community Award**. Immediately following the luncheon program, all YLD members are invited to remain for the annual meeting of the Young Lawyers Division.

YOUNG LAWYERS DIVISION RECEPTION

5:00 p.m. – 6:30 p.m.

Belle's Cocktail House

152 Market Street

Complimentary with Registration

Pre-Registration Required

Enjoy complimentary beverages and hors d'oeuvres with your friends and colleagues at **Belle's Cocktail House**, just a short walk from the convention center. This event is sponsored by the Young Lawyers Division, with generous support from Lawyers Mutual Insurance of Kentucky, and is open to all YLD members and friends.

BENCH & BAR RECEPTION

5:00 p.m. – 6:15 p.m.

BLUEGRASS PREFUNCTION AREA

LEXINGTON CONVENTION CENTER

Complimentary with registration

Pre-Registration Required

The KBA Annual Banquet may be the main event of the evening, but the Bench & Bar Reception is a terrific warm-up act, with justices, judges and attorneys from throughout Kentucky gathering for conversation and refreshments during this time-honored social event. Complimentary hors d'oeuvres and a cash bar will be available.

The Acoustikats



THURSDAY, JUNE 18

KBA ANNUAL BANQUET

6:30 p.m.
BLUEGRASS BALLROOM
LEXINGTON CONVENTION CENTER
\$60 per person

Enjoy a special evening as we celebrate the investiture of the KBA's new Officers and Bar Governors and present the **2015 Distinguished Judge, Distinguished Lawyer and Chief Justice's Special Service Award**.

Sony Recording Artists, **The Acoustikats**, founded in 1993 by Dr. Jefferson Johnson as a subsection of the University of Kentucky Men's Chorus, the premier all-male *a cappella* ensemble in the state of Kentucky, will provide entertainment during dinner and after the presentations for our listening and dancing pleasure. This group of 12 young men has been featured on national television as a part of NBC's *The Sing-Off*, an *a cappella* competition, and has performed in countless venues across the United States from the shores of Hawaii to "Elvis Week" in Memphis. Check out these 'Kats on Facebook, Twitter, and Instagram to follow them on their musical journey!



FRIDAY, JUNE 19

KBA MEMBERSHIP AWARDS LUNCHEON

12:00 p.m. – 1:00 p.m.
PATTERSON BALLROOM
HYATT REGENCY HOTEL
\$30 per person

Let the tributes begin! We'll honor the recipients of the KBA's **Annual Bruce K. Davis Bar Service Award; Donated Legal Services Award; and Nathaniel R. Harper Award** during this traditional luncheon hosted on the convention's closing day. We'll also recognize past KBA presidents, present our annual Law Day Awards, and honor the many Senior Counselors who achieved this special status in 2015 (listed below).

Edwin Payton Abell
 Robert M. Alexander
 F. J. Anderson
 James L. Avritt
 Thor H. Bahrman
 David L. Baker
 James M. Baker
 William C. Ballard, Jr.
 Albert W. Barber
 W. Robinson Beard
 George P. Bentley
 Phil A. Bertram
 Robert L. Bertram
 Paul Wilson Blair
 Agyenim Boateng
 William S. Bornstein
 John J. Brady
 Thomas C. Brite
 Dan D. Brock, Jr.
 Joe Blackburn Brown
 H. A. Campbell
 Davis Haden Carr
 M. Ronald Christopher
 Luther C. Conner, Jr.
 Michael Evans Conover
 Wynne Louis Creekmore, Jr.
 Marilyn S. Daniel
 Priscilla S. Diamond
 J. Frank Drane
 H. Hunter Durham
 R. Sidney Easley
 Thomas A. Ebendorf
 Harvey G. Ershig
 Robert L. Fears
 Robert W. Fletcher
 Donald Reid Forrest
 Jack Dwain Fowler
 George A. French

Joseph J. Golden
 Robert J. Greene
 Gloria S. Haffer
 William M. Hall
 Hal D. Hardin
 Norman E. Harned
 Verla S. Wilson Holland
 Leon L. Hollon
 Henry E. Hughes
 Sidney H. Hulette
 Donald K. James
 Carol W. Johnson
 Graddy W. Johnson
 Joseph W. Johnson, Jr.
 Edmund P. Karem
 Fred G. Karem
 Carolyn Lips Kenton
 Alice Carneal Kinkead
 Beverly Smith Kinkead
 R. Neil Lewis
 V. Gene Lewter
 Jim L. Lindblad
 Gary R. Lorenz
 Franklin W. Losey
 Edna Mozell Lowery
 Marshall F. Loy
 Savas G. Mallos
 E. Phillips Malone
 Bonnie Perry McKee
 James Bruce Miller
 Dale B. Mitchell
 Joseph V. Mobley, Jr.
 Ralph M. Mobley
 Michael R. Moloney
 Donald W. Mosser
 Paul Musselwhite
 Theodore L. Mussler, Jr.
 Roger M. Oliver

Houston M. Oppenheimer
 Patricia W. Owen
 D. Patton Pelfrey
 Richard E. Plymale
 Michael E. Queenan
 Carol M. Raskin
 Leslie E. Renkey
 Alice Graham Rhodes
 Robert H. Rice
 John D. Rogers
 William Joseph Rudloff
 James A. Scott, II
 Jeffrey B. Segal
 James A. Shuffett
 Donald E. Skeeters
 Samuel F. Smith, Jr.
 Frank W. Starks, III
 Margaret Mary Stigler
 Steven B. Strepey
 Thomas C. Sturgill
 Charles S. Tappan
 Arnold S. Taylor
 Richard S. Taylor
 Joseph E. Ternes, Jr.
 Edwin W. Tranter
 Jerry D. Truitt
 J. Douglas Turner
 Lemuel R. Waitman
 John Lockwood Warner, Jr.
 William E. Wehrman, Jr.
 John A. West
 William R. Whitlege
 Leslie G. Whitmer
 William L. Willis
 Don H. Wilson
 Jerry D. Winchester



fosteringgoodwill

ANNUAL CONVENTION PUBLIC SERVICE PROJECT

Each year, the Kentucky Bar Association's Annual Convention Planning Committee identifies a public service project aimed at improving the lives of Kentuckians, with an emphasis often placed on those living within the host city. The committee has selected **Fostering Goodwill**, a nonprofit organization that assists older foster youth in the child welfare system successfully transition to adulthood. The organization has pledged its commitment to fostering a sense of empowerment and support to individuals who have aged out of the child welfare system in the community.

These youth need specific resources and support that can increase their chances of being independent and productive members of society. Many of the resources that aging out youth need are not available to them. Fostering Goodwill challenges individuals and businesses to help these foster youth reach their full potential and assist them in their successful transition to adulthood.

Fostering Goodwill sponsors several events throughout the year for the youth: Christmas Wishes in December where the youth are served a meal and given gift cards and door prizes – 145 youth plus their children were served at the 2014 event at Gattitown – a record number! In June, an outdoor graduation celebration is held to honor the youth who have graduated from high school, technical school and college.

In addition, Fostering Goodwill assists with repaying college debt so that youth can return to college by applying for the Second Chance Scholarship. Emergency loans are also provided for expenses such as utilities and textbooks. All of these services help them maintain self-sufficiency and decrease the likelihood of the youth becoming homeless. Fostering Goodwill relies solely on donations and volunteers for funding and support – there are no paid staff or administrative expenses. We appreciate being selected as the Public Service Project for the 2015 KBA Annual Convention.

SUPPORT FOSTERING GOODWILL BY MAKING A MONETARY DONATION ON YOUR CONVENTION REGISTRATION FORM. Volunteers with this effort will be on-hand during the convention in the Rotunda of the Lexington Convention Center to share information and build awareness among KBA members for this organization.

Wednesday, June 17

8:00 a.m.-4:45 p.m. session

New Lawyer Program

For information regarding the program, please see page 5.

8:30-10:30 a.m. session

Supreme Court Rules Hearing

Featuring Chief Justice John D. Minton, Jr., Bowling Green; Justice Bill Cunningham, Princeton; Justice Lisabeth Hughes Abramson, Louisville; Justice Mary C. Noble, Lexington; Justice Daniel J. Venters, Somerset; Justice Michelle M. Keller, Covington; Justice David A. Barber, Prestonsburg

Sponsor: Supreme Court of Kentucky



Chief Justice
John D. Minton, Jr.



Justice
Bill Cunningham



Justice Lisabeth
Hughes Abramson



Justice
David A. Barber



Justice
Mary C. Noble



Justice
Daniel J. Venters



Justice
Michelle M. Keller

CLE Credit: 2.0

The Supreme Court will meet in open session with Chief Justice John D. Minton, Jr., presiding. Comments on proposed changes to Supreme Court Rule 3 will be presented. These proposed changes are presented to the membership in order to solicit open debate regarding the methods by which the courts can best administer justice. Make sure your ideas are heard!

10:40-11:40 a.m. sessions

Spotlight CLE: My Representation of Byron De La Beckwith or CAN'T WE TALK ABOUT SOMETHING ELSE?



Featuring Justice James W. Kitchens, Supreme Court of Mississippi, Jackson, Mississippi

CLE credit: 1.0



In 1991 James Kitchens was called upon to represent "the most despicable human being I ever was around in my life" – Byron De La Beckwith, accused of murdering Medgar Evers in 1963. With a firm belief in the presumption of innocence and his duty as a lawyer, Kitchens accepted his appointment to the case. Come hear from a man who embodies the spirit of public advocacy.

Use of Social Media in Litigation: What Are the Permissible Bounds?

Featuring Christine Trout, Lexington; Jeffrey K. Wicker, Louisville

Sponsor: Civil Litigation Section and Young Lawyers Division

CLE Credit: 1.0 ethics

Social media can be a powerful tool and this presentation will show attendees the permissible bounds of its use. Join us and learn how to use social media in litigation.

Echoes of War: Combat Trauma, Criminal Behavior, and How We Can Do a Better Job this Time Around

Featuring Brockton D. Hunter, Minneapolis, Minnesota

Sponsor: Criminal Law Section

CLE Credit: 1.0

For as long as warriors have returned from battle, some have brought their war home with them, bearing invisible wounds that haunt in the present. These echoes of war – manifested in self-destructive, reckless and violent behavior – reverberate through society, destroying not only the lives of these heroes, but their families and communities. This program will cover the history of combat trauma, its ties to criminal behavior, and how we can do a better job with this generation of veterans in the justice system this time around, from pre-trial strategies, to trial defenses and sentencing.

Kentucky Administrative Law Basics

Featuring Bradley J. Sayles, Nashville, Tennessee;

Benjamin M. Fiechter, Lexington

Sponsor: Young Lawyers Division



CLE Credit: 1.0

This program will provide attendees an overview of the basics of navigating Kentucky administrative hearings and appeals process.

Children in the System – the Current Impact of Child Support and Guardian ad Litem Issues

Featuring Judge Jason S. Fleming, Hopkinsville; Heidi Beth Engel, Winchester; Sara M. Tate, Louisville; Louis P. Winner, Louisville
Sponsor: Family Law Section and the Committee on Child Protection and Domestic Violence

CLE Credit: 1.0

This program will focus on efforts to update the child support guidelines and payment schedule for guardian *ad litem*s (GALs) and parents' attorneys in dependency, neglect and abuse and

termination of parental rights actions. In addition, panelists will discuss the evolving role of the GAL as the child's representative in the wake of *Morgan v. Getter*.

Appellate Pratfalls: Learn from the Best to Avoid Being the Worst

Featuring: Virginia H. Snell, Louisville; John G. McNeill, Lexington; Chief Judge Glenn E. Acree, Lexington; Justice Lisabeth Hughes Abramson, Louisville; Deborah H. Patterson, Louisville
Sponsor: Appellate Advocacy Section

CLE Credit: 1.0

Oral and written advocacy skills matter – even in the most meritorious appeals. Where the legal and factual issues are closer calls, your ability to present your client's cause proficiently and respectfully to the appellate court can make the difference between a win and a loss. Join us as our two experienced appellate attorneys engage in an hour of "the good and the bad" role play before distinguished jurists from the Supreme Court and the Court of Appeals. You'll witness advocacy blunders from the subtle to the outrageous, contrasted by an opponent's skillful argument and adherence to the rules. At the end, we'll hear from the jurists themselves on avoiding those appellate pratfalls. New and experienced advocates alike will benefit from this eye-opening, entertaining session.

11:50 a.m. -12:50 p.m. sessions

Kentucky Business One-Stop Update

Featuring Secretary of State Alison Lundergan Grimes, Frankfort
Sponsor: Kentucky Secretary of State's Office

CLE Credit: 1.0

The Kentucky Business One Stop Portal streamlines the way businesses open and operate in the Commonwealth. Join Secretary of State Alison Lundergan Grimes to learn about exciting new features available on the Portal that will make it easier than ever before to start a new business in Kentucky and even more efficient to interact with various government agencies.

The Lobbying Lawyer

Featuring H. John Schaaf, Frankfort
Sponsor: Young Lawyers Division



CLE Credit: 1.0 ethics

Join the counsel for the Legislative Ethics Commission as he explores the ethical and legal boundaries that exist at the cross-section of practicing law and acting as a lobbyist.

1:00-1:15 p.m. session

Welcome & Opening Remarks

Featuring William E. Johnson, Frankfort; Chief Justice John D. Minton, Jr., Bowling Green; Anita M. Britton, Lexington; William R. Garmer, Lexington

Join KBA President William E. Johnson as he formally kicks off the Convention. President Johnson will introduce the following dignitaries for opening remarks: Chief Justice John D. Minton, Jr., Annual Convention Planning Committee Chair Anita M. Britton and Annual Convention CLE Planning Committee Chair William R. Garmer.



William E. Johnson



Chief Justice John D. Minton, Jr.



Anita M. Britton



William R. Garmer

CLE Credit: 0

1:15-2:15 p.m. session

Feature CLE: We Need to Talk about an Injustice

Featuring Bryan Stevenson, Equal Justice Initiative, Montgomery, Alabama

CLE Credit: 1.0



America has the largest prison population in the world – and the criminal justice system that puts the men, women and children in these prisons is broken. Excessive punishment and abuse are widespread, and the collateral consequences are devastating lives and communities. Bryan Stevenson, Executive Director of the Equal Justice Initiative and author of *Just Mercy*, will talk about defending some of America's most rejected and marginalized people. The stories he tells are heartbreaking, yet inspiring, and motivate audiences to make a change. Photo: Nina Subin.

2:25-3:25 p.m. sessions

Spotlight CLE: What Lawyers Can Learn about Communication and Professionalism from Abraham Lincoln



Featuring Talmage Boston, Dallas, Texas
CLE Credit: 1.0 ethics

Abraham Lincoln is widely regarded as one of the greatest presidents of the United States. What is it about this largely self-educated man that places him in the top three of every presidential ranking poll? Is it because he is considered a national martyr or is it because of his wisdom, eloquence and professionalism? What can we, as lawyers, learn from this native son of Kentucky 150 years after his death? At the 2014 KBA Annual Convention Talmage Boston explored the professionalism of Atticus Finch with a standing room only audience. This year he will examine the traits of Abraham Lincoln that all lawyers should endeavor to embrace – intellectual honesty and becoming a master of the written and spoken word. This is one program not to be missed!

Creating Fair Opportunity for All of Kentucky's Children

Featuring Representative Reginald Meeks, Louisville; Pastor Edward Palmer, Radcliff; Barbara Connor, Lexington; Marion Gibson, Lexington; Representative Derrick Graham, Frankfort

Sponsor: Committee on Child Protection and Domestic Violence

CLE Credit: 1.0

Are we just *playing the Race Card* or do serious concerns still need to be addressed in Kentucky's systems that are funded and empowered to serve all Kentucky children? This panel will explore our legal obligation to eradicate racial disparity in government systems entrusted to serve children. They will hold a difficult discussion about whether those state and local agencies which are entrusted and funded to serve all of Kentucky's children are ensuring fair and equitable delivery of services. Our distinguished panel will discuss the data, what we know, what we need to know, how are children of color harmed by the current child serving systems and agencies and what legislative and policy remedies are available to fix the disparities.

Difficulties Encountered in Alternative Dispute Resolution

Featuring Judge Stanley M. Billingsley (Ret.), Carrollton; Judge Ann O'Malley Shake, Louisville; Judge Edmund P. Karem (Ret.), Louisville; Judge Thomas J. Knopf (Ret.), Louisville; Chief Justice Joseph E. Lambert (Ret.), Lexington; Judge Stephen P. Ryan (Ret.), Louisville; W.R. "Pat" Patterson, Jr., Louisville

Sponsor: Alternative Dispute Resolution Section

CLE Credit: 1.0

Join this highly distinguished panel as they discuss difficulties encountered in Alternative Dispute Resolution. The goal of mediation and arbitration is to settle the disputes between the parties. Prac-

tioners work hard to prepare their client, consider how best to present the relevant issues, evaluate the relevant documentary evidence, formulate offers and consider counteroffers, and, if successful, formulate settlement agreements. Mediation and arbitration are both a vital part of dispute resolution. Yet, what are some of the difficulties that counsel can encounter and how should those difficulties be addressed? Come join these members of Retired Judges & Associates Mediation and Arbitration Services as the panel discusses the difficulties practitioners will encounter in the alternative dispute resolution setting.

Nuts and Bolts of a Foreclosure Action

Featuring Bill L. Purtell, Cincinnati, Ohio

Sponsor: Young Lawyers Division



CLE Credit: 1.0

Let our presenter be your guide as you walk through the foreclosure process, focusing on all the steps involved in filing a foreclosure action, common defenses, and loss mitigation options.

Succession Planning for Solo and Small Firms

Featuring Zachary A. Horn, Frankfort; Arthur G. Greene, Bedford, New Hampshire; Martha A. Rosenberg, Lexington

Sponsor: Family Law Section and Young Lawyers Division



CLE Credit: 1.0

This program will examine transition options for solo and small firms as an alternative to simply closing the door at retirement, and the potential opportunities for younger attorneys. The presenters will discuss considerations for the development of a succession plan and will review the practical aspects of implementing a succession strategy.

3:35-4:35 p.m. sessions

21st Century Ethics Issues – The Internet and Beyond

Featuring Peter A. Joy, St. Louis, Missouri

Sponsor: Criminal Law Section

CLE Credit: 1.0 ethics

This ethics CLE will focus on emerging ethics issues related to using technology. These issues include: protecting the confidentiality of electronic client communications; avoiding revealing client confidence through metadata; safely using smartphones, tablets, and laptops; ethics basics for using remote data backup and cloud computing; and ethical limits for researching prospective jurors using social media. The session will focus on how to competently use new technologies to ethically, and effectively, represent clients.

Accommodating Transgender Students in Public Schools

Featuring Amy O. Peabody, Frankfort; Professor Allison I. Connelly, Lexington; Professor Samuel Marcossou, Louisville

Sponsor: Education Law Section

CLE credit: 1.0

Three and a half percent of Americans identify as GLBTQ, and 0.3 percent self-identify as transgender. The statistics of the number of school age children who identify as GLBTQ or transgender are unknown. This is a current topic in schools and one where there is little development in Kentucky or federal law. Using a hypothetical fact pattern, this balanced and neutral presentation will discuss the issues reflecting Kentucky's public policy of common schools, compulsory education and the desire to reasonably welcome and accommodate all enrolled students.

Technology in the Courtroom

Featuring Amy D. Cabbage, Louisville

Sponsor: Young Lawyers Division

CLE Credit: 1.0



Join Amy Cabbage as she provides tips on how to strategically use technology to increase your effectiveness in the courtroom.

Exit Strategies for the Closely Held Business

Featuring R. Douglas Martin, Lexington; Scott W. Dolson, Louisville; Melissa H.P. Palmer, Lexington; Kenneth R. Sagan, Lexington

Sponsor: Business Law Section

CLE Credit: 1.0

Join this panel of experts as they discuss various succession planning strategies for small business owners.

Thursday, June 18

8:30-9:30 a.m. sessions

Recent Developments in Motor Vehicle Accident Litigation

Featuring Rhonda Jennings Blackburn, Pikeville

Sponsor: Young Lawyers Division

CLE Credit: 1.0



This update will provide an overview of recent changes in the case law and statutory developments relating to auto accident litigation.

E-discovery: Cooperation v. Zealous Advocacy, A Case for Both from All Involved

Featuring Erin Corken, Cypress, Texas; Ron Hedges, Hackensack, New Jersey; Susan Jackson, Atlanta, Georgia; Jason Lichtman, New York, New York; Alex Houry, Atlanta, Georgia; Judge David A. Tapp, Somerset

CLE Credit: 1.0

In keeping with the theme of the Convention, representatives from diverse areas of legal practice, including the federal judiciary, defense counsel, plaintiff's counsel and corporate house counsel, will discuss the benefits of cooperation in the e-discovery process. The Sedona Conference's Cooperation Proclamation will be discussed as well as e-discovery best practices. Audience members will be encouraged to share their own experience with e-discovery cooperation or lack thereof between parties. Questions are encouraged!

Lawyer Marketing 101

Featuring Mark Guilfoyle, Crestview Hills

Sponsor: Young Lawyers Division

CLE Credit: 1.0



This program will teach attendees how to effectively market themselves online and offline, by utilizing technology, as well as traditional community and professional involvement.

Beyond the Judgment

Featuring Thomas L. Canary, Jr., Louisville

Sponsor: Young Lawyers Division

CLE Credit: 1.0



Our expert will provide attendees with an overview of the law of collections, with an emphasis on wage and bank account garnishments from the debtor's perspective.

Voices Against Violence: Practicing a Domestic Violence Case – Start to Finish

Featuring Mary Savage, Frankfort; Catherine DeFlorio, Lexington

Sponsor: Young Lawyers Division and Family Law Section

CLE Credit: 1.0



Our presenters will give attendees a step by step overview of how to practice a domestic violence case, from initial consultation to resolution of the case.

9:40-10:40 a.m. sessions

Test Your Ethics IQ!

Featuring Professor Grace M. Giesel, Louisville

Sponsor: Ethics Committee

CLE Credit: 1.0 ethics

Using interactive audience response technology, Professor Grace M. Giesel, chair of the KBA Ethics Committee, will present a variety of situations raising ethics issues. Members of the audience can register their reactions to those issues with the provided responder devices. The audience responses will be quickly available and Professor Giesel will then discuss the answers in light of the Rules of Professional Conduct. This is a great way to test what you know without the stress we all remember from taking an ethics exam in law school! The issues presented will be varied so there should be a little something interesting and helpful for every practitioner.

Companion Animals and the Law: Exploring Puppy Mills

Featuring Akisha Townsend Eaton, Glenwood, Maryland

Sponsor: Animal Law Section

CLE Credit: 1.0

This program will allow attendees to obtain an introductory understanding of legal issues pertaining to substandard large-scale commercial dog breeding operations, commonly referred to as “puppy mills.” It will explore the history of puppy mills and recent legislative and regulatory approaches to addressing common problems at these facilities at the federal, state and local level. Attendees will learn which Kentucky laws impact puppy mills in the state and how these laws compare to others in the nation. They will also learn about the most recent judicial, legislative and regulatory developments.

Elder Financial Abuse: The Invisible Epidemic

Featuring Elizabeth Loewy, Columbia, Maryland

Sponsor: Elder Law Section

CLE Credit: 1.0

Elder financial abuse is a crime that affects millions in the U.S. with billions of dollars at risk. Recent high-profile cases involving the late Brooke Astor, Mickey Rooney and heiress Huguette Clark illustrate this tragedy can happen to anyone. Many of these cases were investigated and/or prosecuted by Elizabeth Loewy, former chief of the Elder Abuse Unit of the Manhattan District Attorney’s office. At the heart of the problem are questions regarding autonomy and capacity of older individuals and the role of family members, both as a source of the abuse and potential life saver. Ms. Loewy will also discuss ways in which older Americans and caregivers can help prevent and report fraud and abuse.

Evolving Law Affecting Same-Sex Couples and the Right to Marry

Featuring Abby R. Rubinfeld, Nashville, Tennessee; Shannon R. Fauver, Louisville; Dawn R. Elliott, Louisville

Sponsor: Young Lawyers Division and Family Law Section

CLE Credit: 1.0



The panel will provide attendees with an overview of the evolving laws affecting same-sex couples in light of recent Supreme Court and appellate court opinions.

Arbitration and Mediation: The Parallel Legal Universe

Featuring Justice Mary C. Noble, Lexington; Linda Hopgood, Lexington

CLE Credit: 1.0

Mediation and arbitration have replaced the traditional judicial process in the resolution of many disputes today, to the point where it is now time for a systemic review to determine what the future of the practice of law looks like. This program will discuss the difference between mediation and arbitration, and how both relate to the existing court processes.

10:50-11:50 a.m. sessions

Spotlight CLE: Defending Unpopular Clients in High Profile Cases



Featuring J. Cheney Mason, Winter Park, Florida

CLE Credit: 1.0

Unpopular clients, while not prevalent, are not rare; and in today’s 24-hour media frenzy, cases that grip the nation’s attention are becoming more common. J. Cheney Mason was the senior member of the defense team for Casey Anthony, possibly one of the most vilified defendants in recent U.S. legal history. Come hear from this master of the criminal bar as he discusses Casey Anthony and other unpopular clients.

Technology in Kentucky’s Courts: Past, Present and Future

Featuring Chief Justice John D. Minton, Jr., Bowling Green; Laurie K. Dudgeon, Frankfort; Marc Theriault, Frankfort

Sponsor: Administrative Office of the Courts

CLE Credit: 1.0

Moving from a paper-based environment to one that is primarily electronic will transform the way the courts throughout Kentucky do business. Join Chief Justice John D. Minton, Jr., Laurie Dudgeon, director of the Administrative Office of the Courts, and Marc Theriault, general counsel for the Administrative Office of the Courts, to discuss how technology has changed the way our courts operate, where we’re at compared to other state court systems, and where technology is taking us to achieve efficiencies for the courts, attorneys, and litigants in the Commonwealth.

Tax in the Bluegrass: An Overview of New Developments in Federal and State Tax

Featuring J. Christopher Coffman, Louisville; Daniel G. Mudd, Louisville

Sponsor: Taxation Law Section

CLE Credit: 1.0

This program will provide a practical overview and update of current and important developments in the ever-changing federal and state tax landscape. The presenters will summarize recent legislative changes, court cases, and administrative authority from 2014-15 at both the federal and state level, and explore the potential impact of these developments on taxpayers and your practice. This session is not intended to be exhaustive. The program is designed to offer a selective discussion of items likely to interest practitioners and advisors within a broad range of professional practices, and leave you with a better understanding of how these items may impact or affect your practice.

Alcohol Beverage Control Law

Featuring Stephen G. Amato, Lexington

Sponsor: Young Lawyers Division

CLE Credit: 1.0

This program will provide attendees with an overview of the dynamic and complex structure of state and federal laws governing alcohol.



HIPPA: Protecting Client Information Post-Affordable Care Act

Featuring Lisa English Hinkle, Lexington

Sponsor: Young Lawyers Division

CLE Credit: 1.0

Join Lisa Hinkle as she provides attendees with an overview of what attorneys need to know in order to comply with new HIPAA regulations when handling medical records and other confidential information.



The Right Way to Start a Solo Practice

Featuring Jeffery L. Sallee, Alexandria

Sponsor: Small Firm Practice & Management Section and Young Lawyers Division

CLE Credit: 1.0

Have you thought about starting your own practice, but it just seemed to be too daunting a task? If so, you don't want to miss this program as Jeff Sallee will show attendees how to hang their own shingle the right way, from selecting the right legal entity for your practice, to finding office space and advertising.



12:00-1:00 p.m. sessions

Securing the Right to Vote: The 50th Anniversary of the Voting Rights Act of 1965 and Current Developments in Election Law

Featuring John M. Rosenberg, Prestonsburg; Professor Joshua A. Douglas, Lexington

Sponsor: Public Interest Law Section

CLE Credit: 1.0

This program will focus on access to voting and ensuring broad participation in the democratic process. This year is the 50th Anniversary of the Voting Rights Act of 1965, which was enacted to address entrenched racial discrimination in voting. The Act was extremely effective in ending race-based disenfranchisement and enabling minority voters to cast ballots and elect representatives of choice in places where they otherwise would not have been able to do so. Today, states are proposing and passing laws which create new requirements for voter identification based on concerns about election integrity. Some have complained that these requirements create unnecessary obstacles for political participation, particularly for minority voters. The Supreme Court in 2013 in *Shelby County v. Holder* invalidated the formula set by Congress that subjected specific jurisdictions to the Voting Rights Act's regional requirements.

Community-based Initiatives to Improve Access to Justice

Featuring Anne-Louise Wirthlin, Nashville, Tennessee; Justice Cornelia Clark, Nashville, Tennessee; Chief Judge Glenn E. Acree, Lexington

Sponsor: Kentucky Access to Justice Commission

CLE Credit 1.0

This program will discuss ways to improve access to justice by working with community resources where people turn for help. Presenters will cover the history of the Tennessee Supreme Court's Access to Justice Initiative and how they have attempted to provide access to justice for the underserved by identifying strategic partners, creating and maintaining *pro bono* programs, and resources to assist self-represented litigants.

CLE SESSIONS

1:25-2:25 pm session

Feature CLE: To Whom Much Is Given: Mentoring in the Legal Profession



Justice Alan Page, Minnesota Supreme Court
CLE Credit: 1.0

According to Minnesota Supreme Court Justice and NFL Hall of Fame member Alan Page, “everyone has the ability, opportunity and obligation to make this world a better place.” As members of society we have the obligation to entrust our values and traditions to the next generation. In the same way, as members of the bar, attorneys have the responsibility to pass on the importance of character and integrity, especially as it relates to the Rules of Professional Responsibility. Justice Page has endeavored to leave a lasting legacy not just as a member of the Minnesota Supreme Court and a professional football player, but as a mentor and role model.

2:35-3:35 p.m. sessions

Spotlight CLE: Henry Clay – Kentucky’s Greatest Statesman



Featuring George J. McGee, Georgetown
Sponsor: Kentucky Humanities Council and National Endowment for the Humanities
CLE Credit: 1.0

Kentucky is home to countless famous, infamous and larger than life figures, many of whom have shaped the course of not only the Commonwealth, but the nation. Among the most prominent of these native sons and daughters is Henry Clay. While never achieving his goal of becoming President of the United States, he spent almost a half century of service to the country as a Representative, Senator and Secretary of State. The ability of Clay to negotiate, compromise and defuse crisis situations earned him the nicknames the “Great Compromiser” and the “Great Pacificator” and three times prevented the country from plunging into civil war. Join George McGee as he brings to life Kentucky’s great statesman. *This program is presented through the Kentucky Humanities Council, Inc. with support from the National Endowment for the Humanities.*

Employer/Employee Issues in Immigration Law

Featuring Charles R. Baesler, Jr., Lexington
Sponsor: Young Lawyers Division
CLE Credit: 1.0



Local expert Charles Baesler will provide attendees with an update on the changes taking place in immigration law and how it impacts Kentucky employer/employee relationships.

Bankrupt: The Nuts and Bolts of Filing for Chapter 7 Bankruptcy Protection

Featuring James E. McGhee III, Louisville
Sponsor: Young Lawyers Division
CLE Credit: 1.0



This program will walk attendees through the nuts and bolts of filing a Chapter 7 Bankruptcy.

The Paperless Practitioner

Featuring Tad Thomas, Louisville
Sponsor: Young Lawyers Division
CLE Credit: 1.0



This session will teach attendees how to cut costs and increase efficiency by using digital technology to make their practice paperless.

Basic Real Estate Transactions

Featuring Christopher A. Richardson, Louisville
Sponsor: Young Lawyers Division
CLE Credit: 1.0



Learn how to handle a basic real estate transaction, from the initial purchase agreement to closing, through this step-by-step overview.

3:45-4:45 p.m. sessions

Effective Legal Writing

Featuring Judge James D. Ishmael, Jr., Lexington;
Judge Robert G. Johnson, Georgetown
Sponsor: Young Lawyers Division
CLE Credit: 1.0



Our duo of sitting judges will discuss what you need to know about effectively advocating your position in legal writing.

College and Career Readiness: Delivering for Students with Disabilities

Featuring Susan Perkins Weston, Danville; Cindy Baumert, Lexington
Sponsor: Prichard Committee for Academic Excellence
CLE Credit: 1.0

Kentucky cannot achieve college and career readiness for all students without major changes for the 12 percent of students who have identified disabilities. This session will survey Kentucky schools’ legal obligations to these students under federal law, state law, and state regulations, looking both at the duty to study and improve group results and the obligation to serve individual stu-

dents, as well as identifying challenges to school implementation and individual advocacy.

Ferguson, Race and the Law

Featuring Professor Melynda J. Price, Lexington; Professor Courtney E. Lollar, Lexington; Professor Allison I. Conley, Lexington; Don W. Rodgers, Louisville

Sponsor: Diversity in the Profession Committee

CLE Credit: 1.0

Like Selma in the 1960s, Ferguson is defining the status of race relations in this decade. This conversation explores important questions in the aftermath of Ferguson including the affects of race on policing, the distrust between communities of color and law enforcement, and the role of implicit bias in the criminal justice system.

Client Control / Client Management – Strategies for Dealing with Various Personalities in Practice

Featuring Jennifer Overmann, Crestview Hills; Acena Johnson Beck, Crestview Hills; Timothy S. Allen, M.D., Lexington

Sponsor: Family Law Section and Young Lawyers Division

CLE Credit: 1.0 ethics

Join our panelists in the discussion of personality types and the ethical and practical issues which must be considered when dealing with both mental and behavioral issues in clients.



Friday, June 19

9:00-10:00 a.m. sessions

Law Practice Management for Solo Practices and Small Firms

Featuring John M. Williams, Lexington

Sponsor: Young Lawyers Division

CLE Credit: 1.0

Come get the latest tips on managing a solo or small firm practice. This program will focus on practice formation and advice on the day to day management of your practice.



Evidence for the Family Law Practitioner

Featuring Professor Courtney E. Lollar, Lexington

Sponsor: Family Law Section

CLE Credit: 1.0

Join UK College of Law Professor Courtney Lollar as she analyzes various scenarios involving the application of the rules of evidence in family law cases.

Drafting, Attacking and Defending Prenuptial and Postnuptial Agreements

Featuring Daniel M. Oyler, Louisville; Laurel A. Doheny, Louisville

Sponsor: Probate & Trust Law Section

CLE Credit: 1.0

Prenuptial and postnuptial agreements are significant legal agreements that consumers of legal services expect most practitioners to have some knowledge of, even if the practitioner declines to actually draft, review and/or give legal advice on the subject. The substantive impact of these agreements crosses multiple practice disciplines, including trusts and estates, family and divorce law. This is also a topic that is relevant in all geographic areas of the state and to all socioeconomic backgrounds. This program will give attendees a solid background as to the issues that can be addressed in prenuptial and postnuptial agreements, the potential scope of such agreements – both in the divorce and death contexts – and the requirements for later enforceability of such an agreement.

The National Security State: The NSA's Mass Surveillance and Meta-Data Collection

Featuring Professor Bryan Frye, Lexington

Sponsor: Young Lawyers Division

CLE Credit: 1.0

Professor Bryan Frye will provide an overview of the history of surveillance in America and look at the constitutionality of the NSA's mass surveillance and meta-data collection programs.



The Affordable Care Act – Navigating through Current Judicial Cases and Legislative Responses – Hard Laws Make Bad Cases, Too!

Featuring Douglas L. McSwain, Lexington; Bradley J. Sayles, Nashville, Tennessee; Elaina L. Holmes, Flatwoods

Sponsor: Health Care Law Section

CLE Credit: 1.0

Keep up to date with current judicial challenges to the ACA from the Supreme Court on down. This review of cases and legislative responses will keep you up to date on the ACA and the impact it could have on your clients.

10:10-11:10 a.m. sessions

Kentucky Supreme Court Review

Featuring Jason M. Nemes, Louisville; J. Guthrie True, Frankfort; William R. Garmer, Lexington; R. Kenyon Meyer, Louisville; Lori B. Shelburne, Lexington

CLE Credit: 1.0

The Kentucky Supreme Court renders nearly 300 opinions per year – covering subjects spanning the entirety of Kentucky jurisprudence. But few (if any) of us have the spare time to read every opinion. This program is designed for the busy practitioner who is interested in the development of the law and understanding how individual justices approach various cases. To that end, the panel will cover a few dozen of the past important decisions since last convention; and the panel will provide a global view of the caseload, timelines and voting patterns. Each panelist is a specialist in a particular aspect of the Court's docket, and has culled and distilled the essential opinions of this past year.

Juvenile Justice Reform: Changes to the Code and Procedural Processes

Featuring Justice Mary C. Noble, Lexington; Judge Lisa Jones, Owensboro; Sara Boswell Janes, Hopkinsville; Rachel Bingham, Frankfort

CLE Credit: 1.0

Recent revisions to the Juvenile Code dramatically change the approach to juvenile justice in the Commonwealth. This program will review the statutory changes, describe the use of FAIR teams, and give an overview of the new Rules of Juvenile Practice and Procedure.

Active Duty Military and Veterans Legal Issues and Resources

Featuring Sean M. Dennis, Louisville; Dennis W. Shepherd, Frankfort; Judge Kimberly W. Shumate, Elizabethtown; Lindsay E. Volk, Louisville

Sponsor: Military Law Committee

CLE Credit: 1.0

With two major Army installations and a robust National and Air National Guard, Kentucky is home to many active duty and veteran military members. As a Kentucky lawyer, it's likely you or your opposing counsel will represent one in litigation or that your client employs one. This program provides useful information on common potential issues. Topics include the Servicemembers Civil Relief Act (SCRA), Uniformed Services Employment and Reemployment Rights Act (USERRA), Veterans Administration (VA), and other common topics. Additionally, this program will provide robust resources for you and your clients when you encounter these issues.

Traps for Even the Wary: A Review of Recent Appellate Procedural Decisions

Featuring Bethany A. Breetz, Louisville; Timothy G. Arnold, Frankfort; Bryan D. Morrow, Frankfort

Sponsor: Appellate Advocacy Section

CLE Credit: 1.0

Procedural rules can create a virtual minefield for attorneys marching our cases through the appellate process. Whether it's a briefing requirement you never knew or a preservation one that slipped your mind, failing to follow the rules can have a significant, if not devastating, effect on your appeal. Join a panel with extensive appellate experience for a refresher course that highlights important procedural decisions over the past five years. This program will benefit any appellate advocate.

Safeguarding Your Client's Data

Featuring A.J. Singleton, Lexington; Dana R. Howard, Lexington

Sponsor: Young Lawyers Division

CLE Credit: 1.0 ethics



News headlines daily recount security breaches by hackers attempting to steal corporate information. The issue of data security has never been more important. This presentation will provide tips and recommendations for what lawyers need to know to safeguard their client's data, and how that impacts their ethical obligations.

Wills and Trusts in the Digital Age

Featuring Robert J. Packard, Louisville

Sponsor: Young Lawyers Division

CLE Credit: 1.0



The digital age has changed succession and estate planning. You will want the practical advice this program provides on how to handle the changing trends.

11:20 a.m. - 12:20 p.m. sessions

Spotlight CLE: The Hong Kong Election Crisis and International Law



Featuring Professor Gregory Gordon, Hong Kong

CLE Credit: 1.0

From September through December 2014, protests erupted in Hong Kong and captured the world's attention. The citizens of Hong Kong were confronting Beijing with violence breaking out in the streets and then protesters taking over the central business district. The international community watched tensely fearing the potential for another Tiananmen Square massacre. But what was fueling the massive protests? It turns out the crisis was about the

precise meaning of a legal definition: “universal suffrage.” And it relates specifically to Hong Kong’s upcoming 2017 election of a chief executive. The Occupy Central camps may have closed down for now but, with elections still ahead, the crisis still looms large and international law may end up playing an important role in resolving it. Professor Gregory Gordon returns with another standing-room-only presentation. Don’t miss it!

Intellectual Property for the Occasional IP Practitioner

Featuring **Doug Barr, Lexington; Dana R. Howard, Lexington**

Sponsor: *Young Lawyers Division*



CLE Credit: 1.0

This presentation will equip attendees with a knowledge of the basic intellectual property issues that arise in general practice.

Business Valuation Issues and Strategies for the Family Law Practitioner

Featuring **David A. Parks, Lexington**

Sponsor: *Family Law Section*

CLE Credit: 1.0

This program will discuss the various methods used in establishing the value of a business in the context of a dissolution; factors in determining whether a valuation is required and cost-effective; and practical suggestions for evaluating a valuation report and cross-examining the opposition's valuation expert.

4th Annual Real Property Law Update: You Be the Judge!

Featuring **Joshua R. Denton, Nashville, Tennessee; Eric M. Case, Lexington**

Sponsor: *Real Property Law Section*

CLE Credit: 1.0

This interactive session is designed to educate practitioners about the most recent developments and trends in Kentucky real estate law, with a focus on Kentucky decisions from the prior year.

Hot Topics in Employment Law: Diversity and Wage Issues

Featuring **Kembra Sexton Taylor, Frankfort**

Sponsor: *Young Lawyers Division*



CLE Credit: 1.0

Get the latest information on developing trends and new law and regulations in the area of employment and labor law, with an emphasis on diversity and wage issues.

12:30-1:30 p.m. sessions

Improving the Kentucky Bar's Inclusion and Diversity: The Road to 2050

Featuring **Bonita K. Black, Louisville; Mark Flores, Lexington; Roula Allouch, Cincinnati, Ohio; James Fripp, Plano, Texas; Timothy E. Findley, Louisville; Jesabel Mudd, Louisville**

Sponsor: *Young Lawyers Division*



CLE Credit: 1.0

Join leaders in the legal and business communities as they gather to discuss what the Kentucky bar is doing to improve inclusion and diversity in the profession, and what it can do better.

Spotlight CLE: Lions of the Trial Bar



Featuring **Mark Curriden, Addison, Texas**

CLE Credit: 1.0 ethics

Their names can be found in the pages of case books and on the sides of law school buildings. They've tried some of the most important cases of the last 50 years, dazzling juries and swaying judges. They've won – or saved – billions of dollars for their clients and become wealthy men in the process. They've also represented the guilty and unpopular because they thought it was the right thing to do. They are the lawyers most of us secretly wish we could be, if only for a day. Come hear the stories of seven of the best trial lawyers in America. Learn how Bernie Nussbaum, Joe Jamail, James Neal, Fred Bartlit, Bobby Lee Cook, James Brosnahan, and Richard “Racehorse” Haynes did it “back in the day.”

1:40-2:40 p.m. session

Feature CLE: Too Big to Lose – Exposing the Myth



Featuring **Travis Tygart, Colorado Springs, Colorado**

CLE Credit: 1.0

Known as the “Eliot Ness of sports,” Travis Tygart has been involved, in some way, in nearly every major doping investigation during the past decade. Marion Jones, Barry Bonds, Floyd Landis, Jason Giambi and Lance Armstrong were all exemplars of sporting excellence until investigations by Tygart and the United States Anti-Doping Agency (USADA) exposed their excellence was obtained through cheating. Don't miss this powerful presentation by the man who has been recognized by *Sports Illustrated* as one of the “50 Most Powerful People in Sports” and is the advocate for playing by the rules and the integrity of sport and clean athletes.

CONVENTION AT A GLANCE

TUESDAY, JUNE 16

12:00 Noon – 5:00 p.m.	Convention Registration Open
3:30 p.m. – 4:30 p.m.	Memorial Service, First Presbyterian Church, 174 North Mill Street
5:00 p.m. – 6:00 p.m.	Senior Lawyers Section Meeting

WEDNESDAY, JUNE 17

7:00 a.m. – 4:30 p.m.	Convention Registration Open
8:00 a.m. – 4:30 p.m.	Exhibit Areas/Coffee Break Areas Open
8:00 a.m. – 9:00 a.m.	Lawyers Mutual Insurance Company of Kentucky Policyholders Meeting – Contact: Nancy Meyers (502) 568-6100
8:00 a.m. – 4:45 p.m.	New Lawyer Program
8:30 a.m. – 10:30 a.m.	Supreme Court Rules Hearing
10:40 a.m. – 11:40 a.m.	Spotlight CLE: My Representation of Byron De La Beckwith or CAN'T WE TALK ABOUT SOMETHING ELSE? • Use of Social Media in Litigation: What are the Permissible Bounds • Echoes of War: Combat Trauma, Criminal Behavior & How We Can Do Better • Kentucky Administrative Law Basics • Children in the System – The Current Impact of Child Support & GAL Issues • Appellate Pratfalls: Learn from the Best to Avoid Being the Worst
11:50 a.m.-12:50 p.m.	Kentucky Business One-Stop Update • The Lobbying Lawyer
11:30 a.m. – 1:00 p.m.	KBA Ethics Committee Luncheon Meeting
11:30 a.m. – 1:00 p.m.	LMICK Director Emeritus Luncheon
11:30 a.m. – 1:00 p.m.	Kentucky Fellows of the ABA Foundation Luncheon Meeting
11:45 a.m. – 12:45 p.m.	Committee on Child Protection & Domestic Violence
1:00 p.m. – 1:15 p.m.	Welcome & Opening Session
1:15 p.m. – 2:15 p.m.	Feature CLE: We Need to Talk About an Injustice – Bryan Stevenson
2:25 p.m. – 3:25 p.m.	Spotlight CLE: What Lawyers Can Learn About Communication and Professionalism from Abraham Lincoln • Creating Fair Opportunity for All of Kentucky's Children • Difficulties Encountered in Alternative Dispute Resolution • Nuts & Bolts of a Foreclosure Action • Succession Planning for Solo and Small Firms
3:35 p.m. – 4:35 p.m.	21st Century Ethics Issues – The Internet and Beyond • Accommodating Transgender Students in Public Schools • Technology in the Courtroom • Exit Strategies for the Closely-Held Business
4:45 p.m. – 5:45 p.m.	Circuit Judges Association Meeting
4:45 p.m. – 5:45 p.m.	Section Annual Meetings & Receptions: Alternative Dispute Resolution Section • Appellate Advocacy Section • Bankruptcy Law Section • Civil Litigation Section • Criminal Law Section • Education Law Section • Environment, Energy & Resources Law Section Reception • Family Law Section Reception • Labor & Employment Law Section • Local Government Law Section • Real Property Law Section
4:45 p.m. – 5:45 p.m.	Open 12-Step Recovery Meeting, Sponsored by KYLAP
4:45 p.m. – 6:45 p.m.	Kick-Off Event – Triangle Park – Complimentary; Pre-Registration Required
6:30 p.m.	ALUMNI RECEPTIONS: Brandeis School of Law Alumni Reception • NKU Chase College of Law Alumni Reception • UK College of Law Alumni Reception
6:30 p.m. – 8:30 p.m.	American College of Trial Lawyers Reception & Dinner – Contact: John Phillips (502) 568-6100

THURSDAY, JUNE 18

7:00 a.m. – 4:30 p.m.	Convention Registration Open
8:00 a.m. – 4:30 p.m.	Exhibit Areas/Coffee Break Areas Open

CLE SESSIONS

CLE SESSIONS

8:30 a.m. – 9:30 a.m.	Recent Developments in Motor Vehicle Accident Litigation • E-discovery: Cooperation v. Zealous Advocacy, A Case for Both from All Involved • Lawyer Marketing 101 • Beyond the Judgment • Voices Against Violence: Practicing a Domestic Violence Case – Start to Finish
9:40 a.m. – 10:40 a.m.	Test Your Ethics IQ • Companion Animals and the Law: Exploring Puppy Mills • Elder Financial Abuse: The Invisible Epidemic • Evolving Law Affecting Same-Sex Couples & the Right to Marry • Arbitration and Mediation: The Parallel Legal Universe
10:50 a.m. – 11:50 a.m.	Spotlight CLE: Defending Unpopular Clients in High Profile Cases, J Cheney Mason • Technology in Kentucky's Courts: Past Present & Future • Tax in the Bluegrass: An Overview of New Developments • Alcohol Beverage Control Law • HIPPA: Protecting Client Information Post-Affordable Care Act • The Right Way to Start a Solo Practice
12:00 p.m. – 1:00 p.m.	Securing the Right Vote: The 50th Anniversary of the Voting Rights Act of 1965 • Community-based Initiatives to Improve Access to Justice
12:00 p.m. – 1:30 p.m.	Young Lawyers Division Luncheon and Annual Meeting
12:00 p.m. – 1:30 p.m.	Kentucky Bar Foundation Fellows and Partners For Justice Society Luncheon
1:00 p.m. – 2:30 p.m.	Association of Corporate Counsel – Kentucky Chapter Interest & Member Information Session Contact: Ekumene “E” Lysonge, (502) 636-4505

1:25 p.m. – 2:25 p.m.	Feature CLE: To Whom Much is Given: Mentoring in the Legal Profession – Justice Alan Page
2:35 p.m. – 3:35 p.m.	Spotlight CLE: Henry Clay: Kentucky's Greatest Statesman • Employer/Employee Issues in Immigration Law • Bankrupt: The Nuts & Bolts of Filing for Chapter 7 Bankruptcy Protection • The Paperless Practitioner • Basic Real Estate Transactions
3:45 p.m. – 4:45 p.m.	Effective Legal Writing • College and Career Readiness: Delivering for Students with Disabilities • Ferguson, Race and the Law • Client Control/Management Strategies for Dealing with Various Personalities
5:00 p.m. – 6:15 p.m.	The Bench & Bar Reception – Complimentary; Pre-Registration Required
5:00 p.m. – 6:00 p.m.	Open 12-Step Recovery Meeting, Sponsored by KYLAP
5:00 p.m. – 6:30 p.m.	Young Lawyers Division Reception – Complimentary; Pre-Registration Required – Belle's Cocktail House, 152 Market Street
5:00 p.m. – 6:00 p.m.	Section Annual Meetings & Receptions: Animal Law Section Reception • Construction & Public Contract Law Section • Elder Law Section • Equine Law Section • Health Care Law Section • Immigration & Nationality Law Section • LGBT Section • Probate & Trust Law Section • Public Interest Law Section • Small Firm Practice & Management Section • Taxation Law Section Reception
6:30 p.m. – 9:30 p.m.	Annual Banquet • Installation of Officers and Board of Governors • Entertainment: The Acoustikats • \$60.00 per person

FRIDAY, JUNE 19

8:00 a.m. – 2:00 p.m.	Convention Registration Open • Exhibit Areas/Coffee Break Areas Open
9:00 a.m. – 10:00 a.m.	Law Practice Management for Solo Practices and Small Firms • Evidence for the Family Law Practitioner • Drafting, Attacking and Defending Prenuptial & Postnuptial Agreements • The National Security State: The NSA's Mass Surveillance and Meta-Data Collection • The ACA – Navigating through Current Judicial Cases and Legislative Responses - Hard Laws Make Bad Cases, Too!
10:10 a.m. – 11:10 a.m.	Kentucky Supreme Court Review • Juvenile Justice Reform: Changes to the Code & Procedural Processes • Active Duty Military and Veterans Legal Issues & Resources • Traps for Even the Wary: A Review of Recent Appellate Procedural Decisions • Safeguarding Your Client's Data • Wills and Trusts in the Digital Area
11:20 a.m. – 12:20 p.m.	Spotlight CLE: The Hong Kong Election Crisis & International Law • Intellectual Property for the Occasional IP Practitioner • Business Valuation Issues • 4th Annual Real Property Law Update: You Be the Judge! • Hot Topics in Employment Law: Diversity and Wage Issues
12:00 p.m. – 1:00 p.m.	KBA Membership Awards Luncheon– \$30.00 per person
12:30 p.m. – 1:30 p.m.	Improving the Kentucky Bar's Inclusion and Diversity: The Road to 2050 • Spotlight CLE: Lions of the Trial Bar
1:40 p.m. – 2:40 p.m.	Feature CLE: Too Big to Lose – Exposing the Myth – Travis Tygart
2:40 p.m.	Convention Adjourns



How to Register

MAIL: Mail the attached registration form(s) with payment to: Kentucky Bar Association, Attn: Accounting Department, 514 West Main Street, Frankfort, KY 40601-1812.

ONLINE: Visit our website at kybar.org/event/2015annualconvention for full registration details.

CONFIRMATIONS: Registration confirmations for registrations received by mail will be emailed to the email address provided or the official KBA email roster address.

SPECIAL REQUESTS: If you need special accommodations to fully participate or are purchasing meal tickets and have dietary restrictions, please contact the Membership Department at 502-564-3795.

EARLY REGISTRATION DISCOUNT: Register by May 15, 2015 and receive \$100.00 off the on-site registration fee! **This discount does not apply to the Law Student/Paralegal and One Day/Half Day attendance fees and is not valid with any other discount.**

OPTIONAL EVENT TICKETS: Advance reservations for all optional events are recommended.

CANCELLATION OF REGISTRATION: Cancellation of 2015 Annual Kentucky Bar Association Convention Registration must be in writing and received by the Kentucky Bar Association by June 5, 2015 to receive a full refund. Cancellations received between June 6, 2015 and June 12, 2015 will be charged a \$50 administrative fee. There will be no refunds on cancellations received after June 12, 2015. Event tickets will not be refunded after June 12, 2015.

PARKING: The Lexington Center parking lot on West High Street is open on non-arena event days for a fee of \$8 (for all day), or \$1 for each half hour thereafter. Three hours of free parking is available with a merchant validation from The Shops at Lexington Center. (No purchase necessary.) On arena event days parking fees vary. Parking is on a first-come, first-served basis. Handicapped Accessible Parking-Designated handicapped parking is available in Lexington Center's High Street and Manchester Street parking lots. A valid state-issued handicapped placard or license plate is required. All disability parking is on a first-come, first-served basis.

REGISTRATION CENTER: Upon arrival, all registrants should check in at the KBA Registration Desk located in the Bluegrass Ballroom Pre-function area of the Lexington Convention Center. The registration center will be open on Wednesday and Thursday, June 17th – 18th, 7:00am-4:30pm and Friday, June 19th, 8:00am-2:00pm.

Hotel Reservation Information

The Kentucky Bar Association has reserved a block of rooms for convention attendees and guests at the **Hyatt Regency Lexington** and the **Hilton Lexington/Downtown** at a special rate of \$145 per night plus tax. To receive the special group rate, rooms must be booked directly with the hotel using the information below by May 24, 2015. After this date, room reservations will be taken on a rate and space availability basis. Cancellations must be received 48 hours prior to the arrival date for a full refund. All reservations must be guaranteed by an individual credit card.

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<https://resweb.passkey.com/go/kybar2015>

Hilton Lexington/Downtown

369 West Vine Street, Lexington, KY
\$145.00 per night

Call 859-281-3739 for reservations or visit online at
http://www.hilton.com/en/hi/groups/personalized/L/LEXDTHF-KBA615-20150615/index.jhtml?WT.mc_id=POG

REGISTRATION

KBA Membership Number: _____

Registrant First and Last Name: _____

First Name or Nickname for Badge: _____

Spouse / Guest First and Last Name: _____

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Email address: _____ Business Phone: _____

Check if you are: Judge Speaker Type of CLE Materials (choose one) Printed Book PDF Download

Select One	By May 15	By June 5	After June 5	Fees:
<input type="radio"/> <i>New Lawyer Program Attendee</i>	<i>Complimentary</i>			\$
<input type="radio"/> KBA Member	\$360.00	\$410.00	\$460.00	\$
<input type="radio"/> KBA Member with current CLE Award	\$260.00	\$310.00	\$360.00	\$
<input type="radio"/> Young Lawyers Division Member	\$210.00	\$260.00	\$310.00	\$
<input type="radio"/> Full Time Government	\$260.00	\$310.00	\$360.00	\$
<input type="radio"/> In-State Speaker / Convention Committee	\$160.00	\$210.00	\$260.00	\$
<input type="radio"/> KBA Senior Counselors	<i>Complimentary</i>			\$
<input type="radio"/> Non-Member	\$460.00	\$510.00	\$560.00	\$
<input type="radio"/> Law Student/Paralegal	\$ 85.00	\$ 85.00	\$ 85.00	\$
One Day Attendance Only <input type="radio"/> Wed <input type="radio"/> Thurs <input type="radio"/> Fri	\$260.00	\$260.00	\$285.00	\$
Half Day Attendance Only <input type="radio"/> Wed <input type="radio"/> Thurs <input type="radio"/> Fri	\$160.00	\$160.00	\$185.00	\$
Registration Fees Subtotal:				\$
Event Tickets:	Number of Tickets	Cost:		
Wednesday: <input type="radio"/> Kick Off Reception		Complimentary		\$
Thursday: <input type="radio"/> Young Lawyers Division Luncheon		\$20.00/person		\$
<input type="radio"/> Young Lawyers Division Reception		Complimentary		\$
<input type="radio"/> The Bench & Bar Reception		Complimentary		\$
<input type="radio"/> Annual Banquet		\$60.00/person		\$
Friday: <input type="radio"/> Membership Luncheon		\$30.00/person		\$
Subtotal:				\$
<input type="radio"/> Please consider making a tax deductible donation to Fostering Goodwill (\$10 recommended donation)				\$
Total Fees to Accompany Form:				\$

Make check payable to the Kentucky Bar Association and mail to:
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 or log in to the KBA Website at kybar.org/event/2015annualconvention
 to pay by credit card. All major credit cards accepted.

Please withhold my name from convention vendors.

By registering for the Kentucky Bar Association's Annual Convention, all attendees, instructors and exhibitors acknowledge they may be photographed during the convention. Please be aware these photos are for the KBA's use only, and may appear in the Bar's programs, publications, e-newsletter, website, and other materials. Your attendance constitutes permission and consent for this photography and subsequent usage.

Section Meeting Registration

Open to Current Section Members Only

Pre-registration for section meetings is required. Please check section meetings you will attend. Annual section meetings are open only to current dues paying section members. Anyone registering for a section meeting who does not belong to that section will not be signed up to attend the meeting. To view your current section memberships, log into our website and use the Lawyer Locator to view your membership information.

Tuesday, June 16, 2015, 5:00p.m.—6:00p.m.

Senior Lawyers

Wednesday, June 17, 2015, 4:45p.m.—5:45p.m.

- Alternative Dispute Resolution
- Appellate Advocacy
- Bankruptcy Law
- Civil Litigation
- Criminal Law
- Education Law
- Environment, Energy & Resources Law Reception
- Family Law Reception
- Labor & Employment Law
- Local Government Law
- Real Property Law

Thursday, June 18, 2015, 5:00p.m.—6:00p.m.

- Animal Law Reception
- Construction & Public Contract Law
- Elder Law
- Equine Law
- Health Care Law
- Immigration & Nationality Law
- LGBT
- Probate & Trust Law
- Public Interest Law
- Small Firm Practice & Management
- Taxation Law Reception

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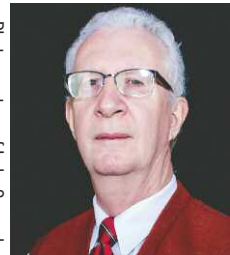




DATA BREACH AND THE KENTUCKY LAWYER

By: Michael Losavio

Photo courtesy of Luke Seward



Kentucky joined the majority of our sister states last year and passed legislation regarding some computer and information security practices. Though lawyers

have long used security practices to protect the confidentiality of our clients' information, these new statutes may impact our work in new ways, whether it is our office practice or advice to clients.

One requirement is data breach notification when an organization's information security is compromised and a risk of fraud or identity theft is created. A hacked organization (or one that has lost a data-filled laptop or otherwise lost information) must notify various agencies and people their unencrypted personal information has been accessed. There are different time deadlines and types of notification requirements within the statutes. Entities subject to other privacy regulation, such as banks, hospitals and health insurers, may have exemptions from coverage under these statutes.

The statutes look at the compromise of two pieces of information on a person of two types. Information of the first type include firstname/lastname and of the second type a SSN, driver's license number or credit card number.

KRS 61.931 – 61.934 covers governmental agencies in Kentucky, from the executive branch to the Council on Post-Secondary Education, and third-parties that do business with them. So "non-affiliated third parties" that have an agreement with an agency and receive personal information from that agency per the agreement are covered by this statute. In addition to a data breach notification requirement covered entities "shall implement, maintain, and update security procedures and practices, including taking any appropriate corrective action, to protect and safeguard against security breaches." KRS 61.932 (1)(a) Notification is required for

disclosure where information of the first type includes firstname/lastname, a biometric or an image accompanied by information of the second type, which includes a bank card number, a SSN, driver's license number and PHI.

KRS 365.720 – 365.765 covers everybody else with a broad definition of "personally identifiable information" that covers anything that can be matched to a particular customer of that business. Data breach notification is required when a customer's first and last name, or first initial and last name, is accessed along with either 1) a SSN, 2) driver's license number or 3) financial account number or access information to create a reasonably risk of fraud or identity theft.

It also mandates "reasonable steps" in record destruction, whether physical or electronic, to protect personal information and specifically creates a civil cause of action for damages for people injured by the failure to reasonably conduct records destruction.

Some of these obligations, such as the secure destruction of records, have been part of law office practice. But moving from a disciplinary matter to an action for civil damages shows the seriousness of the impact of these laws, even if proof of injury from disclosure may be difficult to sustain. A broader question might be whether or not the general enabling statute for violations of statutes creates issues for private businesses; government agencies are protected by a specific disclaimer as to the creation of a private right of action.

The law and practice on information security will continue to evolve. I feel that evolution may accelerate as we see more and more problems with data breaches and compromises impact more and more people. The worries of 80 million people over the loss of their personal information may push more legislation for more aggressive security practices. What those may be will be anybody's guess.

Nota Bene - Kathie McDonald-McClure's blog at www.wyaththitechlaw.com offers a quick update on these and related issues. It, and others, are a resource in this fast-changing world.

BEFORE YOU MOVE...

Over 17,000 attorneys are licensed to practice in the state of Kentucky. It is vitally important that you keep the Kentucky Bar Association (KBA) informed of your correct mailing address. Pursuant to rule SCR 3.175, all KBA members must maintain a current address at which he or she may be communicated, as well as a physical address if your mailing address is a Post Office address. If you move, you must notify the Executive Director of the KBA within 30 days. All roster changes must be in writing and must include your 5-digit KBA member identification number. There are several ways to do this for your convenience.

VISIT our website at www.kybar.org to make ONLINE changes or to print an Address Change/Update Form –OR– EMAIL the Executive Director via the Membership Department at kcobb@kybar.org –OR– FAX the Address Change/Update Form obtained from our website or other written notification to: Executive Director/Membership Department (502) 564-3225 –OR– MAIL the Address Change/Update Form obtained from our website or other written notification to:

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Executive Director
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* Announcements sent to the Bench & Bar's Who, What, When & Where column or communication with other departments other than the Executive Director do not comply with the rule and do not constitute a formal roster change with the KBA.



NKU CHASE

NKU CHASE HOSTS 2015 BUSINESS BOOT CAMP

Fourteen NKU Chase College of Law and NKU graduate students volunteered for and excelled in a six-day intensive Business Boot Camp, held throughout the month of January. They were joined by seven attorneys who received CLE credit. Whether students are considering a career in litigation or pursuing an interest in corporate law, Business Boot Camp offers essential information, techniques, and application of business concepts to understanding client needs and analyzing their issues.

C. Brad Bays provided the core instruction of the 2015 Business Boot Camp. Bays is the MBA program director at Miami University's Farmer School of Business. His prior experience includes over 20 years at Procter & Gamble as a finance analyst and supply chain and purchasing executive. He also has experience translating these concepts for lawyers. Bays has developed a similar program for law firm associates at the request of firms.

Additionally, local subject matter experts shared their knowledge with students on how to read financial statements, comprehend business valuations, interpret SEC filings, recognize human resource issues, and understand loans from the perspectives of borrowers and lenders. A panel of practicing attorneys provided insight to students on how to apply business skills and concepts for the benefit of clients. A panel of law firm administrators expounded on the application of business principles and leadership skills to the operation and management of law firms.

In preparation for the final competition, students applied the many concepts they had learned to a hypothetical fact pattern. Working in teams, students developed solutions and presented recommendations in the competition to a panel of business leaders and attorneys.

NKU Chase College of Law professor and director of the Small Business & Nonprofit Law Clinic, Barbara Wagner, has directed Business Boot Camp since 2013. She commented, "Clients and employers express concern that new lawyers do not understand the business aspects of the transactions on which they work. Although six days of training cannot provide the students with all the tools they need, this



Photography by imageafterphoto.com.

program opened their eyes to the issues and reinforced the importance of understanding business issues. I was very impressed that students signed up and remained committed to this program, which offers no course credit, and requires many hours." Business Boot Camp participant Beth Taylor remarked that the experience was "great overall and an excellent opportunity. Prior to this program, I was a novice to business models, concepts, and terms. Now I am able to converse with my friends in business in a way that was never possible before Business Boot Camp."

NKU Chase College of Law would like to thank the many faculty, attorneys, and business leaders who volunteered their time to the 2015 Business Boot Camp:

Shelley Bamberger, communications coach, i-Cue, LLC;

Chris Compton, independent consultant and former assistant treasurer, Chiquita Brands International, Inc.;

James Crosset, director of administration, Wood Herron & Evans LLP;

Rodney D'Souza, professor and director of NKU's Center for Innovation and Entrepreneurship;

Jeni Fitzpatrick, vice president of HR services, Convergys;

Bridget Hoffman, partner in the Business and Finance Practice Group, Taft Stettinius & Hollister LLP;

Elizabeth Horwitz '83, attorney in the Business Law Practice Group, Wood & Lamping LLP;

Eric Miller, senior vice president and Cincinnati commercial banking/division manager, Stock Yards Bank & Trust Co.;

Kevin Murphy '81, litigation and corporate attorney, Graydon Head & Ritchey LLP;

Alan Pickett, executive director, Catholic Charities, and former executive director of Taft Stettinius & Hollister LLP;

Brian Rieger, solo practitioner;

Michael B. Sims, CFO, AdvancePierre Foods;

Rebecca Volpe, director, NKU Small Business Development Center;

Whitney Westrich '02, assistant general counsel, Luxxotica;

Jeff Zalla, managing director, Diatom Ventures; president, Tufco Flooring LLC;

Read more about Business Boot Camp at chaselaw.nku.edu/BBC.html.

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NKU 3+3 ACCELERATED LAW PROGRAM LETS STUDENTS EARN TWO DEGREES IN SIX YEARS



Northern Kentucky University and the NKU Chase College of Law added a new **3+3 Accelerated Law Program**, which will allow high-performing students to earn bachelor's and juris doctor degrees in six years, rather than the traditional seven. As a result, students will be able to save educational expenses and will have an opportunity to begin their legal careers a year sooner.

"We are thrilled to be able to offer prospective students on the professional fast track an opportunity to save both time and money," said NKU Chase Dean Jeffrey A. Standen.

The 3+3 Accelerated Law Program allows NKU undergraduate students who have completed all academic requirements in three

years to begin law school in their fourth year. After the students successfully complete the first year of law school, NKU will award their bachelor's degrees.

"Student success is our paramount goal," President Geoffrey S. Mearns said. "The 3+3 Accelerated Law Program exemplifies our commitment to providing a supportive, student-centered educational environment."

Advisors from the university and the college of law will work with students to map out their schedules for successful completion of the academic requirements. Additionally, undergraduate students in the program will have opportunities to engage with law students, faculty, and alumni.

To learn more about the academic requirements and the admissions process, please visit <http://bit.ly/AcceleratedLawProgram> or contact the NKU Chase Office of Admissions at 888.465.7316.

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UK


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UK COLLEGE OF LAW HOSTED REGIONALS OF NATIONAL TRIAL COMPETITION

Law students from 13 different law schools and four different states made the trip to Lexington to compete for a chance to participate in the National Trial Competition, the most prestigious trial competition in the nation. The University of Kentucky College of Law and the Kentucky Chapter of the American College of Trial Lawyers co-hosted the regional competition at the Fayette District and Circuit Courthouses Feb. 6-8.

The five round competition involved 26 teams of two to three students. Each trial was judged and scored by a panel of at least three attorneys or judges. The students were evaluated on their opening and closing arguments and their direct and cross-examinations. The mock trials also included 180 law school witnesses who prepped in advance of the trial competition by memorizing statements and meeting with their advocates. The University of Kentucky Trial Team entered the final round undefeated but lost on ballots to the University of Arkansas, Little Rock. Washington University, St. Louis, also advanced to Nationals.

In all, over 150 lawyers and judges scored the students, including 20 members from the American College of Trial Lawyers such as **John and Susan Phillips**, **Charles English**, **Pat Patterson**, **James Crawford**, **Joe Savage**, and **Rick Straub**. The semi-finals and finals were judged by Supreme Court **Justice Michelle Keller**, Court of Ap-

peals **Judge Denise Clayton**, Circuit Court **Judge Pamela Goodwine** and Federal District Court **Judge Karen Caldwell**. Federal Judges **Joe Hood** and **Gregory Van Tatenhove** judged the finals.

Professor Allison Connelly, James and Mary Lassiter Professor of Law, the competition director and coach of UK's team said, "Students who know how to represent a real client with excellence, in a real trial setting, helps us fulfill our role as an outstanding law school that graduates practice ready lawyers. Our trial teams have achieved an incredible level of success but the real success story is what these advocates do with their talent and skill when they graduate; they change lives, one case at a time."

The National Trial Competition, held in Houston, on March 11-15, 2015, hosted over 150 law schools and 1,000 law students from 14 regions. Kentucky is part of the 11th region which includes, Tennessee, Missouri and Arkansas. Two teams from the nation's 26 regions go on to compete for the national championship. The University of Kentucky College of Law was second in the nation in 2009 and UK law graduate, Chris Schaffer, was named the best advocate in the country.

VITA PROGRAM

The UK Law Volunteer Income Tax Assistance (VITA) program is a free tax preparation clinic for the local community. The clinic is limited to assisting with simple returns and serves mostly low income individuals.

In addition to providing a valuable community service free of charge, the clinic is a rewarding learning experience for students. All student volunteers complete a series of in-class or online trainings, and afterward, pass multiple Internal Revenue Service (IRS) tests to receive certification.

Douglas Michael, College of Law associate dean of Academic Affairs and Stites & Harbison Professor of Law, leads the clinic with the help of **Jennifer Bird-Pollan**, James and Mary Lassiter Associate Professor of Law.

"I am particularly impressed by the dozens of law and accounting students who each year volunteer to spend the equivalent of two or three working days training and testing in order to qualify to prepare returns, and then six weeks in clinic helping taxpayers save money and comply with the law — all for the sole satisfaction of a job well done, and only to assist those less fortunate or who do not and do not want to understand taxes.

"The students also take away valuable experience in developing their law and accounting skills, and I hope they take away a good sense of the value of community service. And they receive taxpayer smiles, hugs, and kind words which are truly invaluable. It is a chance to be someone's hero," said Michael.

In 2014, 46 volunteers prepared and filed 587 tax returns, saving clients an estimated \$114,465 in preparation fees, and resulting in \$579,000 in federal refunds and \$110,000 in state refunds.

KJEANRL SYMPOSIUM

The University of Kentucky College of Law hosted the *Kentucky Journal of Equine, Agriculture, & Natural Resources Law* inaugural symposium: "Improving or Impeding? The Local & National Effects of State & Federal Regulation," on Feb. 24, 2015.

Presenters at the symposium included **Dr. Jill Stowe** in the UK College of Agriculture Economics department; **Robert Heleringer**, an expert in equine regulation law; **Laura D'Angelo** (adjunct professor at the UK College of Law), who works with clients in the equine gaming industry; **Robert Beck**, chair of the Kentucky Horse Racing Commission; **Herb Miller**, president of Columbia Gas; **Tom Fitzgerald**, the director of Kentucky Resources Council; **Jim Huffman**, dean emeritus at the Lewis and Clark Law School; **Baylen Linnekin**, founder and executive director of Keep Food Legal Foundation and adjunct professor of law at George Mason University Law School; and **Allen Olson**, professor at the University of Arkansas School of Law, teaching in the LL.M. Program in agriculture and food law. Moderators were **Thomas Rutledge**, a member in Stoll Keenon Ogden's Louisville firm and adjunct professor at the UK College of Law, and **Michael Healy**, Senator Wendell H. Ford Professor of Law at the UK College of Law.

The *Kentucky Journal of Equine, Agriculture, & Natural Resources Law* is a multi-disciplinary journal of law, science, and policy published by the University of Kentucky College of Law. The journal is edited entirely by students of the College of Law.

BRANDEIS WELCOMING TWO PROFESSORS TO U OF L CAMPUS IN THE FALL

There will be two new faculty members commanding classrooms at the Brandeis School of Law beginning in the fall semester of 2015. **Goldburn P. Maynard Jr.** will teach estates and tax-related courses and **Justin Walker** will teach the basic legal skills course.

PROFESSOR MAYNARD



Professor Maynard

Professor Maynard joins Brandeis after serving as visiting assistant professor of law at Florida State University (FSU), teaching introduction to critical tax theory seminar and trusts & estates.

Prior to his time at FSU, Professor Maynard was a tax associate at Skadden, Arps, Slate, Meagher & Flom, LLP, in Chicago. He then served as an estate tax attorney for the Internal Revenue Service in Oakland, Calif.

Shortly after reaching his third anniversary with the IRS, Maynard received an email “out of the blue” from a former professor encouraging him to apply for a fellowship. He landed an opportunity at Washington University in St. Louis prior to his FSU stint and his Brandeis interview.

“I just felt really comfortable (at Brandeis). I was dealing with ridiculously intelligent people who were also personable and excited about my work. It all just came together to be there,” Maynard said.

Maynard decided to focus on tax law because it is an area based on distributive justice, “where we divide the responsibilities of societies and do the things we need to do as a society,” he said.

Because of his interests, he also focuses on income distribution and wealth disparity issues. Much of his work has been tied into the effects wealth disparity has had on racial disparity, particularly after the Great Recession. Consistent with Justice Brandeis’s legacy, Maynard has leveraged other fields to further his scholarship,

including a partnership with a psychology professor at FSU to research “why people resist redistribution and are there ways to present redistribution policies that would be more palatable?”

He said his teaching style embraces interplay between law and other disciplines.

“My work is focused on this great big issue of wealth and equality. Law can’t figure that out alone. It needs a multidisciplinary approach,” Maynard said.

Maynard was born in Panama and grew up in Brooklyn. He received his bachelor’s degree from Atlantic Union College in 2002 and his JD from the University of Chicago in 2005. Following law school, Maynard earned his LL.M. in Taxation with honors from Northwestern University School of Law.

PROFESSOR WALKER



Professor Walker

Professor Walker, a Louisville native, joins Brandeis after serving as the executive director of the Global Game Changers, while also working as an attorney and writer. Named to Forbes’ 30 Under 30 Law &

Policy List in 2011, Walker has been a lawyer, teacher, speechwriter for the Secretary of Defense, nationally recognized blogger, ghostwriter and editor for several books.

Walker received his undergraduate degree from Duke and his law degree from Harvard (2009). He then clerked for some judges in Washington, D.C., including Judge Brett Kavanaugh and, from 2011-2012, for Supreme Court Justice Anthony Kennedy.

“Clerking on the DC circuit was a great thrill, and to clerk for Justice Kennedy was an amazing opportunity. He is as kind and idealist a person as I’ve ever met. I never dreamed I’d get to do that,” he said. “When I walked into the courtroom on that first day, I felt like ‘Mr. Smith Goes to Washington.’”

For the past two years, he’s led Global Game Changers, a children’s education initiative. The organization’s mission is to teach elementary school kids that “no matter where they come from and how young they are, they can make a difference.”

He was introduced to the organization through his wife, Anne, who is the program director.

He has gravitated toward the research and writing side of law and last year had the opportunity to be an adjunct professor at Brandeis for one semester. He believes that legal writing skills are often the difference between success and failure for young attorneys.

“It’s also the skill employers are most in need of. If they can get it, they can go a long way. If they don’t get it, they can end up in a tough situation,” he said. “I believe this subject is important and I’m looking forward to helping these students be better lawyers.”

His teaching style revolves around listening to students.

“I don’t come into something thinking I know all of the answers. It’s very important to me to figure out from students the things they are struggling with and make sure those get addressed,” he said. “Paying attention is the rarest and purest form of kindness.”

BRANDEIS GRADUATE NAMED SENATOR MCCONNELL’S LEGAL COUNSEL

Daniel Cameron, a 2011 Brandeis School of Law graduate, has been named as legal counsel for Senate Majority Leader Mitch McConnell. His first official day was March 2.

The position seems like a natural fit for Cameron, a native of Elizabethtown. When he was a senior in high school, he was accepted into the McConnell Scholars Program at UofL. The opportunity allowed him to spend some time with the Senator, also a UofL alum, during his undergraduate years.

U of L continues on next page

U of L cont.

UNIVERSITY OF
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BRANDEIS SCHOOL OF LAW

"When I first met him, I knew he was somebody I wanted to emulate. I have held him in high regard since the first time I met him," Cameron said.

Cameron, who was also a member of the UofL Football Team, developed an interest for government and law during his studies. He eventually landed an opportunity to intern for Senator McConnell in Washington, D.C., where he gained foundational experience at the federal level.

He interned again for Senator McConnell – this time as legal counsel – during the summer of his second year at Brandeis. Cameron spent that time under the wing of then-Chief Legal Counsel Russell Coleman.

Following his internship, Cameron went on to graduate *cum laude* from Brandeis, clerked for a Federal Judge in the Eastern

District of Kentucky, Gregory Van Tatenhove, and eventually took a position in the business litigation service group at Louisville's Stites & Harbison, where he spent a little over a year.

Senator McConnell's legal counsel opportunity presented itself in January. Cameron said he prayed about it, talked to his parents, Von and Sandra, as well as his close friends and colleagues at Stites & Harbison, before making his decision.

"I was taken aback by the opportunity to work for the majority leader of the U.S. Senate. I was surprised and humbled and honored all at the same time. I will be forever grateful that he extended this opportunity to me," Cameron said.

He admits the leap from business litigation to Washington, D.C., will be significant, but said the new job is more consistent with his interest in policy issues.

"When you add on it the bonus of getting to work on behalf of the folks of the Commonwealth of Kentucky, it's a special opportunity that doesn't present itself on a regular basis. Working and serving Senator McConnell is a dream come true," Cameron said. "And serving the people of Kentucky is a double dream come true."

Cameron is a member of the Brandeis School of Law Alumni Council. He said the school prepared him well for his new role because the professors helped him develop the appropriate analytical skills.

"They taught me how to think about policy-and law-related issues and how to articulate those points with respect to the law," Cameron said. "The biggest impact they have had was to give me confidence that I can take on these roles – to clerk for a federal judge, to go to a big law firm in Kentucky and to work for the senate majority leader."



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TOP IT OFF: DESCRIBE CASES USING EFFECTIVE TOPIC SENTENCES

By: Jennifer Jolly-Ryan¹



Top off paragraphs describing cases with effective topic sentences containing the rule or main point. A good topic sentence is essential to making a point explicit and obvious. A case

description that omits the main point or leaves it to the end of the paragraph, forces the reader to guess, or at best, make the logical jumps about the case cited and how it applies to the client's case without the writer's help. Therefore, a paragraph that describes an analogous case should be "topped off" with the most important point the writer wants to make.

While the depth of a case description varies depending on whether it is used as rule authority or for illustration, some description will almost always help the reader. Particularly when the writer uses a case to illustrate how the court has applied a rule, a significant part of the writer's task is to provide the reader with enough information so that he or she can independently evaluate whether the case is similar or different from the client's case.

Strong descriptions of favorable cases usually precede arguments based on analogous cases and provide the foundation for those arguments. An effective paragraph describing a case, no matter how short or long, has four essential ingredients and the writer should make them explicit and obvious to the reader: 1) relevant issue, 2) resolution of that issue, 3) facts relevant to that issue, and 4) relevant reasoning. The order of these ingredients is important to the reader's understanding.²

The purpose of including a case description is to clarify the law and state a rule, pertinent to the issue under discussion.³ The contents of the topic sentence for a paragraph containing a case description should be the most useful and memorable part of the paragraph. The rest of the paragraph containing the facts relevant to the issue and the court's reasoning merely support the point made in the topic sentence. Therefore, the relevant issue and how the court resolved it should be explicit and obvious in the topic sentence.

In a persuasive brief, a topic sentence for a paragraph that explains a rule should be very favorable to the writer's client. It sets the tone for the favorable facts in the case described and the court's reasoning in the case. If the result in the case was favorable to the client, the writer will state the rule broadly. If unfavorable, the writer will state the rule narrowly and deemphasize it.⁴

When considering what to write in a topic sentence, remember that readers usually grasp what they see first. Topic sentences are in a unique position of high emphasis at the beginning of a paragraph. So if the writer desires to make a point, the topic sentence is the place to make it. An effective topic sentence, topping off a paragraph which describes a case, begins with something close to a "winning phrase (or phrase that pays) is or is not met when certain facts or reasoning from the case described exists."⁵ This recipe will prompt the writer to assert the main point the writer wants to make, which is usually the relevant rule.

Once the main point is made in the topic sentence, follow the sentence with a citation of the case described. Avoid using a topic sentence for the paragraph that begins with the case name or citation. It is unlikely that the case name is the main point of the case described. If the case name is not the main point, do not place it in a position of emphasis within the sentence. Save the name of the case for the citation at the end of the sentence.

Likewise, avoid a topic sentence that begins with the phrase, "In case name." This phrase can be an effective transition later in the paragraph. But if used to begin a topic sentence, it will only force the writer to begin the paragraph with the facts, reasoning, or holding of a case. Those elements of a case description only demonstrate the main point the writer wants to make. Without a strong topic sentence containing the main point of the case or rule, a reader will read the paragraph and these elements of a case description without any context.

The sentence or two following the topic sentence can begin with "In case name." The phrase "In case name" provides an effective transition to the remaining elements of the case description and connection to the main points made in the topic sentence. When topped off with a

strong topic sentence that makes the writer's main point explicit and obvious, the rest of the paragraph that illustrates that point will make sense to the reader.

Here is an example of an ineffective topic sentence that highlights the name of the case and states the issue under discussion too broadly:

Kentucky v. King, 131 S. Ct. 1849 (2011), is another case which describes police-created exigent circumstances which do not violate the Fourth Amendment. (Here, the issue is unclear and we know nothing about the rule that will be illustrated in the rest of the paragraph).⁶

Here is an example of an ineffective topic sentence that merely names the topic:

Another case that discussed police-created exigent circumstances is Here is a more effective topic sentence for a paragraph describing the same case, followed by a possible second sentence for the paragraph.

Warrantless searches conducted in police-created exigent circumstances do not violate the Fourth Amendment if the police do not create the exigency by violating or threatening to violate the Fourth Amendment. *Kentucky v. King*, 131 S. Ct. 1839 (2011). In *King*, the United States Supreme Court upheld the constitutionality of a warrantless search of defendant's apartment when the police kicked defendant's door down after knocking on it and announcing their presence. *Id.*

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² All four ingredients can be included in a full paragraph or a shorter parenthetical case description.

³ The rule of the case is much different than the court's holding or resolution of the dispute between the parties in the case, because it is written in the present tense and is more generally applicable.

⁴ Anne Enquist & Laurel Currie Oates, *Just Writing*, 42-46 (4th ed. 2013).

⁵ Mary Beth Beazley, *A Practical Guide to Appellate Advocacy*, 84-86 (3rd ed. 2010).

⁶ Of course, if the case is unfavorable to the writer's client and the writer wants to deemphasize the rule in persuasive writing, emphasizing the case name rather than the rule may be a persuasive technique.



SUMMARY OF MINUTES KBA BOARD OF GOVERNORS MEETING NOV. 21, 2014

The Board of Governors met on Friday, Nov. 21, 2014. Officers and Bar Governors in attendance were, *President B. Johnson; President-Elect D. Farnsley; Immediate Past President T. Rouse and Young Lawyers Division Chair B. Sayles.* Bar Governors 1st District – *M. Pitman, F. Schrock;* 2nd District – *T. Kerrick;* 3rd District – *M. Dalton, H. Mann;* 4th District – *A. Cabbage;* 5th District – *W. Garmer, E. O'Brien;* 6th District – *S. Smith, G. Sergent;* and 7th District – *M. McGuire, J. Vincent.* Officers and bar governors absent were: *Vice President M. Sullivan, Bar Governors J. Meyer and B. Simpson.*

In Executive Session, the Board considered one (1) disciplinary case and three (3) default disciplinary cases. *Brenda Hart* of Louisville, *Dotty Moore* of Elizabethtown and *Judy Campbell* of Frankfort non-lawyer members serving on the Board pursuant to SCR 3.375, participated in the deliberations.

In Regular Session, the Board of Governors conducted the following business:

- Heard a status reports from the 2015-2016 Budget & Finance Committee and Rules Committee.
- President-Elect **Douglass Farnsley** reported that Past President **David B. Sloan** of Covington has been appointed to serve as chair of the KBA's Diversity in the Profession Committee and that Professor **Allison Connelly** of Lexington has been appointed as co-chair. Farnsley also reported that a Diversity & Inclusion Summit will be held on April 10, 2015, at the Galt House Hotel in Louisville with a pipeline service project held the prior day on April 9 at the Louis D. Brandeis School of Law. Farnsley reported that an Advisory Board has been appointed to work with the Kentucky Bar Foundation to oversee the sustainer contributions received on the membership dues statement totalling \$20,000. The fund currently has \$26,800.
- President **William E. Johnson** reported that **Douglas C. Ballantine** has been appointed to serve as chair of the Legislative Outreach Committee. President Johnson reported that the Chief Justice has requested that the KBA keep the Legislative Outreach Committee active. He advised the Court is very appreciative of the KBA's efforts with the Legislature in generating additional funds. He advised that there is discussion to provide an article in the *Bench & Bar* about KBA activities with the judiciary so the Legislature will know there is continued interest.
- Young Lawyers Division Chair (YLD) **Bradley Sayles** reported on the following activities of the Division: newsletter, podcast, social media sub-committee, CLE activity, Legal Aid Project, webinar, March issue of the *Bench & Bar*, social events and Bully-Proof Project.
- Approved the reappointment of **John F. Reesor** of Louisville to the Audit Committee for a three-year term expiring on Dec. 31, 2017.
- Approved the reappointment of **Margo L. Grubbs** of Covington as a Bar Center Trustee for a three-year term expiring on Dec. 1, 2017.
- Approved the appointment of **Rebecca Jennings** of Louisville, for the Western District to the Joint Local Federal Rules Commission for a four-year term expiring Dec. 31, 2018. Also approved the reappointment of **Kelleene Ann Schoening** of Batavia, Ohio, for the Eastern District to the Commission for a four-year term expiring on Dec. 31, 2018.
- Approved the lists of CLE non-compliant and unpaid dues attorneys for Show Cause Notices to be sent.
- Approved purchasing tickets/reservations for the Board members to attend the Fayette County Bar Association Holiday Reception, the Louisville Bar Association's Annual Event, and the Northern Kentucky Bar Association's Holiday Gala.
- Executive Director **John D. Meyers** reviewed with the Board the Certification of Board of Governor elections and advised there were no contested races.
- Approved the 2015 Holiday Schedule for the Bar Center staff.
- Approved changes to the KBA Bylaws.
- Meyers reported that the KBA's new website is 75 percent completed and things are moving along on the database and case management areas.
- Approved the recommendation of the Executive Committee to instruct the ABA to place the KBA on its schedule for a revision of the KBA Long Range Strategic Plan.
- Approved the recommendation of the Executive Committee to authorize President Johnson to appoint a Task Force on Lawyer Malpractice Insurance to study the issue.

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To KBA Members

Do you have a matter to discuss with the KBA's Board of Governors? Board meetings are scheduled on

May 15-16, 2015

June 16, 2015

To schedule a time on the Board's agenda at one of these meetings, please contact

John Meyers or Melissa Blackwell at
(502) 564-3795.

CONGRATULATIONS!

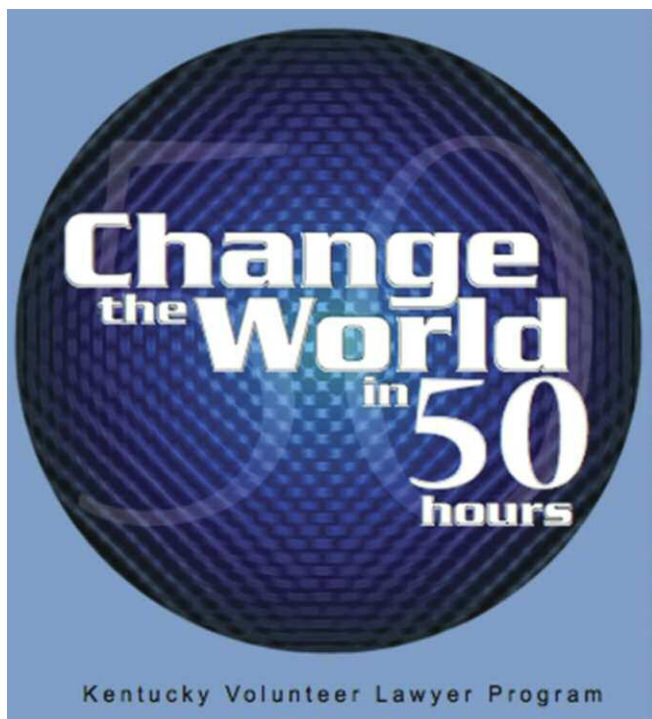
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 Michael Thomas Troutman
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KENTUCKY BAR ASSOCIATION
STATEMENTS OF FINANCIAL POSITION
June 30, 2014 and June 30, 2013
Unaudited*

	June 30, 2014	June 30, 2013
ASSETS:		
Cash	\$ 941,294	\$ 422,254
Cash - Bond sinking fund	0	3,897
Certificate of Deposit	561,636	60,000
Investments	7,438,636	7,742,126
Accounts receivable	92,612	85,368
Due from affiliate	67,604	58,360
Interest receivable	7,149	2,293
Prepaid expenses	90,593	80,050
Total Current Assets	9,199,524	8,454,348
Property, building and equipment, net	3,035,668	3,061,659
TOTAL ASSETS	\$ 12,235,192	\$ 11,516,007
LIABILITIES:		
Accounts payable	\$ 271,161	\$ 433,495
Accrued expenses	319,346	292,531
Funds held	0	794
Current maturities of bonds payable	120,000	115,000
Total Current Liabilities	710,507	841,820
Deferred revenue	23,464	18,770
Bonds payable, less current maturities	715,000	1,335,000
Total Liabilities	1,448,971	2,195,590
NET ASSETS:		
Unrestricted -		
Board designated	525,547	394,385
Undesignated	10,260,674	8,926,032
	10,786,221	9,320,417
TOTAL LIABILITIES AND NET ASSETS	\$ 12,235,192	\$ 11,516,007

*Pursuant to SCR 3.120 (8), there shall be an annual audit of the Kentucky Bar Association. The Audited Financial Statement and Report can be found on the website at http://c.y.mcdn.com/sites/www.kybar.org/resource/resmgr/Financials/KBA_financial_stmt_2014.pdf

KBA ANNUAL STUDENT WRITING COMPETITION

Call for Entries - Deadline June 1, 2015

The Kentucky Bar Association invites and encourages students currently enrolled at the University of Kentucky College of Law, the University of Louisville Louis D. Brandeis School of Law, and the Northern Kentucky University Salmon P. Chase College of Law to enter the KBA Annual Student Writing Competition. This competition offers these Kentucky legal scholars the opportunity to earn recognition and a cash award. First, second, and third place awards will be given. Entries must be received by June 1, 2015.

1st Place - \$1,000 * **2nd Place** - \$300

3rd Place - \$200

Students may enter their previously unpublished articles. Articles entered should be of interest to Kentucky practitioners and follow the suggested guidelines and requirements found in the "General Format" section of the *Bench & Bar* Editorial Guidelines. To access the *Bench & Bar* Editorial Guidelines visit www.kybar.org. For inquiries concerning the KBA Annual Student Writing Competition, contact Shannon H. Roberts at sroberts@kybar.org or call (502) 564-3795 ext. 224.

Submit entries with contact information to:

Shannon H. Roberts
Communications Department
Kentucky Bar Association
514 West Main Street
Frankfort, KY 40601-1812

*Also includes possible publication in the *Bench & Bar*.

LAW DAY 2015

Presidents of local bar associations across the Commonwealth should have received their Law Day 2015 celebration planning guides, as well as this year's Law Day awards competition entry form. This year's theme is "Magna Carta: Symbol of Freedom Under Law."



We encourage each local bar association to participate in the Kentucky Bar Association's Annual Law Day Awards Competition. The deadline for entries is Wednesday, May 20. The KBA Law Day Committee will award \$300 to the first place winner in each of the three – Large, Medium and Small – bar categories. Additionally, representatives from the winning bar associations will be honored at the KBA Annual Convention during the Membership Luncheon scheduled for Friday, June 19, in the Patterson Ballroom at the Hyatt Regency Hotel in Lexington.

Entries should be mailed to Shannon Roberts at the Kentucky Bar Association. For an entry form and any additional information on the competition, please contact Roberts in the KBA Communications Department at (502) 564.3795 ext. 224 or at sroberts@kybar.org.

Law Day 2015 falls on Friday, May 1. For more information on Law Day, visit www.lawday.org.

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KYLAP HOSTS LAWYERS IN RECOVERY MEETINGS IN NORTHERN KENTUCKY AND LEXINGTON



The Kentucky Lawyers Assistance Program offers weekly open recovery meetings for lawyers, law students and judges in Northern Kentucky and Lexington. The Northern Kentucky Lawyers in Recovery meeting is held 7:30 a.m., on **Tuesdays** at Lakeside Christian Church, 195 Buttermilk Pike, Lakeside Park, (Erlanger). The church is located off I-75 exit 186 for Kentucky 371/ Buttermilk Pike. The facility will open at 7:15 a.m. Please bring your own coffee. The Lexington Kentucky Lawyers in Recovery meeting is held at 7:30 a.m. on **Wednesdays** at the Alano Club downtown, 370 East Second Street, Lexington, KY 40508.

All meetings are open to law students, lawyers and judges who are already involved or who are interested in a 12-step program of recovery, including but not limited to Alcoholics Anonymous, Narcotics Anonymous, Overeaters Anonymous and Al-Anon. Come meet other attorneys and network. All meetings and contacts are confidential. SCR 3.990. For additional information, please visit www.kylap.org, call (502) 564-3795, ext. 266, or email abeitz@kylap.org.

RULE CHANGE REQUIRES KBA MEMBERS TO KEEP A VALID EMAIL ADDRESS ON FILE WITH THE DIRECTOR *CLE REMINDERS NOW E-MAILED IN MAY AND MID-JULY*

As of Jan. 1, 2014, KBA members are required to maintain a valid email address with the director, following a change to SCR 3.175, and notify the KBA Executive Director within 30 days of changing that email address, with the exception of members who have been designated as Senior Retired Inactive and Disabled Inactive.

Keeping an accurate email on file will also be important for receiving CLE reminders, which are now emailed in May and mid-July. As a courtesy, KBA members who have not yet met their minimum annual CLE requirement will be e-mailed in early May of each year as a reminder of the upcoming end of the educational year and again in mid-July regarding the August 10 reporting deadline for credits timely earned by June 30. These reminders are no longer mailed through the U.S. Mail. Therefore, it is important for KBA members to ensure that their email address is correct. To ensure your correct email address is on file, please log-in to the KBA website at www.kybar.org and look yourself up in the Lawyer Locator. You may access address change information at any time when you login and complete the online address update or return a PDF of the address change form available at <https://c.ymcdn.com/sites/www.kybar.org/resource/resmgr/Docs/AddressChange.pdf>.

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**BECOME A FELLOW
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The Kentucky Bar Foundation (KBF) Fellows Program recognizes those members of the Kentucky Bar who through their success in the practice of law and their generosity in contributing to the KBF have shown support for its mission. The program is designed to build an endowment fund, which will be the cornerstone for funding KBF's grants in future years. Accordingly, 75 percent of Fellows receipts are placed directly into the board designated KBF Endowment Fund while the remaining amount of the payment supports KBF's annual law-related grants.

KBA members in good standing may become a Life Fellow through a one-time, lump-sum contribution of \$1,250. Members may also become a Fellow through an initial contribution of \$300 and a pledge to contribute an additional \$300 per year over the next four years. Upon completion of their pledges, such Fellows will attain the status of Life Fellow. To commemorate their contributions, all new Fellows and Life Fellows are recognized in the fiscal year of their enrollment at the KBF luncheon held during the KBA annual convention. Please consider supporting your Kentucky Bar Foundation and its continuing good works by enrolling as a Fellow. Questions? Please call KBF at 1-800-874-6582.

Enroll Now!

YES...I wish to invest in the future of the Kentucky Bar Foundation! I am a member in good standing of the Kentucky Bar Association and:

_____ Enclosed is my check for \$1,250 representing full payment of my Life Fellow Membership contribution.

_____ Enclosed is my check for \$300 representing my down payment for a Fellow Membership. Additionally, I hereby pledge to pay the Kentucky Bar Foundation \$300 annually during the next four (4) years, for a total contribution of \$1,500.

Please type or print:

Name _____

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City, State, Zip _____

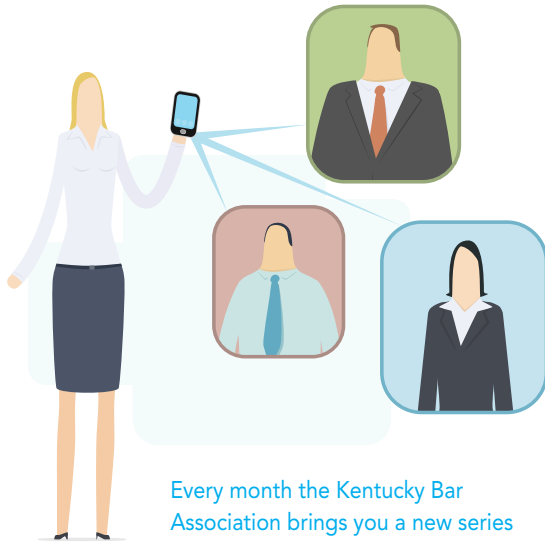
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Signature _____

NOTE: Fellow Memberships are sincerely appreciated. KBF is an IRC Section 501(c)(3) organization and contributions are tax-deductible to the full extent of the law.

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|---------|---|---------|--|--------|--|
| Apr. 3 | Real Estate Joint Ventures, Part 2 (Live Replay) | Apr. 23 | Fiduciary and Income Tax Issues in Estate Planning, Part 1 (Live Replay) | May 12 | Letters of Intent in Transactions - Framing a Deal & Avoiding Liability |
| Apr. 7 | Drafting Reps and Warranties in Business Transactions | Apr. 24 | Fiduciary and Income Tax Issues in Estate Planning, Part 2 (Live Replay) | May 13 | 2015 FMLA Update |
| Apr. 8 | 2014 Sex Harassment Update (Live Replay) | Apr. 28 | Eminent Domain, Part 1 | May 14 | Essential Title Examination in Real Estate & Curing Defects |
| Apr. 9 | 2015 UCC Update: Secured Transactions, Notes, Sales, and More (Live Replay) | Apr. 29 | Eminent Domain, Part 2 | May 15 | Ethics for Estate Planners |
| Apr. 10 | Attorney Ethics and Dissolution of a Law Firm (Live Replay) | Apr. 30 | Estate Planning for Pre- and Post-Nuptial Agreements (Live Replay) | May 18 | Ethics of Maintaining Client Confidences in a Digital World (Live Replay) |
| Apr. 14 | Homeowner Agreements for Developers & Project Owners | May 1 | Ethics in Employment Law Practice (Live Replay) | May 19 | Drafting Confidentiality & Nondisclosure Agreements |
| Apr. 15 | Asset Purchase Deals, Part 1 | May 4 | 2015 Fiduciary Litigation Update | May 20 | Fiduciary Duties and Liability of Nonprofit/ Exempt Organization Directors |
| Apr. 16 | Asset Purchase Deals, Part 2 | May 5 | Drafting Effective Employee Handbooks | May 21 | Attorney Ethics in Transactional & Litigation Negotiations |
| Apr. 17 | Ethics & Digital Communications | May 6 | Ethics, Disqualifications & Sanctions (Live Replay) | May 22 | Attorney Ethics When Supervising Other Attorneys (Live Replay) |
| Apr. 21 | Drafting Settlement Agreements in Litigation | May 7 | Business Valuation in Transactional Documents: Formulas, Comps & the Market | | |
| Apr. 22 | Structuring Minority-Stake & "Class B" Interests in Business Arrangements (Live Replay) | May 8 | Attorney Ethics and the Use of "Metadata" in Litigation and Transactional Practice (Live Replay) | | |

To see a complete program listing, visit ky.webcredenza.com.

Find a Mentor and Take Charge of Your Future!



Great Place to Start

Resource Center for New Attorneys in Kentucky



It pays to have a helping hand in the workplace when you're just starting out in the practice of law. Many of us can benefit from having a mentor at our back to guide, counsel and encourage us. The KBA **Find a Mentor** program is designed to connect experienced attorneys with new attorneys who are seeking advice and guidance in balancing the personal and professional demands of the practice of law.

How it works:

Qualified mentors sign up and volunteer to participate in the GPS mentor program. New attorneys looking for assistance (mentees) may locate a mentor through the GPS website by the mentor's location or area of practice. The mentee can view detailed information about potential mentors and then initiate first contact. This self-initiated contact may involve a single issue, or entail a more lasting, formal mentor relationship. The limits of the relationship are determined by the preferences of the participants.

This service is available to new attorneys admitted to practice in Kentucky for five years or less. For more detailed information visit www.kbagps.org and see what the program has to offer.

WE REALLY DO READ YOUR COMMENTS ABOUT CLE PROGRAMMING

By: Shane Sidebottom

If you have ever attended continuing legal education (CLE) programming provided through the Kentucky Bar Association (KBA), then you are probably aware that the KBA routinely requests attendees to provide feedback about that programming on an evaluation sheet at the conclusion of the program. Those comments are important and the CLE Commission and KBA staff really do read all of the comments. If there are suggestions for improvements to programming or potential CLE topics, they are discussed.

There are some comments that are consistently listed after all CLE programs, and the CLE Commission believes a discussion of some of the common themes will provide an explanation to our KBA members regarding the why and how CLE programming and logistics are handled.

“We need refreshments like coffee and doughnuts.”

- Kentucky Law Update comment

It seems every Kentucky Law Update (KLU) program attendee evaluation has at least one comment about the lack of free coffee. There has been much discussion over the years among the CLE Commission and KBA staff about providing free coffee at KLU. However, providing free coffee is simply not feasible. Coffee is expensive. A recent estimate that we received to provide coffee to the KLU series came in at about \$40,000.00 (doughnuts are even more expensive). Unless we can obtain a sponsor, there is simply no way we can budget for coffee expenses.

“Why do you have so many speakers who do not write their own material?”

- KLU comment

The KBA presents the KLU in nine locations throughout the Commonwealth during the fall of each year, including at least one program in each Supreme Court District. Planning for this annual fall program series begins in the January of each year and involves a lot of work. The goal of the planning committee is to have a uniform program presented throughout each Supreme Court District. To ensure consistency, the same program material is used at each KLU location and it is prepared well in advance of the program series. It is unrealistic to ask our volunteer

speakers, most of whom are practicing attorneys, to travel across the state and present the program at the nine program locations. Therefore, the KBA selects local speakers who are knowledgeable in the particular subject to present. If you would like to be considered as a potential speaker in the future, contact your local CLE Commission member or the KBA staff.

“The Presenters should present the program materials.” versus “All the Presenter did was read the material.”

- KLU comments

There appears to be two distinct views from our members about what presentation style they prefer from the speakers. Some members want the presenters to stay directly on point throughout the CLE material, while making page number references, while many other members comment that they want real world examples and discussion on the material theme. The comments about the presentation style preferences really do divide equally. Every presenter has his or her own presentation style, but is encouraged to follow along and discuss the material prepared for the CLE. It is also important to recognize that it is much harder to present a CLE on material that you did not prepare yourself. Unfortunately, because of the nature of the practice of law, sometimes speakers are asked to substitute on short notice. What is important to the KBA is that the material presented is of high quality and given by a presenter who is knowledgeable in the subject matter.

“The law is complex and invasive but the presenter acted as a cheerleader.”

- KLU comment

KLU is neither designed nor intended to be a detailed analysis of a particular topic, but rather is designed to alert the lawyers of Kentucky to changes in the law and rules of practice which impact the daily practice of law. That includes laws that may not be popular to some or are of a controversial nature because of the politics involved. Presenters are directed to neither advocate for nor criticize a particular law covered in a CLE topic but to provide a factual review of the issues that a Kentucky lawyer may encounter in his or her law practice.

The CLE commission and the KBA staff encourage all program attendees to give us feedback on the comment sheets at the conclusion of all KBA-sponsored programs. We do read those comments and strive to improve your CLE experience as best as we can when possible.



Shane Sidebottom is a member of Ziegler & Schneider, PSC, located in Northern Kentucky. Sidebottom handles a wide range of litigation including matters involving employment

law, the Kentucky Whistleblower Act, and business contract disputes. Sidebottom is serving his second term as the Sixth Judicial District Representative of the CLE Commission and was the past chair of the CLE Programming Committee for the 2014 Annual Convention in Covington.

2014-2015 CLE Commission Members

Deborah B. Simon

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dbs@dbsimonlaw.com

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Second District Representative
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Julie Roberts Gillum

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whall@vmje.com

Justice Michelle M. Keller

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Interested in assisting with a CLE?
Have ideas for a program? Contact
Mary Beth Cutter, KBA Director for CLE
at MCutter@kybar.org, or any member of the
Continuing Legal Education Commission.

THANK YOU FOR SUPPORTING THE NEW LAWYER PROGRAM

We would like to thank those individuals and organizations whose contribution of time, expertise and funding helped make the January 2015 New Lawyer Program a success.

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Glenda M. Edwards
Professor William H. Fortune
Carl N. Frazier
Maria A. Gall

Moderators, Speakers, and Contributing Authors

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Jane C. Higgins
Yvette Hourigan
Todd S. Horstmeyer
William E. Johnson
Megan P. Keane
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Exhibitors





Looking for Upcoming KBA Accredited CLE Events?

Look no further...
Check out cle.kybar.org/580

This easy to use search engine contains up to date information on CLE events that have been accredited by the Kentucky Bar Association Continuing Legal Education Commission.

Users can search by program date, name or sponsor for information about future and past events. Program listings include sponsor contact information, approved CLE and ethics credits, and KBA activity codes for filling out the certificate of attendance (Form #3).

Programs are approved and added in the order in which they are received. It may take up to two weeks for processing of accreditation applications. If an upcoming or past event is not listed in the database, check with the program sponsor regarding the status of the accreditation application.



"Within twelve (12) months following the date of admission as set forth on the certificate of admission, each person admitted to membership to the Kentucky Bar Association shall complete the New Lawyer Program."

SCR 3.640 New Lawyer Program

Kentucky Bar Association

..... 2015 New Lawyer Program

June 17-18, 2015

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Lexington, KY

Visit Kybar.org/?NLPDatesandlocations for more information

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KENTUCKY LAW UPDATE



2015

ADVANCING THE PROFESSION THROUGH EDUCATION

Mark your calendars now! The final dates and locations for the KBA's 2015 Kentucky Law Update (KLU) are confirmed. The KLU program series is an exceptional benefit of KBA membership and Kentucky is the only mandatory CLE state that provides its members a way of meeting the annual CLE requirement at no additional cost. Registration will be available in late June. In the meantime please visit Kybar.org/?KLUDatesandlocations for more information.

SEPTEMBER 2-3

OWENSBORO
OWENSBORO CONVENTION CENTER

SEPTEMBER 10-11

BOWLING GREEN
HOLIDAY INN & SLOAN CONVENTION CENTER

SEPTEMBER 24-25

COVINGTON
NORTHERN KENTUCKY CONVENTION CENTER

OCTOBER 1-2

RUSSELL (ASHLAND)
BELLEFONTE PAVILION

OCTOBER 7-8

LOUISVILLE
KENTUCKY INTERNATIONAL CONVENTION
CENTER

OCTOBER 28-29

PADUCAH
JULIAN CARROLL CONVENTION CENTER

NOVEMBER 12-13

PRESTONSBURG
JENNY WILEY STATE RESORT PARK

NOVEMBER 18-19

LONDON
LONDON COMMUNITY CENTER

DECEMBER 3-4

LEXINGTON
LEXINGTON CONVENTION CENTER



CONGRATULATIONS

2014 CLE AWARD RECIPIENTS

Congratulations to the following members who have received the 2013 CLE Award by obtaining a minimum of 60 CLE credit hours within a three-year period, in accordance with SCR 3.690. The CLE Commission applauds these members for their efforts to improve the legal profession through continuing legal education.

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ON THE MOVE

Wyatt, Tarrant & Combs, LLP, announces that the following attorneys based in Louisville and Lexington have been elected to join the partnership:



Walter R. Morris, Jr., Sherry P. Porter and Daniel C. Soldato. Walter R. Morris, Jr.,

focuses his practice in all areas of estate planning and administration. Morris is based in the firm's Lexington office.



Sherry P. Porter concentrates her practice in the areas of employee benefits, including retirement

plans, health and welfare plans, employee stock ownership plans and executive compensation arrangements. Porter is licensed to practice law in Kentucky and Ohio. She is based in the firm's Louisville office.



Daniel C. Soldato focuses his practice on corporate services and regulatory matters for healthcare

organizations. Soldato is licensed to practice law in Kentucky and Illinois. He is based in the firm's Lexington office.

Dinsmore & Shohl announces two Louisville attorneys have been named partner. **Robert M. Croft** and **Robert C. Rives, IV**, were elected to partner-



ship effective Jan. 1, 2015. **Croft** is a member of the product liability and toxic tort practice groups. He concentrates

his practice in the areas of product and premises liability, insurance coverage issues and business litigation.



Rives counsels employers in all aspects of employment law including training, conducting investigations, defending

administrative charges and litigation matters and appeals before state and federal courts throughout Kentucky as well as the Equal Employment Opportunity Commission and the Kentucky Commission on Human Rights. Rives is active in his community through board service and charitable work. He also serves on the firm's Professional Development Committee.



The **Louisville Regional Airport Authority** (LRAA) announced that **Brenda**

Dinkins Allen has been hired to fill the newly created position of director of legal affairs. Allen will provide routine legal services associated with the Airport Authority and its sister organization, the Louisville Renaissance Zone Corporation. She will also act as liaison

with external legal counsel and ensure consistency and compliance with federal, state and local regulatory laws/guidelines and LRAA policies. Allen has a B.A. in communications and a J.D. from the University of Kentucky College of Law.



Gersh Law Offices, PSC, announces that **Christina Rueff Cochran** has

joined their team. Cochran received her law degree from the University of Louisville Louis D. Brandeis School of Law and has extensive professional experience practicing at private law firms and financial services companies. She will concentrate her practice in the areas of estate planning and administration and elder law.



The **Glenview Trust Company** has added **Walt Koczot** to their team of trust profes-

sionals, focusing on the areas of personal trust administration and estate planning. Prior to joining Glenview Trust, Koczot was with J.P. Morgan's Private Bank, where he held the position of vice president and senior trust officer for the Kentucky market. Koczot has 30 years of experience in the financial services industry with the last 21 years concentrated in the areas of personal trust administration, estate administration and estate planning. He has worked with a variety of tax saving and gifting programs and specialized issues such as Delaware asset protection trusts and trust reformations.

Bingham Greenebaum Doll LLP (BGD) announces that **Meagan R. Brien** has joined the firm's Evansville

office. Brien will serve the firm's litigation practice group as an associate, where she will continue to focus her practice on business/corporate law, commercial litigation, and estate planning and probate administration. She graduated *cum laude* from the University of Kentucky in 2006. She then earned her J.D. from Indiana University Robert H. McKinney School of Law in 2009, where she was awarded the Norman Lefstein Award of Excellence for contributing over 200 hours of pro bono work to the Indiana Office of the Attorney General.

Phillips Parker Orberon & Arnett, PLC, Louisville, announces that

Lashae Higdon has joined the firm as an associate. Higdon received her B.S. in economics from the University of Kentucky in 2008 and her J.D. from the University of Louisville Louis D. Brandeis School of Law in 2011. Her practice focuses primarily on workers' compensation.

Bryan Keith Underwood, formerly an associate with the law firm of Raymond S. Bogucki, PSC, announces the opening of his law office at 132B West Third Street, Maysville, KY 41056. He will continue his practice in the areas of criminal law, family law, general litigation, disability and personal injury claims.

Geoff White has been named member-in-charge of Frost Brown Todd's Louisville office. White succeeds **John McCall**, who has led the office and run several significant initiatives in Louisville since returning to the firm after 18 years as general counsel at LG&E. White joined Frost Brown Todd in 2008 and represents lenders, loan servicers, borrowers, investors, developers and managers in work related to commercial real estate and health care properties. He was also one of only 40

lawyers in the country to be elected to the American College of Real Estate Lawyers (ACREL) in 2014. He recently completed his term as the chair of the Real Estate Section of the Louisville Bar Association. White is active in the Louisville community through numerous organizations. He is a former president of the board of directors of Young Professionals Association of Louisville (YPAL). He has also served as a board member for organizations such as Greater Louisville Inc. (GLI), Leadership Louisville Center, the Louisville Energy Alliance, and YPAL Cares. He is a founding member of the American Red Cross Louisville Chapter of Crossing Generations Society. White received his J.D. from the University of Michigan Law School in 2003 and graduated with a B.A. in history and political science from Mary Washington College in 2000.

The law firm of **Dolt, Thompson, Shepherd & Kinney PSC** announces that **Anthony P. Ellis** has joined the firm. Ellis brings a wide range of knowledge and experience litigating complex civil litigation, including pharmaceutical product liability, complex commercial and contract disputes, qui tam and government fraud claims, medical malpractice disputes, and lender liability claims. His practice at the firm will predominately focus on medical malpractice, personal injury, product liability, class actions, qui tam and fraud claims, and complex commercial disputes. Ellis is a graduate of the George Washington School of Law, with high honors, was an editor of *The George Washington Law Review*, and clerked for the Honorable Carlos F. Lucero of the Tenth Circuit Court of Appeals. Ellis is admitted to practice in both Kentucky and New York. He is a member of the board of directors of Brightside, Inc., a Louisville Ignite 2014 graduate, and a member of Fund for the Arts' Farnsley by 40 Society.

Williams, Hall & Latherow, LLP, announces that **Geoffrey D. Marsh** has joined the firm. He obtained his B.A. from Transylvania University and his J.D. from the University of Kentucky College of Law. Prior to joining the firm, Marsh practiced in Prestonsburg, Ky., with the firm of C.V. Reynolds Law Office. Marsh will continue to focus his practice in the areas of litigation, medical negligence, and mediation.



The Ashland law firm of **Campbell Woods, PLLC**, welcomes attorney **Philip**

Ratliff to the firm's business department. Ratliff, a former partner, has rejoined the firm of Campbell Woods, PLLC, in Ashland. He has over 22 years of experience in Kentucky civil litigation with a focus on residential foreclosures and evictions, creditors' rights and title matters. He also has experience in creditor and debtor bankruptcy, personal injury litigation, probate, real estate transactions and litigation, mobile home litigation, contract and corporate matters. Additionally, he is experienced in West Virginia foreclosures and evictions. Ratliff received his J.D. from the University of Louisville Louis D. Brandeis School of Law, his M.B.A. from Morehead State University, and his Bachelor of business administration

degree with distinction from Eastern Kentucky University. Ratliff is also a graduate of Leadership Tri-State. He is licensed to practice in the state and federal district courts in Kentucky and West Virginia, and the United States Court of Appeals for the Sixth Circuit. He is a former chair and vice-chair of the Real Property Section of the Kentucky Bar Association.



Diana L. Skaggs + Partners, PLLC, announces that **Michelle Eisenmenger Mapes** is a

member. The firm will continue its divorce and family law practice in the Louisville metropolitan and southern Indiana areas.



Rhoads & Rhoads, P.S.C., announces that **Sara J. Martin** has joined the firm's

Owensboro Office. A native of Dawson Springs, Ky., Martin graduated with *cum laude honors*, from Northern Kentucky University's Salmon P. Chase College of Law in May 2014. While at Chase College of Law, Martin was awarded the 2013 Dunn-Gilday Outstanding Advocate Award and the 2014 Frank Allen Fletcher Outstanding Advocate Award, and also worked for the Department of Public Advocacy in Northern Kentucky. Martin is a member of the Kentucky Bar Association, Kentucky Justice Association, and will focus her practice in the areas of trial practice, personal injury litigation, and social security disability law.



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Peterson, Stinson & White, LLP (PSW), announces that **Douglas P. Dawson**

has joined the firm to lead its new Louisville office. PSW also has offices in Nashville and Knoxville. It has expanded to Louisville to better serve its clients in Kentucky and Indiana. Dawson graduated *magna cum laude* from the University of Louisville Louis D. Brandeis School of Law in 2010 and is licensed to practice in both Kentucky and Indiana. PSW has traditionally focused on general liability defense and workers' compensation defense but has grown into other practice areas. The new Louisville office, which is located at 320 Whittington Pkwy., Suite 210, Louisville, KY 40222, will initially focus on general liability defense, workers' compensation defense, and estate planning.

Braden and Associates, LLC, recently merged with **Humfleet Law, PLC,** and will operate as **Braden Humfleet & Devine, PLC.** Their main location will remain at 7000 Houston Road, Suite 36, Florence, KY 41042, and their new office will be at 110 East Third Street, Lexington, KY 40508. They will also have offices in Edgewood and Madisonville, Ky. Braden Humfleet & Devine, PLC, announces that **Ed Burcham** is of counsel with our firm.

Stites & Harbison, PLLC, announced that 12 attorneys have been promoted within the law firm. Eleven have been elected to membership and one has been elected to counsel, effective January 2015. The new members (partners) include: **Walker Entwistle,** Atlanta office, creditors' rights & bankruptcy service group; **Bruce Paul,** Jeffersonville, Ind., and Louisville offices - torts & insurance, business litigation and financial services litigation practice groups; **Ken Gish,** Lexington office, environmental, natural resources and energy service group; **Charlotte Turner McCoy,** Lexington office, real estate & banking service group; **Walt Robertson,** Lexington office, business & corporate services group; **Chrisandrea Turner,** Lexington office, creditors' rights & bankruptcy service group; **Steven Henderson,** Louisville office,



Walker Entwistle



Bruce Paul



Ken Gish



Charlotte Turner McCoy



Walt Robertson



Chrisandrea Turner



Steven Henderson



Demetrius Holloway



Michael Kleinert



Karen Paulin



Terry Wright



Kristen Orr

construction service group; **Demetrius Holloway** - Louisville office - employment service group; **Michael Kleinert,** Louisville office, business litigation service group; **Karen Paulin,** Louisville office, employment service group; **Terry Wright,** Louisville office, intellectual property & technology service group. The new counsel includes, **Kristen Orr** in the Lexington office in the torts & insurance practice service group.



Thompson Miller & Simpson announces that **Jaime E. Nelson** has joined the firm as an

associate. Nelson received her B.A. from University of Arkansas and her J.D. in 2014 from University of Louisville Louis D. Brandeis School of Law, where she was a member of the Moot Court Board, the Women's Law Caucus and the *Journal of Animal and Environmental Law.* Nelson will practice in the fields of commercial and healthcare litigation.

Keith M. Wallace has joined the law practice at **Bowers Harrison, LLP,** as an of counsel attorney. He has more than 30 years' experience representing individuals, businesses and municipal governments. Wallace has experience in a broad number of legal disciplines and his primary practice areas include adoption, immigration, federal regulation and compliance, international law, family law, guardianships, juvenile, probate and criminal law. Wallace is admitted to practice in Indiana and Kentucky, United States District Courts, Northern and Southern District of Indiana, United States Court of Appeals for the 7th Circuit, and the United States Supreme Court. He is professionally affiliated with the American Academy of Adoption Attorneys, Christian Legal Society, Evansville Bar Association, Indiana and Kentucky State Bar associations, and is an Indiana Family Law Mediator. Wallace is an Evansville native and graduate of Indiana University-Bloomington and Valparaiso University School of Law. He volunteers his time serving children in different capacities and has served on national boards, including the board of the Family Formation Charitable Trust. He is also the recipient of the Sagamore of the Wabash, a Partnership Award from Habitat for Humanity, Distinguished Hoosier Award, and Angel in Adoption presented by the Congressional Coalition on Adoption Institute.



Fulton & Devlin LLC announces that **Ward Ballerstedt** has joined the firm.

Ballerstedt's practice will focus on workers' compensation defense and subrogation. He earned his B.A. from University of Kentucky in 2002 and his J.D. from University of Louisville Louis D. Brandeis School of Law in 2006.



Aaron Smith, an attorney at **English, Lucas, Priest & Owsley, LLP (ELPO),** in Bowling

Green, Ky., was recently named equity partner at the firm. He was also elected to the firm's practice management committee. Smith came to work at

ELPO as an attorney in 2006. His practice focuses on civil litigation and corporate defense work. He holds a J.D. from the University of Kentucky College of Law and a Bachelor of Arts degree from Centre College. He is admitted to practice law in Kentucky and is a 2007 graduate of Leadership Bowling Green. He recently served as president of the Bowling Green-Warren County Bar Association.



New Covenant Trust Company announces that **Joe Tackett** has joined its staff

as planning and development officer. New Covenant Trust Company (NCTC) is a subsidiary of the Presbyterian Foundation and provides investment management and trust services to individuals and organizations. Tackett will develop relationships with potential donors and clients and provide information to assist them in making decisions regarding services provided. Tackett comes to NCTC from Town and Country Bank and Trust Company where he served as assistant trust officer. He received his M.B.A. and J.D. degrees from the University of Louisville and undergraduate degree from the University of Kentucky.



Ziegler & Schneider, PSC, announces that **Shane C. Sidebottom** is now a member of

the firm. Licensed in both Kentucky and Ohio, Sidebottom maintains a diverse general practice and was recently named a 2015 Kentucky Super Lawyer for his work in general litigation. He will continue to focus his practice in Kentucky Whistleblower Actions, employment and labor law, complex Federal due process cases, general litigation, family law, US Immigration law, and handling some small business matters. Sidebottom will remain an active volunteer in the Northern Kentucky Bar Association where he has chaired the CLE committee since 2005, and the Kentucky Bar Association, where he currently serves as the 6th

Judicial representative on the Continuing Legal Education Commission.

Billy Mabry has joined **Frost Brown Todd's** Louisville office as part of the firm's regulated business practice. Mabry specializes in the area of health law and has represented healthcare facilities and healthcare providers across the United States and in England for more than 20 years. He assists clients in a range of business areas, such as acquisitions of facilities, physician contracting, medical building leases, and developing and implementing compliance plans. He is a member of the American Health Lawyers' Association and previously served as the assistant director of State Health Planning and Development Agency at the Kentucky Cabinet for Human Resources. Active in the community, Mabry has received the pro bono award for animal litigation from the Humane Society of the United States. He served on the committee "Beshear for Governor," and prior, as chairman of "Davis for Secretary of

State." Mabry received his J.D. from the University of Kentucky College of Law in 1984. He also has a Master of Public Administration (MPA) from the University of Kentucky, as well as a Bachelor of Science degree from Morehead State University.



Graf, Stiebel & Coyne Co., L.P.A., is pleased to announce that **Kacey E. Marr** has joined the

firm. Prior to joining the firm, Marr served as a law clerk to the Honorable Eugene Siler, Jr., United States Court of Appeals for the Sixth Circuit. Marr graduated Order of the Coif from the University of Cincinnati College of Law, where she served as Notes and Comments chair for the *University of Cincinnati Law Review*. Her practice is focused on tax and estate planning, representation of privately-owned businesses, probate and trust administration, and contested proceedings.



The Medical Protective Company announces that **MacKenzie Mayes Walter** has

joined as an in-house attorney, managing litigation filed against physicians and other healthcare providers. Prior to joining MedPro, Walter practiced in the commercial litigation department of Dinsmore & Shohl, LLP, for six years, with a focus on defending businesses in contract-related and business tort litigation, litigation of coal-related disputes, business disputes in the equine industry, professional negligence actions, and complex insurance coverage and bad faith litigation. Walter also served as a law clerk for the Honorable Amul R. Thapar, U.S. District Judge for the Eastern District of Kentucky, chief law clerk for the Honorable Joseph E. Lambert, Chief Justice of the Supreme Court of Kentucky, and intern for the



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Honorable Jennifer B. Coffman, U.S. District Judge for the Eastern District of Kentucky. Walter earned her J.D. from the University of Kentucky College of Law and her B.A. from Indiana University.



Allison Eastland has joined **Quintairos, Prieto, Wood & Boyer, P.A. (QPWB)**, in

their Lexington office as an associate. Eastland was awarded a J.D. from John Marshall Law School in Chicago in 2002 and Bachelor of Arts from DePauw University in Greencastle, Ind. Eastland spent 10 years as a felony prosecutor in both Chicago and Atlanta before moving home to Lexington, where she practiced as assistant commonwealth's attorney before joining QPWB. Eastland's practice will focus on long-term care defense and general liability.

Billings Law Firm, PLLC (BLF), announces that **Christopher P. Farris** has joined the firm as counsel. Farris received his B.A. in economics from Wittenberg University and his J.D., *cum laude*, from Indiana University School of Law where he ranked in the top 15 percent of his class. After law school, he served as a law clerk at the Indiana Solicitor General's Office in Indianapolis and with the U.S. District Court, Southern District of Indiana. Prior to joining BLF, he owned and operated his own law firm, Farris, LLC, where his practice focused on representing businesses in technology, medical, and real estate industries in litigation, corporate, and intellectual property matters. His practice at BLF will continue to focus on business and commercial litigation.



William P. Moynahan recently joined the Antitrust Division of the U.S.

Department of Justice as a trial attorney. He will be working in the Criminal Enforcement Section based in Washington, D.C. Raised in London, Ky., Moynahan

received his undergraduate degree in economics from Harvard, *magna cum laude*, in 1999. From 1999 to 2010, he served on active-duty as a strike-fighter pilot in the U.S. Navy. In 2013, Moynahan graduated, with high honors, from The George Washington University Law School. Prior to joining the Department of Justice, he clerked for the Honorable Eugene E. Siler, Jr., of the Sixth Circuit U.S. Court of Appeals. Moynahan continues to serve in the U.S. Navy Reserve as an instructor pilot. In September 2014, he was promoted to his present rank of Commander.

Wyatt, Tarrant & Combs, LLP, welcomes **Amanda Warford Edge**, **James Wesley Fischer** and **Chelsea K. Painter** to its Louisville office, and **Max Bridges** to its Lexington office. The associates are part of a group of seven new attorneys firm-wide.



Amanda Edge is a member of Wyatt's Litigation and Dispute Resolution Service Team and is licensed

to practice law in Kentucky and Indiana. Prior to joining the firm, she was a judicial clerk for Chief Judge Joseph H. McKinley, Jr., in U.S. District Court and a summer associate at Wyatt. She earned her J.D., *magna cum laude*, from the University of Louisville Louis D. Brandeis School of Law and her B.S. (political science), *summa cum laude*, from the University of the Cumberlands.



Wes Fischer is a member of Wyatt's Corporate & Securities Service Team and is licensed to practice law in Kentucky.

Before graduating from law school, he was a summer associate at Wyatt. He earned his J.D. from the University of Virginia School of Law and his B.A. (political science, philosophy, economics), *summa cum laude*, from the University of Louisville.



Chelsea Painter is a member of Wyatt's Litigation and Dispute Resolution Service Team and is licensed

to practice law in Kentucky. Prior to graduating from law school, she was a summer associate at Wyatt and executive editor of Volume 52 of the *University of Louisville Law Review* and a two year member of the ABA Client Counseling team. She earned her J.D., *magna cum laude*, from the University of Louisville Louis D. Brandeis School of Law and her B.A. (international business), *summa cum laude*, from Marshall University. Painter is also active in the community having been involved with Big Brothers Big Sisters, Habitat for Humanity and Special Olympics.



Max Bridges is a member of Wyatt's Natural Resources and Environmental Service Team and is licensed to practice law in Kentucky.

Before graduating from law school, Bridges was a summer clerk for the Southern Environmental Law Center in Atlanta and an extern for the Kentucky Energy and Environmental Cabinet in Frankfort. He earned his J.D. from the University of Kentucky College of Law and his B.S. (agricultural biotechnology), *summa cum laude*, from the University of Kentucky.



Dinsmore & Shohl welcomes **Robert L. McIntyre** to the firm's Lexington office.

McIntyre will practice out of the firm's corporate department. His addition provides greater depth to the firm's energy and natural resources practices and offers enhanced services to their clients. McIntyre's practice has covered energy, general corporate, mergers and acquisitions, start ups, compliance, litigation management, international corporate, commercial transaction

structure and negotiation. McIntyre has served as managing partner and cofounder of the law firm Breeding, McIntyre and Cunningham. Prior to founding his own firm, McIntyre worked in the oil and gas industry. He earned his J.D. from the University of Houston, Bates College of Law and his B.S. from University of Oklahoma.



The law firm of **Tachau Meek PLC** announces that **Melissa Mahurin Whitehead** has joined the

firm as an associate. She will continue her practice in commercial litigation. Whitehead earned her J.D., *magna cum laude*, from Northwestern University School of Law in 2008. She served as a federal law clerk for the Honorable Marvin E. Aspen, U.S.D.C. for the Northern District of Illinois and the Honorable Eugene E. Siler, Jr., U.S. Court of Appeals for the Sixth Circuit.

Step toe & Johnson PLLC has moved to its new office location at 700 North Hurstbourne Parkway in Louisville. The move marks the completion of the firm's second Kentucky location and its 15th office nationwide. The new facility occupies more than 10,500 square feet including four conference rooms and space for 16 attorneys with capacity for up to 22. Currently, Steptoe & Johnson's Louisville office has 12 employees including attorneys practicing in energy, litigation, corporate and transactional, environmental, and electronic discovery and data management. This also includes **Henry M. Reed III** and **David B. Malone**, who have been practicing public finance law with the firm in Louisville since 2011 and 2012, respectively. Steptoe & Johnson's Louisville location opened in September 2014 and occupied a temporary space at 9900 Corporate Campus Drive during construction of the new office.

Frost Brown Todd (FBT) announces the appointment of six new members, including **Holly Brown Powell** in Lexington. Powell practices in the area of corporate law, assisting clients with mergers and acquisitions, IT agreements, software and services licensing, contract formation and negotiation, debt

and equity financings, and general business issues. She has worked on formation and restructuring projects for businesses ranging in size from small entrepreneurs to large international public companies. Powell joined FBT as an associate in September 2007, after receiving her degree from the University of Kentucky College of Law. She also has an M.B.A and a Bachelor of Science in accounting from UK.

IN THE NEWS



DelCotto Law Group announces that attorney **Amelia Martin Adams** has received the

2014 Susan R. Anderson Award from the Junior League of Lexington. The Susan Anderson Award is given to an active or sustaining League Member whose interest, contributions, and promotion of the historic Bodley-Bullock House in Gratz Park are and have been "above what is expected."



Dinsmore & Shohl LLP announces a merger with **Huddleston Bolen LLP**, one of the oldest law

firms in West Virginia and the surrounding region. The merger, which became effective Feb. 1, 2015, will add 40 attorneys and 56 staff to the firm. With the addition, Dinsmore will become the 4th largest law firm in West Virginia with more than 75 attorneys practicing in five offices. Huddleston Bolen is based in Huntington, W.Va., and has offices in Charleston, W.Va., Louisville and Ashland, Ky. **Daniel Earl** will serve as the managing partner of Dinsmore's Huntington office following the merger. With the merger, Dinsmore will have 575 attorneys and locations in 18 cities throughout Colorado, Illinois, Kentucky, Ohio, Pennsylvania, Washington D.C. and West Virginia.

Fowler Bell PLLC announces that attorney **Casey C. Stansbury** has been selected as the 2014 recipient of the Albert H. Parnell Outstanding Program Chair Award. Stansbury is a member in the firm's litigation, government and municipal law, and electronic discovery groups representing local, regional and national clients with a focus on client advocacy, meticulous attention to detail and a commitment to obtaining solutions to the most challenging client matters. Stansbury's practice focuses on governmental liability, constitutional law and civil rights, insurance defense and coverage issues.

Sarah M. Jackson, former executive director of the Kentucky Registry of Election Finance, has received the 2014 Outstanding Service Award from the Council on Governmental Ethics Laws (COGEL). The award was announced at COGEL's 36th annual conference held in Pittsburgh, Pa. Jackson, who recently retired after more than 15 years of service as the Registry's executive director, was recognized for dedication and contributions to COGEL. COGEL is an international professional organization for government agencies, organizations and individuals with responsibilities or interests in governmental ethics, elections, campaign finance, lobbying and freedom of information laws. Jackson is a past president of COGEL and has served on the organization's Steering and Program

Committees. She previously held several positions in Kentucky state government and worked for the law firm, McBrayer, McGinnis, Leslie and Kirkland. Jackson is a 1982 graduate of the University of Kentucky College of Law. She completed undergraduate studies at the University of the South in Sewanee, Tenn., and spent one summer of studies at Oxford University in Oxford, England.



Siebert & Johnson, PLLC, announces that associate attorney **Jason Ellis** has been

selected to The National Trial Lawyers: Top 40 Under 40, an exclusive professional organization composed of the top young lawyers under the age of 40 in each state. Ellis has been an associate with Siebert & Johnson since graduating law school in 2009, where he has been litigating and trying personal injury cases across the state.

The Kentucky Association of Criminal Defense Lawyers (KACDL) would like to announce **William Deatherage** as their new president for the 2015. Deatherage is a partner with Deatherage, Myers, and Lackey, PLLC, in Hopkinsville, Ky. KACDL is the only

organized, statewide, all-inclusive group of criminal defense lawyers in Kentucky. Deatherage was appointed to the position during the October 2014 meeting. KACDL also voted to welcome three new board members, they are **Julie Kaelin** of Faulkner Kaelin Law Office in Louisville, **B. Scott West** of Richmond, and **Amy I. Hannah** of Louisville.



The Kentuckiana Post of the Society of American Military Engineers (SAME)

elects Stites & Harbison, PLLC, attorney **Joe Hardesty** to its board of directors. Hardesty will serve a two-year term. Hardesty is a member (partner) with Stites & Harbison based in the Louisville office. He handles complex litigation for clients with particular emphasis on representing clients in construction and business disputes. He defends and prosecutes claims for clients arising from major construction projects throughout the country, surety disputes, commercial real estate disputes and a variety of disputes arising from business transactions. SAME is the premier professional engineering association in the United States that connects public sector and

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Leslie Rudloff, senior counsel for Physicians Committee for Responsible Medicine, Washington, D.C., was a speaker at Vanderbilt University Law School, Nashville on Nov. 3, 2014. Her presentation was entitled "Making Medical Research and Training More Effective and Humane" and addressed the effectiveness and ethical concerns of using animals in medical research and training.

DBL Law announces that **Robert M. Hoffer**, partner and head of the firm's employment law division, has been named chair-elect for the St. Elizabeth Foundation, beginning his service in that position in 2015 and leading up to his role as foundation chair in 2016. The St. Elizabeth Foundation was established to support the mission of St. Elizabeth Healthcare and its' patients. Hoffer's focus for 2015 will include working with Foundation staff and members to create a three-year strategic plan.



Frost Brown Todd attorney Jennifer Barber has been appointed to serve on the U.S. Bank's

Louisville Advisory Board. U.S. Bancorp has over \$370 billion in assets and is the parent company of U.S. Bank, the fifth largest commercial bank in the United States. The company has a history spanning 150 years and operates more than 3,000 banking offices around the country. The goal and purpose of the advisory board is to involve community leaders to share information and ideas which will assist the company's market leaders in making decisions. Barber focuses her law practice in the areas of state and local tax, tax controversy and economic development. She has represented the Kentucky Chamber of Commerce and the U.S. Chamber of Commerce, and serves as a key advisor on tax policy in Kentucky. She earned a J.D. from the University of Kentucky College of Law in 2008, and her bachelor's degree from UK in 2005.



John W. Walters



Drew Meadows



Melissa Richardson



The Law Office of Robert H. Eardley, P.A. (Naples, Fla.), announces that **Robert H. Eardley** was recently granted a five year recertification as a specialist in the field of wills, trusts & estates by the Florida Board of Legal Specialization and Education. Eardley has held this designation since 2004 and it entitles him to represent himself to the public as an "expert" in field of certification. Eardley's practice primarily focuses on estate planning, probate and trust administration, and Florida tax residency planning for seasonal residents. He is a member of the Florida and Kentucky Bars, the Naples Estate Planning Council, the Trusts and Estates Section of the Collier County Bar Association, and the Florida Bar's Wills, Trusts & Estates Board Certification Grade Review Panel. Eardley earned his undergraduate and law degrees from the University of Kentucky and an LL.M. degree in Estate Planning from the University of Miami (Fla.).

Walters Meadows Richardson, PLLC (WMR Defense), formerly **Golden & Walters, PLLC**, is proud to announce its new name. WMR will focus primarily on insurance defense. WMR is led by Partners **John W. Walters**, **Drew Byron Meadows**, and **Melissa Thompson Richardson**, and currently has 12 associates with two more associates set to join the firm in the fall of 2015.



Leadership Kentucky recently elected Stites & Harbison, PLLC, attorney **Chrisandrea Turner** to its

board of directors. Turner will serve a three-year term. She is a graduate of Leadership Kentucky's Class of 2013. Turner is a member (partner) of Stites & Harbison based in the firm's Lexington office. She is a bankruptcy and creditors' rights litigator focusing on corporate bankruptcy and restructuring and adversary proceeding defense. Her litigation practice includes mortgage defense, receiverships, avoidance and recovery of preferential and fraudulent

transfers under the Bankruptcy Code and the Uniform Voidable Transactions Act, and nondischargeability of bankruptcy debt. A member of the firm's Manufacturing industry team, Turner advises the firm's manufacturing clients on bankruptcy and creditor-oriented matters. Turner serves on the executive board of directors of Women Leading Kentucky and is instrumental in organizing Lexington's Signature Chefs Auction, the largest fundraiser for the March of Dimes.

Wyatt, Tarrant & Combs, LLP, announces that six of its Kentucky partners have been recognized by *Benchmark Litigation* as 2015 "Litigation Stars" and two as "Future Stars." The guide honors the firms and attorneys who have demonstrated the

ability to consistently handle complex, high-stakes cases in multiple jurisdictions. Wyatt's honorees include the following from Kentucky:

Litigation Stars:

Cornelius Coryell II, Louisville,

general commercial, product liability, personal injury;

K. Gregory Haynes, Louisville, general commercial, securities;

Byron E. Leet, Louisville, general commercial;

M. Stephen Pitt, Louisville, antitrust, general commercial, environmental;

W. Craig Robertson III, Lexington, general commercial;

Virginia Hamilton Snell, Louisville, appellate, general commercial, medical malpractice.

Future Stars:

Christopher W. Brooker, Louisville;

Lisa C. DeJaco, Louisville.



Cornelius Coryell II



K. Gregory Haynes



Byron E. Leet



S. Stephen Pitt



W. Craig Robertson III



Virginia Hamilton Snell



Christopher W. Brooker



Lisa C. DeJaco

Dinsmore & Shohl has elected three new members to its board of directors, including **Richard H. C. Clay**.



Richard H.C. Clay

Clay is a partner in the litigation department and serves as the firm's Kentucky ethics partner. He practices in the areas of business and fiduciary litigation, appellate practice and administrative law. Clay practices out of the firm's



Chauncey S.R. Curtz

Louisville office. Lexington Office Managing Partner **Chauncey S.R. Curtz** and **R. Kenyon Meyer**,



R. Kenyon Meyer

Louisville partner, continue to serve as members of Dinsmore's Board of Directors. Curtz and Meyer have also

been re-appointed to serve on the firm's executive committee.

Vince Aprile, who practices with Lynch, Cox, Gilman and Goodman P.S.C. in Louisville, had his column, "Judicial Imposition of the Trial Tax," originally published in the Spring 2014 issue of *Criminal Justice* magazine, selected for inclusion in the "The Best of ABA Sections" in the January/February 2015 issue of *GPSolo* magazine. That issue is a compilation of some of the best magazine, journal and newsletter articles published by the ABA's sections, forums and divisions.



Wyatt Tarrant & Combs, LLP, announces that **Ben Straus** has been named chair of the

Louisville Bar Association's Real Estate Section for 2015. The Louisville Bar Association's Real Estate Section has more than 150 members and as section chair, Straus' responsibilities will include coordination of quarterly meetings, continuing legal education (CLE) seminars and providing contributions to the LBA's monthly publication *Bar Briefs*. Straus has served as vice chair of the section since 2013. Straus concentrates his law practice in the areas of commercial lending transactions and the sale, acquisition, leasing and development of commercial property. He earned his J.D. from the University of Louisville Louis D. Brandeis School of Law and his B.A. from Miami University of Ohio. He is based in Wyatt's Louisville office and is licensed to practice law in Kentucky. He will also serve in the new year as secretary on the board of directors of the Young Real Estate Professionals of Louisville.



The American College of Trust and Estate Counsel (ACTEC) recently elected Stites

& Harbison, PLLC, attorney **Richard Wehrle** as a fellow. Wehrle is a member (partner) of Stites & Harbison and serves as chair of the firm's trusts & estate planning service group. His practice focuses on trusts and estate administration, estate planning and charitable giving, charitable and non-profit organizations, estate and gift taxes, probate, and fiduciary law. He is also a Certified Public Accountant. ACTEC is a nonprofit association of 2,600 lawyers established in 1949. Its members are elected to fellowship by demonstrating the highest level of integrity, commitment to the profession, competence and experience as trust and estate counselors.

John M. Rosenberg will be honored with one of the American Bar Association's 2015 Grassroots Advocacy Awards at a reception to be held at the U.S. Supreme Court on April 15th from 6:00 - 8:00 p.m. The award "honors bar associations, commissions and individuals [who] provide key assistance in ABA grassroots lobbying efforts, as they are the direct constituents of Members of Congress." Rosenberg is emeritus

director of Appalachian Research and Defense Fund of Ky., Inc., (Appalred), a legal services program serving low income clients in 37 counties in eastern and south central Kentucky. He served as its director from its founding in 1970 until his retirement in 2002. From 1962 to 1970, Rosenberg served as a trial attorney, deputy section chief, and section chief in the Civil Rights Division of the United States Department of Justice. He served three terms on the KBA Board of Governors, from July 1, 2002-June 30, 2008. He has been a member of the Board of Regents of Morehead State University, and the Visiting Committee of the University of Kentucky College of Law. He is a founding board member of the East Kentucky Science Center in Prestonsburg and served as its chair from its inception in 1994 until 2006. He was the 2013 recipient of the Kentucky Bar Association's Distinguished Lawyer Award and the 1992 recipient of the Kentucky Bar Association's Donated Legal Services Award.

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IN Memoriam

As a final tribute, the **Bench & Bar** publishes brief memorials recognizing KBA members in good standing as space permits and at the discretion of the editors. Please submit either written information or a copy of an obituary that has been published in a newspaper. Submissions may be edited for space. Memorials should be sent to sroberts@kybar.org.

Name.....	City	State	Deceased	Name.....	City	State	Deceased
George Wayne Bailey.....	Morgantown	WV.....	January 12, 2015	John M. Leahy	Louisville.....	KY.....	December 26, 2013
Charles R. Boyer	Charlottesville.....	VA	January 20, 2015	Ann Scholl Long	Indianapolis	IN.....	December 26, 2014
Ralph L. Collins	Daytona Beach	FL.....	September 3, 2014	George J. Long Jr.	Louisville.....	KY.....	December 3, 2014
John L. Cox.....	Stanton	KY.....	February 13, 2014	Henri L. Mangeot.....	Masonic Home.....	KY.....	December 10, 2014
Thomas Estel Crafton	Prospect	KY.....	December 13, 2014	Henry Meigs II	Louisville.....	KY.....	November 28, 2014
James Allen Crawford	Fort Myers.....	FL.....	May 2, 2014	Paul D. Rehm.....	Versailles.....	KY	June 4, 2014
Robert I. Cusick Jr.	Louisville.....	KY.....	November 25, 2014	James M. Richardson.....	Owingsville.....	KY.....	February 28, 2013
George Lucian Drury II.....	Morganfield.....	KY.....	July 26, 2014	James D. Ritter	Exton	PA.....	July 23, 2014
Joseph Enoch Fineman.....	Louisville.....	KY.....	November 20, 2014	Thomas J. Roberts.....	Middlesboro.....	KY	August 14, 2014
Donald Ray Fulcher.....	Russellville.....	KY	January 1, 2015	Charles W. Runyan.....	Douglasville	GA.....	November 29, 2014
James A. Grider.....	Louisville.....	KY	October 21, 2014	John P. Runyon	Pikeville.....	KY	January 23, 2015
Edward F. Harrington Jr.	Louisville.....	KY.....	December 4, 2014	Merrill S. Schell.....	Prospect	KY	January 13, 2015
Maxie E. Higgason	Corbin	KY	January 13, 2015	Ronald V. Simpson.....	Sarasota.....	FL.....	January 4, 2015
Gary Edward Johnson.....	Lexington.....	KY	January 26, 2015	Thomas F. Towles	Georgetown	KY	August 31, 2014
Debra R. King.....	Stearns.....	KY	January 25, 2015	Charles B. West Jr.	Henderson	KY.....	November 11, 2014

C. WAYNE SHEPHERD MEMORIAM



C. Wayne Shepherd

C. Wayne Shepherd, age 70, of Lexington, passed away Thursday, Dec. 18, 2014 at Hospice Care Center in Lexington.

Shepherd practiced law for more than 30 years in Lexington as well as in Corbin, Ky, his hometown. For 11 years prior to practicing law, he taught business law at Virginia Tech, the University of Alabama, and the University of Kentucky.

He will be truly missed by his wife of 39 years, Barbara, children Lauren and Patrick, and grandson Nikolas, as well as many true friends and colleagues.

ROBERT FRANKLIN COOPER JR. MEMORIAM



Robert Franklin Cooper Jr.

Robert Franklin Cooper, Jr., age 101, died Monday, Jan. 12, 2015 in Memphis. A native of Mississippi, he was born on Oct. 19, 1913 in Ellisville, Miss. Cooper graduated from Washington and Lee University in Lexington, Va., with a BA degree, and was a member of the Kappa Sigma fraternity. He received his law degree from University of Louisville Louis D. Brandeis School of Law. Cooper was a member of the Bar Association of Kentucky, Mississippi, Hinds County, American, Federal, and United States Supreme Court and was named in the first edition of *Who's Who in American Law*. He was recognized by the Kentucky Bar Association and by the Mississippi Bar Association for over 50 years of service to the bar. Cooper joined the Federal Bureau of Investigation as a special agent and retired from the Bureau in 1967. He was assigned to its offices in Pittsburg, Detroit, Oklahoma City, Boston, and Washington D.C., where he served under J. Edgar Hoover. He then served in New Orleans, and in 1957 was assigned to the Jackson, Miss., office. Upon retirement from the FBI he joined First National Bank, (now Trustmark) in Jackson, Miss. His wife of 50 years, Mary Wells Cooper, preceded him in death in 1994. Six years later, at the age

of 86, he married Margaret Clack Askew of Memphis, who preceded him in death in 2014. He leaves a daughter, Emily (Mrs. E. Langston) Haygood, Birmingham, Al., a son, Dr. Robert F. Cooper III, of Oxford, Miss., five grandchildren, and five great-grandchildren. His step-children include Charles E. Askew and Margaret L. Askew, both of Memphis, and W. Turner Askew, of Whitefish, Mont., five step-grandchildren, and six great-grandchildren.

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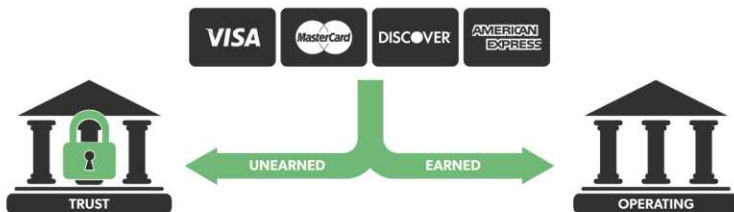


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