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Table of Contents

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PRESIDENT'S MESSAGE

By: William E. Johnson

Media exposure of Ray Rice hitting his then fiancée, now wife, coupled with the publicity of a star NFL running back disciplining his four-year-old child with a switch or club has pointed up the abuse that is present in many relationships. The existence of abuse is well known to lawyers and the law. Those of us who practice domestic, and/or criminal law have frequently seen these types of abuse. In the domestic area, it is most often the man who is accused of abuse of a spouse or companion. We know that women in such relationships frequently endure them because of economic reasons. They fear a breakup of the relationship will cause them to be unable to find monetary support for their children and themselves. In many instances the woman will feel guilty and believe she is the cause of the violence being inflicted upon her. It appears that in many instances of spouse or companion abuse, control is the reason for the abuse. The aggressor believes the use of physical abuse brings about control.

The law is familiar with child abuse being inflicted by mothers as well as fathers. Discipline of the child is only one of many reasons for child abuse.

What can lawyers do to help correct these age-old problems? One of the things we should do is caution our clients about the close scrutiny that the media will give to allegations of abuse. Professional athletes are the focus now but this scrutiny will spread to other persons, including lawyers and judges. A federal judge in Georgia recently pled guilty to abusing his wife. The wife's telephone call to a police dispatcher has made national news. Further, as lawyers we must do what we can to keep aggressive abusers from continuing to abuse spouses, companions and children. Judges need to pay more attention in abuse cases to the punishment and sanctions imposed on abuse offenders.

We know, however, there is only so much the law can do to protect the abused. Frequently we see the aggressive offender hunt down and injure or kill the abused who was courageous enough to leave the offender. As lawyers and judges we have to be aware of those dangerous situations and assist the abused in finding maximum protection.

Perhaps if we help educate society that abusive conduct will generate negative publicity for the accuser, and at the same time let the abused know there are people, including the lawyer, who are present to help them escape an abusive relationship, then we will have taken a step to lessen an age-old problem.

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LETTER TO EDITOR

Judith D. Fischer, in "Time to Ditch Strunk and White?" (July 2014 issue) wrote, "…for example, 'finalize' and 'contract' are condemned as verbs, but both are widely accepted now, even by authoritative dictionaries."

But that's the problem. Find me an authoritative dictionary these days. They're all reportorial. They don't tell you what words mean or how they are supposed to be used; they tell you only how words *are* used. The Oxford English Dictionary never made any pretense about this, and Merriam's Webster went to h*** in 1961. You will now find not only "finalize" accepted (which, by the way, does not mean acceptable), but also such atrocities as "online" (one word) and "confidentiality" (try confidence). As a friend of mine wrote recently, "Just because it has become socially accepted to wear your cap sidewise and your pants halfway down your a** does not make it right."

I just did a search for "finalize" in dictionaries "on line" (if you will pardon that old-fashioned expression), and I am sad to report that even the American Heritage, Collins English and Random House dictionaries – erstwhile bastions of authority – listed it. At least they called it a "bureaucratic" usage in their notes. I'm proud to say that I did not find it in my 1957 edition of Random House' American College Dictionary.

And find me a judge these days, let alone a lawyer, who knows that the past tense of "plead" is "pleaded," not "pled" (or "plead," rhymes with "dead").

Another good modern usage reference, besides those mentioned in Ms. Fischer's column, is Patricia T. O'Conner's "Woe Is I" (Putnam, New York: 1996, 2010). (Actually, that should be "Woe *am* I," of course; but I think Ms. O'Conner knows that. I'm guessing her publisher decided that "Woe *is* I" would sell better.)

Sincerely,

Natty Bumppo

LETTER TO EDITOR

Kentucky members of the American Bar Association share the concern for law students that Justice Bill Cunningham expressed in his September 2014 letter to the editor. In affirming our unflagging support for the ABA and its value for our members, we are sympathetic to the economic hardships of students and support the widely recognized need for more practical-skills training in law school.

The ABA Section of Legal Education and Admissions to the Bar is one of more than 30 sections and other practice groups throughout the ABA. The section's council, as the nationally recognized accrediting agency for law schools, has the responsibility to ensure that ABA-approved law schools provide a sound program of legal education. By law, this role is separate and independent from the rest of the ABA and its leadership.

During the recently completed review of the ABA's law school approval standards, the council solicited comments from throughout the legal community and received hundreds of responses. Regarding one part of the standards, law students, legal educators, and others offered compelling arguments for and against the provision that prohibits law schools from giving academic credit to a student who receives pay for work done in an externship.

After the council decided to retain the provision and sought concurrence on the entire set of standards from the ABA House of Delegates at its August meeting, the delegates had a robust debate on the externship pay issue, featuring vigorous floor statements from law students and educators alike. Following the debate, the delegates (including every member of our Kentucky delegation to the House in attendance) voted overwhelmingly to reject the provision and to refer the provision to the Section of Legal Education and Admissions to the Bar for its reconsideration.

This deliberative process is merely one element that demonstrates the ABA's value as the nation's leading association of lawyers. When it comes to law students, the ABA is second to none in linking them with the leading lawyers across practice-area sections, committees, and other groups to provide practical training, mentoring, and professional opportunities.

The ABA needs the voice of all lawyers and law students to strengthen our service to the profession. Kentucky members of the ABA appreciate this. We urge Justice Cunningham to join us.

Thank you,

William C. Hubbard
President, American Bar Association

The Kentucky Delegation of the American Bar Association

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For more information on the Summit, please turn to page 25.

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2015 DISTINGUISHED SERVICE AWARDS CALL FOR NOMINATIONS

The Kentucky Bar Association is accepting nominations for 2015 Distinguished Judge and Lawyer, Donated Legal Services and Bruce K. Davis Bar Service Awards. Nominations must be received by Dec. 31, 2014. If you are aware of a Kentucky judge or lawyer who has provided exceptional service in these areas, please call (502) 564-3795 to request a nominating form or download it from our website at www.kybar.org by choosing "Inside KBA" and clicking on "Public Relations – Distinguished Service Awards."

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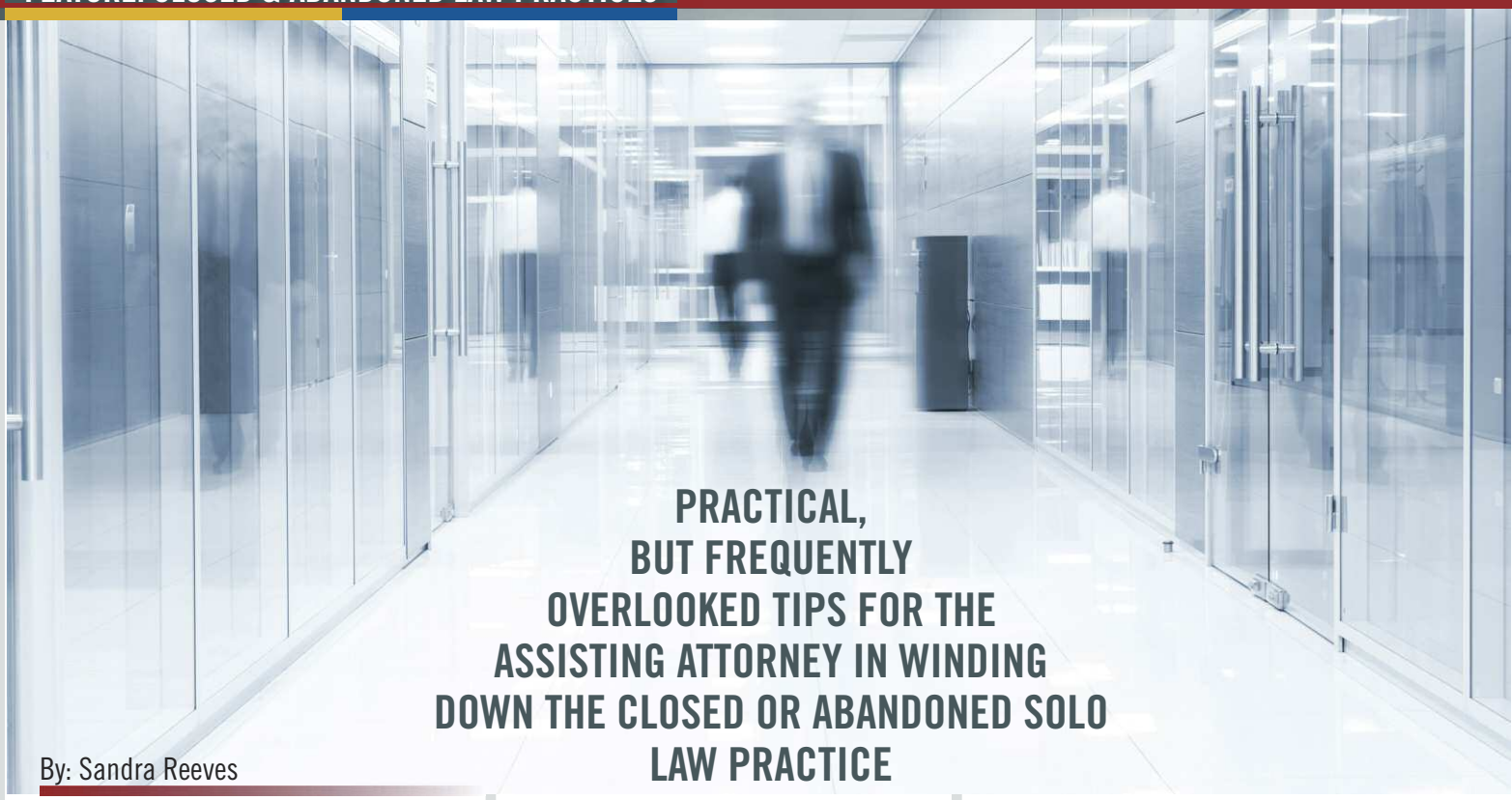
Bruce K. Davis Bar Service Award

Many lawyers take time from their practices to provide personal, professional and financial support to the KBA. This award expresses the appreciation and respect for such dedicated professional service. All members of the KBA are eligible in any given year except for current officers and members of the Board of Governors.



PRACTICAL, BUT FREQUENTLY OVERLOOKED TIPS FOR THE ASSISTING ATTORNEY IN WINDING DOWN THE CLOSED OR ABANDONED SOLO LAW PRACTICE

By: Sandra Reeves

Sheila Blackford and Peter Roberts aptly pointed out that after years of being immersed in the legal profession, being a lawyer arguably defines who we are. For most of us, walking away from a law practice usually isn't easy. So much so that when asked about their exit strategies from the practice of law, some lawyers say, "My exit strategy is to die at my desk!"[1] Frequently, that is what happens. Many of us don't plan for the eventual day when we will close our door and cease the practice of law. While still less frequent, there are an increasing number of lawyers who are choosing to close their doors and walk away, simply abandoning the practice. Either way, the result is an increasing number of closed and abandoned law practices that require someone to step in and pick up the pieces.

There are useful checklists, articles and publications that address nuts and bolts of winding up the closed or abandoned law practice.[2] An attorney considering this undertaking would be well advised to read one or more of these publications before making the commitment.

Therefore, it is not the intent of this author to reinvent the wheel or to create yet another step by step guide to closing out the abandoned practice when so many are readily available. Rather, the focus of this article is to address areas which are frequently omitted from the nuts and bolts checklists, or when included are often overlooked by the assisting attorney.

While this article addresses the closing of the solo practitioner's law office, its application extends beyond the solo practitioner (the "affected" attorney). In many instances, a colleague who may or may not also be engaged in solo practice will volunteer, or be solicited by the family, to assist in closing of the law practice. This attorney will be referred to as the "assisting attorney."

When no one volunteers, an assisting attorney will be appointed by the court. Under SCR 3.395[3] (hereafter the "Rule"), the director of the Kentucky Bar Association (KBA) may petition the Supreme Court to appoint a member of the Kentucky Bar to assist in the closing of a solo practice when the practitioner has died, been suspended, temporarily or permanently disbarred, or has abandoned his practice without first informing his clients, or when his whereabouts is unaccounted for. In such cases, the assisting attorney is designated by the Bar as a "special commissioner." While the rule applies to the closing of the solo practice, it does not confine the appointment of the special commissioner to that of a solo practitioner. To the contrary, given the extensive amount of work devoted to closing an abandoned law practice, combined with the drain on the assisting attorney's own practice, it would appear prudent for the court to appoint, whenever possible, a special commissioner, or assisting attorney, who is not himself a solo practitioner.

Thus, this article applies to both the solo practitioner and the attorney practicing in a multi-lawyer firm who has either volunteered to assist in closing out a solo practice, or who has been appointed under the Rule to serve as special commissioner.

USE OF DEFINITIONS OR TERMS

Regardless of whether the attorney engaged in closing out the practice is serving as a volunteer, or has been appointed by the Court (a "special commissioner"), he is referred to as an "assisting attorney." The solo practitioner absent from his practice because of death, disability, suspension, disbarment, or abandonment is referred to as the "affected attorney." By definition, the "closed or abandoned practice" is one where the solo practitioner is absent from the practice and has neither planned nor made any form of advanced provision for its closing. The afore mentioned terms will be used for the purposes of this article.

DON'T SAY "YES" UNLESS YOU REALLY MEAN IT.

A word of caution and a practical tip: Many a good deed is unrewarded. When approached to oversee the closing of an abandoned practice, don't say "yes" until you have weighed the pros and cons and have determined that you are up for the task. Often, when we are approached by the family or the court to serve as an assisting attorney, our first response is to agree. Most nuts and bolts checklists do not remind the attorney that he must seriously assess whether he has the time and energy to devote at that particular juncture of his own career.

Before saying "yes", consider the following: (1) regardless of the strength of your management and organizational skills, your man-

agement and organizational skills will not be tested as much as the organizational and management skills of the attorney whose practice you have been asked to close; (2) regardless of whether you are a solo practitioner or are practicing in a multi-lawyer firm, never try to convince yourself that the practice in need of closing must surely have been managed, organized and operated in a manner very similar to yours simply because the two are both law practices. You are probably wrong. Particularly if you are a member of a multi-attorney firm, you will have most likely underestimated the volume and range of clerical tasks that the solo practitioner performs, which in your own firm would be delegated to staff or associates; (3) no matter how much time you budget for the task or plan to set aside from your own practice, it will not be enough; (4) right or wrong, there is a good chance through no fault of your own that you will open yourself up to the potential for liability; (5) no matter how dear to you the solo practitioner (or his family) is to you, it will most likely be a thankless job that you will be made to feel that you can't do quick enough; and (6) you will never recoup in fees for your services performed in assisting in closing out the law office what you are losing in your own practice. It is worth noting that unlike some states,[4] Kentucky does permit the special commissioner a "reasonable compensation" for their services and reimbursement for necessary expenses actually incurred in assisting in the closing of another's law practice.[5] However, the rule does not address whether a "volunteer" assisting attorney is likewise entitled to compensation when he/she has not been appointed by the court[6].

Before declining the appointment, consider the other side of the coin. Anecdotal information from attorneys who have committed to closing an abandoned law office include the following as reasons for accepting the appointment: (1) the experience allows them to identify and correct the weaknesses in their own practice by observing the mistakes and shortcomings in the practice they have been tasked with closing; (2) a sense of duty to a professional colleague; (3) a feeling of responsibility to "give back" to the profession; (4) an attempt to deflect from the negative perception of the general public that surrounds closed or abandoned practices, and (5) boredom, or an opportunity to break the monotony or to change up the attorney's daily routine for a period of time.

ASSESSING LIABILITY AND INSURING PROTECTION?

Another frequently overlooked area is the assisting attorney's own exposure to liability. Remember, the assisting attorney is entering a practice where he is unfamiliar with the calendaring system and organization structure, assuming either exists. There is no way of determining whether important deadlines were calendared or memorialized in some other way, and if so where that may be. Under the circumstances, it would be difficult to identify all filing deadlines of the firm, including those that may run just days after the assisting attorney first has access to the office.

The assisting attorney's liability may vary depending on the circumstances of the attorney's involvement. If the assisting attorney has been appointed as a special commissioner, as the result of a petition filed by the KBA director, there will be an Order of Appointment. It may contain varying degrees of detail with regard to assisting attorney's fiduciary duties and responsibilities. Therefore, in some cases, it may be appropriate to seek further clarification from the Court in the form of an amended order that will provide additional detail, clarity and added protection.

In the event of the death of the solo practitioner, the assisting attorney may have approached, or been approached by, the non-attorney spouse or family member to "informally" assist in closing the law office. In such cases, it is prudent to formalize the assisting attorney's involvement by seeking an order from the District Probate Court outlining the assisting attorney's duties, responsibilities and protection afforded. The assisting attorney will most certainly request an Order from the Probate Court containing specific language to permit access to the affected attorney's trust/escrow bank accounts. A similar order may be required in those situations where the affected attorney has been determined to be disabled and incapable of managing his business affairs, or where a designated attorney-in-fact has invoked a power of attorney due to the solo practitioner's disability. The formal order should specify the extent of the assisting attorney's duties and obligations in his capacity as a limited fiduciary. The range of duties and responsibilities designated in the Order of Appointment will vary on a case by case basis, but generally will be limited in scope, when com-

pared with the duties afforded a personal representative pursuant to KRS 395.105.

Additionally, the assisting attorney will want to check with his carrier to determine what coverage he/she has, if any, to cover claims for his conduct in closing another's practice. Also, the assisting attorney should contact the insurance carrier for the affected attorney, assuming he/she carried malpractice insurance, to determine the nature, extent and term of protection afforded under that policy. The assisting attorney will want to inquire as to the existence or availability of a "tail policy" that may afford protection for a period of time after the insurance has expired for events that occurred during the policy term but not asserted until afterward.

COMMUNICATION

Most nuts and bolts checklists do not emphasize strongly enough communications. It is essential that the assisting attorney establish a productive, open line of communication with the affected attorney's clients, family, landlord, lessors, creditors, accountant, and support staff as well as with those acting in a fiduciary capacity.

It is extremely important to communicate openly with the affected attorney's spouse, family members or their legal guardians so as to assure their confidence in this undertaking. The assisting attorney must be mindful of the fact that in probate matters, the solo practitioner's law practice also can be the decedent's most valuable asset. Frequently, the non-attorney family members are operating under the mistaken belief that all funds held in the solo practitioner's trust account at the time of his demise or disability belong to the affected attorney and, by extension, to the family members.

Family members and non-attorney fiduciaries can also be a valuable resource to the assisting attorney. At some point the assets of the law practice may be required to be inventoried and disclosed, as part of the decedent's probate estate. With an open line of communication and cooperation between the assisting attorney and non-attorney executor/administrator, it may not be necessary for the assisting attorney to personally undertake the monotonous task of inventorying the office, as the task can be delegated to the family member or fiduciary, which will aid in transparency while not violating confidentiality.

The task of inventorying the office can also be lessened by establishing an open line of communication with the solo practitioner's accountant and insurance agent, who will have a relatively current office inventory, including serial numbers, in the form of depreciation schedules and listings of insured contents.

Early meaningful communication with the solo practitioner's accountant, family members/executor/administrator or guardian is also extremely important for a number of other reasons, not the least of which is determining whether the closed/abandoned practice should be liquidated or sold as a going concern, if time permits. The decision of whether to sell the business, intact, is far beyond the scope of this article. Much has been written about on the topic, and the assisting attorney should employ the assistance of appropriate experts and have a meaningful discussion with all concerned as to whether selling off the practice is a viable alternative to closing it down. The assisting attorney should acquaint themselves with the ABA Model Rules as well as with the corresponding state rules. The valuation process can be complex, and the attorney considering this option should employ appropriate experts[7].

The assisting attorney will want to reach out to third parties whom the solo practitioner had contracts or transacted business regularly. Creditors, landlords, and lessors should be identified and approached early on. The last thing the assisting attorney wants is for the premises to be padlocked for failure to pay rent.

There should be honest and open communication with the solo practitioner's support staff, which potentially is the assisting attorney's most valuable resource. The assisting attorney should keep in mind that, depending on the circumstances of the closing, staff may not have been paid in a while. In other instances, staff may potentially look to the assisting attorney as an adversary who has no business descending upon them, criticizing and giving orders. Care should be taken to communicate effectively with the staff so as to cultivate an atmosphere of trust. The assisting attorney should determine if the support staff has been paid, and to provide them with a clear understanding of when the assisting attorney anticipates that their services will no longer be required. Additionally, the assisting attorney should provide staff with information concerning unemployment benefits. Where possible, the assisting attorney may have insight that he or she can share with the support staff regarding potential employment opportunities elsewhere in the legal community.

Prompt communication with the solo practitioner's clients is also important. They must be identified and notified when and where they may retrieve their files. The nuts and bolts of that process are generally addressed in most checklists. Additional correspondence, however, is necessary with clients for the purpose of collecting earned fees. For that reason, one of the early steps employed by the assisting attorney is to determine where the office is in the billing cycle. It could be that the law practice is due funds from clients that have been earned but not collected. In the event that the closing of the solo practitioner's practice has become public knowledge, some of his or her clients may have concluded that it is not necessary to pay their outstanding balance. At times, they simply don't know the amount they are expected to pay if the solo practitioner has been lax with billing. There are also those clients who operate under the belief that they are

entitled to a full refund of their retainer because the solo practitioner did not see their case through to the end, or because he has not been diligent in communicating with the client a detailed statement of legal fees assessed against the retainer. In those cases, it will be important to break down for the client how his retainer has been applied.

Do not minimize the importance of collecting funds due the practice as that may be the only source available for paying utilities, rents, and staff. Further, while SCR 3.395 (6) permits a special commissioner appointed by the Court to be compensated by the association, costs may be assessed against the solo practitioner, pursuant to SCR 3.450, if the appointment of the special commissioner was ordered incident to disciplinary proceedings.

ASSESSING THE STATUS OF CLIENT FILES

Before the assisting attorney can assess the status of client files he/she must first identify all clients, with the identification of active client files being more time sensitive than inactive. Unfortunately, the solo practitioner will not always have an up-to-date convenient list of open and closed client files. Likewise, not all files will be conveniently stored in alphabetical order in a file room awaiting review. Furthermore, there will generally be file folders, correspondence, pleadings and other documents littered in various places throughout the office. Even when an open client log has been located and reviewed and even after the client files contained within the confines of the office have been located, organized and alphabetized, the assisting attorney must consider the very real possibility that he/she still cannot compile a complete client file list. One must also consider the possibility that, for whatever reason, a client's file or portion thereof, has been lost, misplaced, misfiled, or worse destroyed. Further, it is not beyond the realm of possibility that the solo practitioner kept files in his or her vehicle, home or other off-site location which are now inaccessible to the assisting attorney.

After assembling and categorizing a list of clients from what is located in the office, paying particular attention to active clients in the beginning, the assisting attorney should take advantage of resources provided by the Administrative Office of the Courts (AOC). Courtnet 2.0 provides the assisting attorney with access to lists of all cases in every circuit in which the affected attorney appears, and it would also be prudent to request by letter to the local circuit clerk a list of active cases identifying the affected attorney as attorney of record. Once compiled, the various lists should be compared and discrepancies identified.

While this process will assist the attorney in identifying open and active cases, it will most likely not provide insight for the assisting attorney in identifying those clients for whom suit has not been filed. A starting point for identifying those clients is to review the solo practitioner's appointment calendar for the prior year, and to enlist the help of staff in identifying clients and appointments that may not have been listed on the calendar.

Once all reasonable steps have been taken to identify clients, the next step is simply a matter of nuts and bolts, identifying and contacting clients with pending motions and deadlines to inform them of the status of their case, and to inquire of their intentions. Where appropriate, seek leave of the court, or an agreed order or tolling agreement with the opposing party (also routine nuts and bolts). It should be specified in written communication with the client, the court, and the adverse party that your efforts to wind down the affected attorney's practice should not be construed as a general entry of appearance.

TRUST ACCOUNT

Early on, it is important to audit the trust account, reimburse unearned retainers and determine the remaining balance in the trust account. There is the possibility that there are insufficient funds in the trust account to reimburse all clients for whom the solo practitioner was holding unearned funds. This event should be reported to the KBA's Office of Bar Counsel with a request for further instruction.

There is also the possibility that there will be unclaimed funds in the trust account for which the source cannot be ascertained, or the client cannot be located for the purpose of reimbursing the funds to them. It could be that the funds held by you as fiduciary will at some point be determined to be abandoned if the owner has not claimed them within a prescribed period of time, but don't look at this as an automatic windfall for the practice. Don't assume that these unclaimed funds can be turned over to the non-attorney spouse, executor/administrator or guardian, or that they can be used to be office expenses. The funds along with a complete accounting should be turned over to the IOLTA program, or further instruction sought from KBA's Office of Bar Counsel. The assisting attorney will also want to notify the state bar when the trust account has been closed out, and will want to review ABA Model Rule 1.15 (a).

SUMMARY

The above practical, but often overlooked tips, are intended as food for thought for the assisting attorney and are not intended to be exhaustive rules. Armed with these guidelines, having disposed of preliminary matters, the assisting attorney is in a better position to perform a service to the community and to minimize the harm to third parties created by the unplanned closing of the solo practice. B&B

1 Sheila Blackford and Peter Roberts, http://www.americanbar.org/publications/law_practice_home/law_practice_archive/lpm_magazine_archive_v37_is3_pg48.htmlClosing a Solo Practice: An Exit To-Do List; May/June 2011 Law Practice Magazine, Volume 37 Number 3.
2 Id.; Glenn Denton, Closing a Kentucky Law Office: A Guide for After the Death of A Kentucky Solo Practitioner, Bench & Bar, Vol. 77, Number 5, Pgs. 12-17; Kentucky Bar Association Task Force on Closed and Abandoned Practices.
3 SCR 3.395(1), amended Oct. 1, 1998.
4 The Indiana Law Blog, Nov. 2013, http://indianalawblog.com/archives/2013/11/
5 SCR 3.395(6), amended October 1, 1998.
6 *Id.*
7 Sheila Blackford and Peter Roberts, http://www.americanbar.org/publications/law_practice_home/law_practice_archive/lpm_magazine_archive_v37_is3_pg48.htmlClosing a Solo Practice: An Exit To-Do List; May/June 2011 Law Practice Magazine, Volume 37 Number 3.; Also see Sheila Blackford, "*Managing Your Client Trust Account: Where the Buck Stops*"; Law Practice, January/February 2011, Vol. 37, No. 1, Pg. 44.

Sandra J. Reeves maintains a solo law practice (Reeves Law Office, PLLC) in Corbin, Ky., focusing her practice primarily in the area of family law, real estate, and construction law. Reeves earned her B.S. in business administration from Cumberland College (*magna cum laude*, 1977); M.B.A in accounting (1978) from Eastern Kentucky University; M.S. in computer science education (1985) from University of Evansville; Ed.D. in computer technology and adult education (1993) from the University of Tennessee; and J.D. from Salmon P. Chase College of Law (1999). Reeves has been admitted to practice in the Eastern District of Kentucky, Western District of Kentucky and U.S. Supreme Court. Reeves was appointed to the Kentucky Bar Association's Task Force on Closed and Abandoned Practices (2013), as the AOC representative for the Project Development Board on the Whitley Judicial Center (2009), and has served as a member of the Kentucky Bar Association's Communications & Publication Committee from 2002-2004 and 2011-current. Reeves also received certification as a family court mediator in 2014. Prior to opening her own practice, Reeves served for 29 years at Cumberland College as college professor of business and computer science and department chair of computer information systems.

"THOSE WHO CANNOT REMEMBER THE

By: Michael Seth Reeves

For some unexplainable reason, Kentucky lawyers seem to be shocked each time we receive news that misfortune has struck yet another one of our own. We shake our heads in dismay and tally the number of friends, colleagues and acquaintances who have found themselves engaged in negligent, unethical and sometimes criminal practices, resulting in either suspension, or temporary or permanent disbarment. We are similarly surprised when we hear that other colleagues have simply closed their doors and walked away from the practice of law. Then there are those of our colleagues who have fallen victim to heart attack, stroke and other stress-related diseases. Some have been overcome by depression, drug addiction, alcoholism, and even suicide.

Why are we repeatedly surprised by news of this type? After all, we are engaged in an extremely stressful profession, exacerbated over the last decade by financial woes created by the economic downturn. Further, lawyers are prone to depression, which the American Psychological Association, among others, identified as the most likely trigger for suicide. Lawyers are 3.6 times more likely to suffer from depression than non-lawyers.[2] CNN News reviewed 50 state bar associations and found that eight associations were so concerned about suicides that they have taken added measures in an attempt to stop the deadly pattern. California, Montana, Iowa, Mississippi, Florida, South Carolina and North Carolina have all added a "mental health" component to mandatory legal continuing education.[3]

While Kentucky does not rank suicide by profession, it should come as little surprise to anyone that recent studies indicate that lawyers are six times more likely to commit suicide than members of the general population.[4] In a recent interview, former Kentucky Bar Association (KBA) President Tom Rouse reported that at least a dozen Kentucky lawyers committed suicide in the three-year period between 2010 and 2013.[5]

Sadly, our perpetual surprise at the fate that has befallen many of our colleagues appears to be matched only by our own smug, self-assured confidence that we are immune to any similar fate. Therefore, we as a profession repeatedly fail to plan for the unforeseen, and repeatedly fall victim to the fate of our colleagues.

The focus of this article is not what we can do to minimize the incidence of death and depression among Kentucky lawyers, as the topic is well beyond the scope of what can be addressed herein. Rather, the focus of this article is on heightening the awareness of the collateral damage in the form of an ever-increasing number of closed and abandoned law practices in Kentucky, and on what we as a profession are attempting to do about it.

By and large, we fail to recognize that it is not only the impacted attorney and his or her family who is adversely affected by the unforeseen closed and abandoned practice caused by the attorney's suspension, disbarment, death or abandonment. Rather, he or she is casting a much broader net over the attorney's clients, former clients, colleagues, the judicial system, and the reputation of the legal community as a whole, all of whom are victimized by the increasing number of closed and abandoned law practices. According to Rouse, "When an attorney leaves, closes or abandons his practice, it puts the public at risk... That lawyer can hold the lives and fortunes of a whole lot of people in their files."[6]

Yet all is not lost. The incidence of these occurrences and the effect on those around us could be minimized by members of the bar through a heightened awareness of our own vulnerability and mortality (again, beyond the scope of this article), and importantly by preplanning for the unforeseen. The Kentucky Bar is only one of a number of state bars, including but not limited to Utah, Ohio, Indiana, and Michigan, that has made a concerted effort over the last few years to draw the attention of its members to the ever-increasing issues surrounding abandoned law practices.[7] Further, the American Bar Association has campaigned for more than a decade in an attempt to convince lawyers to adopt contingency plans in the event that they can no longer practice law.[8]

Our neighbor state bars have taken a variety of different approaches to the problem in recent years. There is no consistency or uniform plan in Kentucky. Sometimes, the spouse or family member steps in without a real clue as to what should be done with regard to the law practice. Other times, an attorney friend will attempt in his "free time" to lend a hand to the bewildered staff of the affected attorney. The process is generally long and inefficient. Clients, as well as opposing counsel, are frustrated because often there is no one to answer the phone or to arrange for files to be retrieved. Cases drag on for month after month while everyone waits. Eventually the question comes up, "Isn't there some plan, some provision in place, for just such occurrences?" The answer is "Yes. Sort of. There is no provision for preplanning, but a backup plan, after the fact, when nobody steps up."

In Kentucky, SCR 3.395 governs. The rule was first adopted by Order of the Supreme Court, effective July 1, 1984, and was subsequently amended, effective Oct. 1, 1998. The rule currently includes permissive language which states that the director of the KBA "may" petition the Court for the appointment of one or more members of the KBA to serve as special commissioners to the Court in the event of the death, suspension, temporary or permanent disbarment, resignation, or abandonment of a law practice by a practicing attorney, but only when there is no law partner, personal representative or other person capable of conducting the attorney's business affairs.[9] The rule is narrow, and restricts the special commissioner's authority only to specific activities intended to protect the interests of the client, and makes no provision for generally closing out the law practice.

While the Rule states that the special commissioner is generally permitted to "take any other action which the clients are entitled"[10] and to "take any other action which the Court deems necessary to protect the interests of the clients,"[11] it makes no provision for managing the attorney's trust/escrow account, or many other important issues that arise with the closing of a law practice. The effectiveness of the rule is further limited by the fact that, in those instances where the attorney has died, the rule apparently may be invoked only when there is no "personal representative" for the estate. This begs the question of how to handle the attorney's trust account when the personal representative of the dece-

PAST ARE DOOMED TO REPEAT IT"[1]

PLANNING FOR CHANGE IN KENTUCKY

dent attorney is his non-attorney spouse, child, or other family member who does not have access to the trust account.

Furthermore, while the rule may be invoked by the director in the event of the death of the attorney, or his suspension, temporary or permanent disbarment, or abandonment of the practice, technically there is no provision in the rule for the appointment of a special commissioner in the event of either the temporary or permanent disability of the attorney.

Another valid criticism of the rule, as last amended, is that it is purely reactive, and may be invoked only when the law practice is in crisis or potential crisis mode. In its current form, there is no provision in the rule for preplanning, either permissive or mandatory. Simply put, the rule is more than 15 years old, and it has not kept up with the times. While it is a starting point, it needs to be revised and/or supplemented.

For these reasons, then KBA President Rouse, in concert with the Kentucky Board of Governors, assembled the Task Force on Closed and Abandoned Practices in November of 2013. The mission of the task force was to focus on situations where an attorney dies, or for some other reason closes or abandons his practice suddenly. The goal of the task force was to establish a uniform statewide approach to handling the problem, possibly in the form of a new or amended Supreme Court rule.[12] The Board of Governors named one Kentucky Supreme Court justice and 12 practicing attorneys representing, every Supreme Court District, to the Task Force on Closed and Abandoned Practices.[13]

The task force was divided into four subcommittees, dealing with (1) guidelines and forms for preplanning by a practicing attorney; (2) guidelines and forms for closing one's own practice and for assisting in closing the practice of a fellow attorney when preplanning has been implemented; (3) Supreme Court rule revisions; and (4) guidelines and forms for closing the practice of a fellow attorney who is no longer practicing, where that attorney has not anticipated or implemented preplanning. After a period of five months, the four subcommittee chairs reported each subcommittee's recommendations to the body at large. While it was the consensus of the task force that preplanning is an essential element to the plan, and should be incorporated into any proposed rule change, the task force was itself divided on whether preplanning should become mandatory in the form of a new Supreme Court rule. Therefore, two options were proposed by the subcommittee on Rules, the first consisting of modification and enhancement to the current SCR 3.395, and the second including promulgation of a new Supreme Court Rule 3.396, which includes a provision for mandatory preplanning.[14]

After each subcommittee made its recommendation to the task force as a whole, a "super subcommittee," consisting of three of the four subcommittee chairs, was named and spent the next month editing and assembling the task force's final consolidated report. In addition, the super subcommittee compiled a list of frequently-asked questions. The task force was assembled in January 2014 and concluded its work in June 2014.

In July 2014, task force chairman George E. Long II presented the Kentucky Board of Governors with the Task Force on Closed and Abandoned Practices' final report, a proposed change to SCR 3.395, and a new proposed Rule 3.396. The KBA Board of Governors adopted the task force report, and a resolution to send the proposed new rule amendment and rule change to the Bar Rules Committee for consideration. No additional action has been taken since the board's adoption of the report and resolution.

Optimistically, the anticipated outcome of this undertaking by Rouse, the KBA Board of Governors and the Task Force on Closed and Abandoned Practices will be a change to the rules, which will make for a smoother transition when we, as Kentucky lawyers, find ourselves no longer able to engage in the practice of law. We should, however, be mindful that it is not incumbent upon us to wait for a mandate in order to plan for the unforeseen, or to hedge against the fallout we have observed when so many of our colleagues have

failed to plan for the eventual closing of their law practices. We as members of the bar have the option to implement voluntary preplanning in our own practices. As long as we are satisfied to remain reactive, rather than to take a proactive approach, and as long as we continue to forget the chaos that we witness each time one of our colleagues closes his doors, our own offices will remain vulnerable and we will continue to be "surprised" over and over again.

Instead, we would be well-served to heed the warning of Spanish philosopher, George Santayana who said, "Those who cannot remember the past are condemned (or doomed) to repeat it."[15] B&B

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1 George Santayana, "The Life of Reason, Reason in Common Sense," 1905-1906.
2 Rosa Florez, "Why Lawyers Are Killing Themselves" Jan. 20, 2014; http://www.cnn.com/2014/01/19/us/lawyer-suicides/;.
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4 Associated Press WHAS11.com, "Panel Studies Issue of Lawyers Deserting Practices," November 29, 2013. http://whas11.com/news/Panel-studies-issue-of-lawyers-deserting-practices-233849291.html.
5 Neasa MacErlean, Global Legal Post, "Lawyers' Depression Leaves Clients Abandoned," Dec. 2, 2013, http://www.globalegalpost.com/big-stories/lawyers-depression-leaves-clients-abandoned-49728438/
6 The Indiana Law Blog, "A Lawyer's Troubles Can Leave A Legacy of Chaos: Clients' Cases and Money Abandoned with A Solo Layer Dies or Leaves", November, 2013, http://Indianalawblog.com/archives013/11/
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8 *Id.*
9 SCR 3.395(1).
10 *Id.*
11 SCR 3.395(2).
12 Kentucky Bar Association, Bench & Bar, President's Message, Vol. 77, No. 6, November 2013, pg. 2.
13 Kentucky Bar Association, Bench & Bar, KBA Board of Governor's Meeting: September 20, 2013, Vol. 78, No. 1, January 2014, pg. 20.
14 Interview with Task Force on Closed and Abandoned Practices member and "super subcommittee" member, Sandra J. Reeves, Sept. 8, 2014.
15 George Santayana, "The Life of Reason, Reason in Common Sense," 1905-1906. The phrase is sometimes attributed to Winston Churchill.

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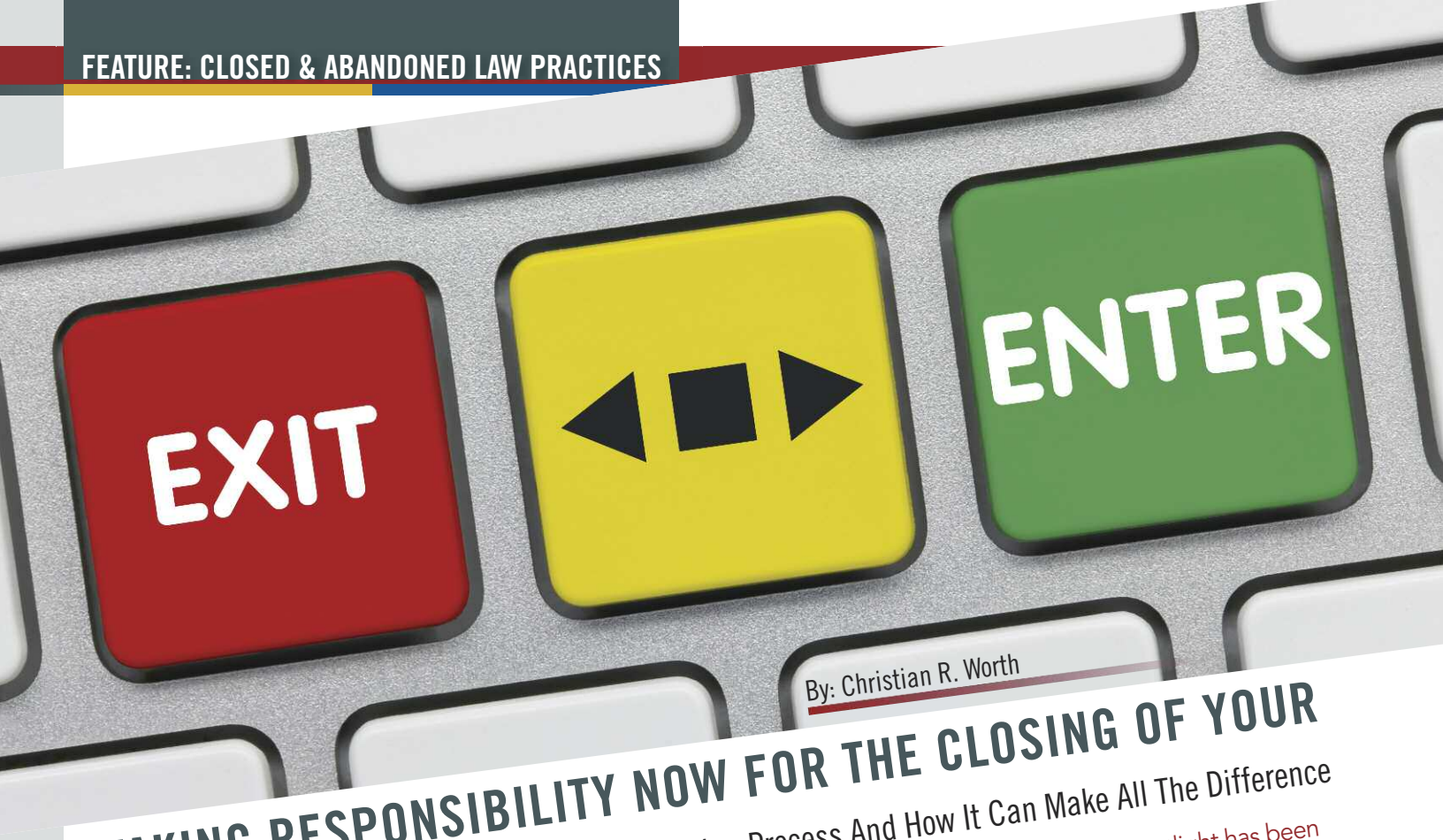


By: Christian R. Worth

TAKING RESPONSIBILITY NOW FOR THE CLOSING OF YOUR PRACTICE: An Overview Of The Preplanning Process And How It Can Make All The Difference

With the formation of the KBA Task Force on Closed and Abandoned Practices, a much-needed spotlight has been turned on the consequences suffered when an attorney has no plan in place to close out his or her own law practice. It does not matter either whether the attorney has any level of culpability in relation to the underlying reasons for closure - the burden on the attorney's clients, colleagues and family members can weigh just as heavily.

The focus of this article is preventing those consequences and lessening those burdens through the actions an attorney can take in the present to protect his or her practice in the future. The goal of such "preplanning" is to provide for an orderly way in which the practice may be closed and to minimize the impact on clients. Not only is such preplanning possible but many states have already provided specific guidance to their bar members. [1]

Sometime in 2015, the KBA Task Force on Closed and Abandoned Practices hopes to see Kentucky follow suit and publish a handbook for Kentucky attorneys that will include specific guidance on how to preplan for the closing of a law practice (hereinafter the "handbook"). In the near future, the reader will be able to access and download the handbook, which includes term definitions, checklists, FAQ, and samples of the documents and forms referenced in this article as well as a disclaimer emphasizing the responsibility of the attorney to adapt all materials appropriately to his or her practice needs.

This article does not attempt to cover all the materials in the proposed handbook. Instead, it presents an overview of the major steps involved in the preplanning process. Further, it highlights the steps required in closing a law office with preplanning measures in place whether directly undertaken by the sole practitioner herself or when death or disability prevents such direct involvement.

IT TAKES TWO: THE PLANNING ATTORNEY FIRST NEEDS AN ASSISTING ATTORNEY.

The first step is to acknowledge you have a law practice for which preplanning is necessary and are therefore a "planning attorney" – which is absolutely going to be the case for any attorney in sole practice. In fact, the ABA Model Rules of Professional Conduct reference the necessity of such a plan for a sole practitioner to have satisfied the requirements of Rule 1.3 *Diligence* in this Comment:

> To prevent neglect of client matters in the event of a sole practitioner's death or disability, the duty of diligence may require that each sole practitioner prepare a plan, in conformity with applicable rules, that designates another competent lawyer to review client files, notify each client of the lawyer's death or disability, and determine whether there is a need for immediate protective action.[2]

If you are such a planning attorney, then you should first be made aware that a planning attorney is only as effective in his planning as his chosen "assisting attorney," that colleague that will be authorized to take all necessary steps required to close the law practice. So one of your most important first tasks as a newly minted planning attorney is to enlist the support *and commitment* of another attorney whom you can keep prepared and duly authorized to spring into action to help close your practice. It is crucial that your choice of assisting attorney is not made lightly. And if you are asked to be an assisting attorney, be sure you fully understand your responsibilities before you accept this important role.

THE PREPLANNING PROCESS: ENTER INTO A WRITTEN AGREEMENT, EXECUTE A LIMITED POWER OF ATTORNEY, AND MAKE IT EASY TODAY FOR YOUR ASSISTING ATTORNEY TOMORROW.

Although a good start, describing your practice over lunch or giving your assisting attorney a tour of your office is not sufficient preplanning, especially considering that today much of a sole practitioner's file and correspondence may be virtual. Additionally, in the era of hacking and identity theft, gaining access to your office bank accounts and client trust accounts will most certainly require sufficient written authorization, even for the smallest of financial institutions. Without further written documentation of your intent that your assisting attorney be involved in closing your law practice, he or she may not be able to do much of anything at all.

A written contract should be drafted and customized to outline the responsibilities involved in closing your particular practice – and no two sole practices look alike. Your contract should include the conditions under which your law practice would be closed by the assisting attorney – consider, for example, whether an attending physician would be required to confirm your disability. You should also list in detail the tasks you would expect your assisting attorney to perform, such as paying utility bills, refunding unearned retainers, and copying/returning/storing client files. You should provide for how employees, office expenses and your assisting attorney will be compensated. Taking out a term policy for this sole purpose is an excellent and affordable idea. You will also need to consider whether your assisting attorney will serve as your personal attorney. This important decision will in turn affect whether the conflict of such representation will preclude your clients from retaining the services of your assisting attorney to conclude their legal representation.

A planning attorney should understand that the contract with the assisting attorney will not likely suffice for authorization when third parties are concerned. A limited power of attorney should be executed for your assisting attorney which recites the same terms for determination of your disability which could be presented to your bank, landlord and other third parties.

As the limited power of attorney would extinguish at your death, the preplanning attorney should incorporate language into her will that designates your assisting attorney, and directs your personal representative to have him appointed as a trustee to manage the closing of your law practice. Your law practice is either an asset, liability or both to your estate. It is neither ethical nor kind to expect that your family members must shoulder the tasks involved in closing your practice. It will be important that your spouse or closest living relative, and the personal representative of your estate, are informed of the existence of the contract with your assisting attorney and how to contact the assisting attorney in the event of your death.

As the planning attorney, it is also critical that you review how the day-to-day operations of your practice will affect your assisting attorney. Give some thought to what practical information your assisting attorney will need to know in order to close your practice. For example, do you print out every email? If not, then your assisting attorney will need to know passwords to access those communications. Do you input your time directly into billing software or keep written time slips? If you keep your time and billing records up-to-date, then your assisting attorney can invoice for work performed, with an accurate up-to-date accounting for your client trust account. Do you use online banking to pay office expenses? Your assisting attorney will need this information to be able to keep the lights on and pay the rent. Also for your assisting attorney to know is where you keep your trust account checkbook? Your clients will be entitled to refunds of unearned retainer and prompt disbursement will assist them in retaining new counsel. Additionally, who has a key to your office? Your assisting attorney will need access of course, but will also need to know who else has that access such as employees, office sharing attorneys, and custodial staff.

It is suggested that you compile a "law office list of contacts" that includes information about your landlord, malpractice carrier, and phone company. It should also provide information about how to access login and password information. This is not to suggest that all sensitive data should be listed in one document, but you must give detailed directions for your assisting attorney regarding who has access to such information and where it may be found.

If you thought you would not need an office manual for your small or sole practice, you may want to reconsider given how invaluable this could be for your assisting attorney, especially if you have little or no office support. In your office manual, explain your office procedures including but not limited to how your open and closed files are organized and stored. Do not assume your organization methods will be obvious to your assisting attorney.

The last component to preplanning is ongoing – schedule to review your contract with your assisting attorney at least annually, or sooner whenever there are any major changes to your practice. Similarly, you should update your office manual and law office list of contacts regularly. You should also have a contingent plan if you have any reason to believe your current assisting attorney's circumstances have changed such that he or she is no longer able to serve in that capacity. Alternatively, if you are an assisting attorney and feel for any reason you could not fulfill your obligations, communicate this immediately to the planning attorney.

You may also want to modify your engagement letter in such a way that your clients are assured they will be taken care of in your absence.

CLOSING YOUR LAW PRACTICE YOURSELF: HOW PREPLANNING WILL HELP YOU TO RIDE OFF INTO THE SUNSET WITH PEACE OF MIND.

The best case scenario for you, as a planning attorney, is that you will have a degree of control over the circumstances under which your law practice is closed. You may sell your practice, enter into a succession plan with another attorney or gradually reduce your workload in anticipation of retirement. But if illness or other personal circumstances force a closure under less than ideal circumstances, or within a very limited window of time, you will still need a plan. Your preplanning efforts will not have been in vain and will save you valuable time.

You should first contact your malpractice carrier to notify it of your intention to close your law practice. You will need to ask about the terms of any tail coverage already included with your current plan or the cost of purchasing such coverage.

You can then prepare the crucial "intra-office file closing/tracking chart" which will list each client and provide for memorializing critical dates, such as when you contacted the client to notify him/her of your closing, received the client's instruction for the file, and when those instructions were carried out. If you also prepare forms that can be easily completed to confirm the client file has been turned over to either the client or designated counsel, then you will have an easy way to track your progress on the tracking/closing chart as well as in the file itself.

As you review your files, you must pay special attention to any cases where deadlines are imminent. Seek extensions and continuances whenever possible for the client and prepare written substitutions of counsel where possible. You should also notify the judges in the courts in which you practice, as well as your opposing counsel, so that they are aware of your situation.

Next, you will need to notify your clients of your plans to close your law office – not just over the phone but also in writing. Your letter should direct that your client will need to contact you as soon as possible to provide written instruction for delivery of the file. Any client who decides to pick up the file directly will need to sign a written release/receipt. Do not neglect to include the dates that final invoices will be sent and any unearned retainer refunded. If you have any original client documents remaining in your files, you must make it a priority to return those to the client. Clients should also be notified of the name and contact information for your assisting attorney for the period of time when client files will be maintained before being destroyed.

If you have maintained your office manual and law office list of contacts, you will be thankful that you already have available an easy reference and checklist for closing out the day to day operations of your law practice. You can simply work through the accounts and vendors to ensure contracts are terminated and services terminated without fear that you are overlooking any. A final consideration is that all hard drives be cleaned of client and other sensitive data before recycling the computers.

CARRYING OUT THE PLAN: WHAT HAPPENS WHEN YOUR ASSISTING ATTORNEY CLOSES YOUR LAW PRACTICE FOR YOU.

Your preplanning measures are most important when you are unable to continue to practice law, and unable to close your own practice. In this event, your assisting attorney will have written authorization, clear guidance to undertake all necessary tasks and your clients – who have already been notified of your assisting attorney - will not panic, knowing they are protected.

Upon learning of your death or disability, your assisting attorney's first act will be to locate the documents discussed in the beginning of this article – the contract, the limited power of attorney, the office manual and the law office list of contacts. With these in hand, your assisting attorney can notify your malpractice carrier of the circumstances of your closing and can compile the critical "intra-office file closing/tracking chart" described above.

If death is the reason for closing your law practice, through your preplanning, your will should already have provided for your executor or personal representative to file a motion requesting your assisting attorney be formally appointed as a trustee, charged with closing your practice as an asset of the estate. Your assisting attorney's orders of appointment should mirror the same authorizations as your contract so that the assisting attorney can have appropriate access to your office, your client files and your financial accounts.

Whether duly authorized by virtue of the contract, or by order of the probate court, the assisting attorney will next send out a notification letter to all clients. This letter should state plainly that the assisting attorney is not taking over your cases and that new counsel should be retained immediately.

Your assisting attorney should also notify opposing counsel and the courts of your inability to continue representation and the closing of your practice. In most circumstances, this means that the assisting attorney is not obligated and should not file pleadings or motions on your client's behalf, unless he has also been retained as the client's new counsel. As previously mentioned, this will turn on whether the assisting attorney was also the planning attorney's personal attorney.

While continuing to chart the manner in which client files are either transferred to other counsel or retrieved by the client, your assisting attorney will follow the procedure you have outlined in your contract for closing your law practice, preparing it for sale by the estate, if appropriate. With the office manual and the law office list of contacts in hand, your assisting attorney should have a readymade checklist for the steps he will follow. The last step should be to arrange for the storage and safekeeping of your remaining client files for an appropriate period as provided in your contract.

ACT NOW: EFFECTIVE PREPLANNING PROTECTS YOUR CLIENTS, YOUR PRACTICE AND YOUR REPUTATION.

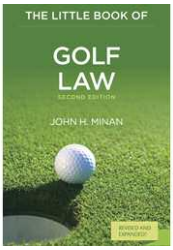
Preplanning to close your law office can seem like a daunting and time-consuming undertaking. Therefore, far too often it goes undone. If you have already made a formal written agreement with a colleague then this article may serve as a reminder to renew and update your plan.

But if you have no plan, or only a verbal arrangement, then you are gambling with your clients' futures, your family's peace of mind and your own good name and should take action now for the orderly closing of your law office in the future. B&B

Christian R. Worth is a graduate of Washington and Lee University and the UK College of Law. She has just started her 17th year in sole practice in Lexington, with a focus on family law. She received the Outstanding Young Lawyer award from the Fayette County Bar Association in 2009 and serves on the board of the Fayette County Bar Association Pro Bono Program. Her service on the Kentucky Bar Association's Task Force on Closed and Abandoned Practices is in tribute to her father, Donald I. Renau, a sole practitioner in Louisville who taught her the importance of preplanning by giving her a sealed "911" letter containing everything she would need to know to close his law practice each and every year until his death in 2007. She may be reached via email at cworthlaw@gmail.com.

1 A partial list of publications available in other states include "Maine Handbook For Withdrawal From Practice From The Bar," A publication of the Maine Board of Overseers of the Bar, © Board of Overseers of the Bar 2009; "Planning Ahead: A Guide To Protecting Your Client's Interests In The Event Of Your Disability Or Death: A Handbook and Forms," Barbara S. Fishleder, published by Oregon State Bar Professional Liability Fund, © 2009; "Planning Ahead Establish An Advance Exit Plan To Protect Your Clients' Interests In The Event Of Your Disability, Retirement or Death,"Prepared by the New York State Bar Association's Committee on Law Practice Continuity, © 2005 The New York State Bar Association; "Establishing A Succession Plan: A Guide to Protecting Your Client's Interests in the Event of Your Disability, Retirement or Death,"Prepared by the West Virginia Lawyer Disciplinary Board End of Practice Committee, October, 2013; "Succession Planning Handbook for Iowa Lawyers: Protecting the Interests of Your Clients in the Event of Your Disability or Death" Office of Professional Regulation, September 2011 Edition;

2 "Last rites for law practices", Your ABA:September 2012. http://www.americanbar.org/newsletter/publications/youraba/201209article11.html.



BOOK REVIEW OF "THE LITTLE BOOK OF GOLF LAW"

(2nd Ed, ABA Pub. 2013) by Professor John H. Minan

By: Edwin S. Hopson

In a unique approach to law in the context of the game of golf, Professor John H. Minan has expertly covered the field.[1]

Minan has expanded the first edition of **"The Little Book of Golf Law,"** which was met with substantial acclaim when first published in 2007. Minan's first edition drew wide praise. Citing the first edition, The Wall Street Journal noted a first principle of the law of golf: "For situations that aren't covered in the rules, there's still the all-important equity clause ... When in doubt, do what's fair."[2]

The 390-page second edition is essentially a casebook on the law of golf. The chapters include torts, contracts, property, intellectual property, environmental law, equal protection, sovereign immunity, antitrust, tax, and the Americans with Disabilities Act (ADA). In the torts chapter, the topics treated include "Hole One: Golfer Liability to a Playing Partner: Slow Play and 'Ready Golf.'" "Ready Play" is the means by which to get the golfer in front of you to speed up.

While the chapter headings and sub-headings may be tongue-in-cheek, the book qualifies as substantive law and would be useful in a sports-law course. The first edition has been used in CLE programs, and it is easy to imagine that the second will be used as well.

One of the cases Minan examines is *PGA Tour, Inc. v. Martin.* [3] The reader may recall that Casey Martin suffered from a rare muscular and circulatory disorder which prevented him from walking a golf course. Invoking its walk-only rule, the Professional Golfers Association barred Martin from using a cart at its tournaments. Martin sued under the ADA, won in district court, and again in the Ninth U.S. Circuit Court of Appeals. Resolving a conflict in the circuits, the Supreme Court ruled 7-2, that in accord with the ADA, the PGA was obliged to accommodate Martin's handicap by letting him use a cart, Justices Scalia and Thomas dissenting. The PGA's walk-only rule was at best peripheral and not an indispensable aspect of the game of golf, the majority held.

Minan also discusses a number of newer cases, including a gender-discrimination case styled *Joyce v. Town of Dennis.*[4] Joyce objected to being excluded from a men-only tournament at a public course. She sued, citing the Equal Protection Clause of the Fourteenth Amendment and Massachusetts' anti-discrimination and consumer-protection statutes. She also filed an administrative complaint.

The trial court granted Joyce's motion for summary judgment, finding that since the tournament was held at a public course, the public accommodation laws applied to her and to the town. Second, the court rejected the town's "separate but equal" argument. It is strange to see the justification of separate but equal for any kind of discrimination upheld, as it was to justify racial discrimination in *Plessy v. Ferguson* (1896) 163 U.S. 537, 16 S.Ct. 1138, 41 L.Ed. 256, and which was repudiated in *Brown v. Board of Education of Topeka* (1954) 347 U.S. 483, 74 S.Ct. 686, 98 L.Ed. 873, 60 years ago.

After a flurry of lawyering and judging and upon remand, Joyce won her claim for injunctive relief, $87,287 in attorney's fees and just under $5,000 in costs.

There are other cases in "The Little Book of Golf Law" that will pique the interest of golfers and non-golfers alike.

Edwin S. Hopson is a partner in Wyatt, Tarrant & Combs, LLP, and is a member and former chair of the firm's labor and employment practice group. He is exclusively involved in the practice of labor and employment law. He began his career in 1969 as an attorney in the Office of the Solicitor, U.S. Department of Labor, in Washington, D.C., and in 1972 became a field attorney with the National Labor Relations Board, Region Five, in Baltimore. He returned to Louisville in 1974 and became associated with the firm. He received a B.S.L. from the University of Louisville in 1967, a J.D. from the University of Louisville Louis D. Brandeis School of Law in 1969, and an LL.M. (with highest honors), majoring in labor law, from George Washington University in 1971. Hopson chaired the KBA's Publications Committee and was editor of the Bench & Bar Magazine from 2001 to 2008.

1 John "Jack" Minan is professor of law at the University of San Diego, where he teaches property, land use planning and water law. He also has served in various administrative capacities at the law school, including associate dean for academic affairs. A prolific writer, Minan has authored or co-authored eight books, four contributions to books, more than 40 scholarly articles and numerous published reports and proceedings. Professor Minan holds a bachelor's degree from the University of Louisville, and a Masters of Business Administration degree from the University of Kentucky. Minan received his JD from the University of Oregon.

2 J.P. Hayes, "Rules Are Made To Be…Completely Baffling," The Wall Street Journal (May 23, 2009).

3 532 U.S. 661 (2001).

4 705 F. Supp 2nd (Mass. 2010),

YLD YOUNG LAWYERS DIVISION
KENTUCKY BAR ASSOCIATION

By: Brad Sayles,
YLD Chair

A VERY GOOD PLACE TO START

In 1983, the year I was born, **Chief Justice Warren Burger** increased his efforts to combat what he, and many others, perceived as a decline in the professionalism of attorneys.[1] Chief Justice Burger's efforts led to the ABA's establishment of the Commission on Professionalism in December of 1984.[2] The commission's work produced the 1986 Stanley Report, which listed numerous areas of concern and offered suggestions to address them. The profession has taken great strides to correct a number of the Stanley Report's concerns. But as I stood shaking the hands of newly admitted attorneys after this October's swearing-in ceremony, I listened to several now licensed attorneys described their plan to hang their own shingle, not as a matter of choice, but as a product of the tight job market.

It was clear to the Commission in 1986 that, "The first three to five years of a lawyer's practice are critical to his or her successful transition from student to independent professional."[3] As the report noted further, "Physicians have internships and residencies during this period. The legal profession has been far less attentive to this time in a lawyer's career."[4] The commission pushed the profession to take substantial steps to help beginning lawyers through this period. The report concluded that for those fortunate enough to find employment, "the responsibility for easing the transition into practice should rest on the shoulders of those firms."[5] While this continues to be the practice, clients may not always be willing to pay for the work of first and second year associates.[6] Regardless, the report identified what has become an even more troubling issue in Kentucky and elsewhere: "The problem of providing similar opportunities for consultation with lawyers not in firms is more difficult."[7]

The Stanley Report offered two solutions to address the transition issue for lawyers heading out on their own. First, that more senior, or even retired, lawyers could mentor the younger attorneys.[8] State bar associations across the country have made efforts to establish mentoring programs to place young attorneys in contact with the more senior mentoring lawyers. In 2012, the Kentucky Bar Association (KBA) joined the ranks with its own Lawyer-to-Lawyer mentoring service as a part of the Great Place

to Start (GPS) resource center.[9] Like many of the other voluntary mentoring projects, Kentucky's has plenty of registered mentors and not nearly as many mentees.[10]

Several have offered their opinions on why this occurs, equally placing the blame on both senior and young attorneys.[11] The law school environment may have something to do with a lack of mentees. Much of the work and reward in law school comes from individual efforts. As a result, newly minted attorneys may have become dependent on their own hard work and perseverance to succeed.

Introducing law students to the bar association while they are in law school may help. This burden, as it should, falls on the Young Lawyers Division. We have started, through the leadership of **Tanner Watkins** and others, to increase the Young Lawyers Division's presence in each of Kentucky's law schools. Watkins plans to continue increasing these efforts into his year as the division's chair. I have no doubt that his initiatives will help transition more young attorneys into active bar participants and increase awareness of bar services, including GPS's lawyer-to-lawyer mentoring service.

The Stanley Report's second solution was that "Law schools can assist in organizing transition programs."[12] While the report may have placed this task on law schools, the KBA has made efforts to meet this solution as well, through the mandatory New Lawyers Program. Pursuant to Supreme Court Rule 3.640, the CLE Commission offers two programs a year consisting of at least 12 CLE credit hours, which newly admitted attorneys are required to complete within a year of their admission to the bar. With each year, the New Lawyers Program continues to improve and evolve.

Unlike the New Lawyers Program, our current mentoring service is voluntary. Most mentoring programs are, but this is starting to change. In 2006, Georgia became the first state to adopt mandatory mentoring.[13] Since then Utah, Delaware, Nevada and Oregon have also adopted mandatory mentorship programs.[14] Our voluntary mentoring program is a good start, and we can, and will, do more to foster its success, but I do not believe we will see true adoption of the process under a voluntary system.

I cannot stress the importance of mentorship. Most young attorneys need that one more senior "sounding board" to guide them in the practice of law. I, however, needed far more assistance than any one attorney could provide. Without the patient guidance of **Andrew Smith**, **Chief Justice John Minton**, **Carl Frazier**, **Jeff Barnett**, **Wes Butler** and **Robert Benvenuti**, I would be a far poorer advocate and person. If you are a young attorney without a mentor, please visit www.kbagps.org and connect with a mentor.

1 See Seven Keeva, "Once More, With Healing", ABA Journal (May 1, 2004) available at www.abajournal.com/magazine/article/once_more_with_healing. Mr. Keeva discusses hearing Chief Justice Burger speaking at the 1983 ABA Midyear Meeting on the image of lawyers. That same year Chief Justice Burger created a committee of the Judicial Conference of the United States to explore the establishment of a national American Inns of Court whose goal is to foster excellence in professionalism, ethics, civility and legal skills. The American Inns of Court, "The History of the American Inns of Court" (2014) available at home.innsofcourt.org/about-us/get-to-know-the-american-inns-of-court/the-history-of-the-american-inns-of-court.aspx.

2 American Bar Association, Commission on Professionalism, " . . . . 'In the Spirit of Public Service.' A Blueprint for the Rekindling of Lawyer Professionalism.", at p. v (1986) (herein after the "report" or the "Stanley Report", so named after the Commission's chair, former ABA President Justin A. Stanley.) available at www.americanbar.org/content/dam/aba/migrated/2011_build/professional_responsibility/stanley_commission_report.authcheckdam.pdf.

3 *Id.* at 22.

4 *Id.*

5 *Id.*

6 Ashby Jones and Joseph Palazzolo, "What's A First-Year Lawyer Worth?", The Wall Street Journal (Oct. 17, 2011)("According to a September survey for The Wall Street Journal by the Association of Corporate Counsel, a bar association for in-house lawyers, more than 20 percent of the 366 in-house legal departments that responded are refusing to pay for the work of first- or second-year attorneys, in at least some matters.") available at online.wsj.com/articles/SB10001424052970204774604576631360989675324. See also Amanda Becker, "Howrey Law Firm Shifts Pay, Development of Entry-Level Attorneys", The Washington Post (April 26, 2010) (noting that clients are "increasingly unwilling to pay $300 an hour for junior associates to learn on the job.") available at www.washingtonpost.com/wp-dyn/content/article/2010/04/23/AR2010042303429.html; and James D. Cotterman, "Compensation Challenges: Trends in Paying Partners and Associates in Trying Times", ABA's Law Practice Magazine, Vol. 35 No. 5, p. 47 (2009)("Clients are increasingly hesitant, if not downright unwilling, to accept first- and second-year associates on their matters.") available at www.americanbar.org/publications/law_practice_home/law_practice_archive/lpm_magazine_articles_v35_is5_pg47.html.

7 The Stanley Report at p. 22.

8 *Id.*

9 Available at www.kbagps.org.

10 See Robert Dercher, "Mentoring: Changing Programs for Challenging Times" 35 B. Leader 6, p. 6 (2010-2011) (discussing several state bar mentoring programs, in particular Alabama's program which started in 2007 and was disbanded by 2009 due to a lack of interest and issues with participants.).

11 *Id.*

12 The Stanley Report at p. 22.

13 See the ABA's Summary of Mentoring and Transition into Law Programs discussing Georgia's Program at length, available at www.americanbar.org/content/dam/aba/administrative/professional_responsibility/mentoring_transistion.authcheckdam.pdf. For more information on Georgia's transition into law program is available at www.gabar.org/aboutthebar/lawrelatedorganizations/cjcp/mentoring.cfm.

14 Dercher at p. 6; See also Oregon State Bar's New Lawyer Mentoring Program at www.osbar.org/nlmp and Nevada's at www.nvbar.org/tip.

UK

UK UNIVERSITY OF KENTUCKY College of Law

AWARD-WINNING FACULTY AND STUDENTS

The Fall 2014 semester at the **UK College of Law** begins with awards and recognitions, as the College received a third place ranking in the nation's top 20 Best Value Law Schools by Pre Law magazine. Recognition for this award is based on a combination of bar passage rates, employment rates, debt load, and tuition.

Our Thomas P. Lewis Professor of Law, **Christopher W. Frost**, received the 2014 Editors' Prize by the American Bankruptcy Law Journal. His article, entitled "Bankruptcy Voting, Bad Faith and Claim Designation," discusses the law surrounding creditor voting in Chapter 11 bankruptcy cases. It focuses particularly on the circumstances that lead judges to disqualify the votes of creditors based on creditor bad faith or other misuse of the voting power. "It is an honor to receive this award from the National Conference of Bankruptcy Judges," said Professor Frost. "Bankruptcy judges are true experts in the field and I am delighted that they found my contribution to be a useful one."

Katherine Beyer, a third year law student from Richmond, Va., won first place in the 2014 IDEA Student IP Writing Competition. Her article, "Hyper-Linking Content as Copyright Infringement: Not Worth All the Hype," will be published in IDEA: The Intellectual Property Law Review this fall. "I ultimately want to practice in the field of intellectual property, so this award also shows me that this is a real possibility, that my thoughts and ideas about the field are appreciated and respected," says Beyer.

RECENT COLLEGE OF LAW EVENTS

Pictured left to right: UK College of Law Dean, David A. Brennen; UK College of Law Professor Allison Connelly; Doug Jones; and UK President, Eli Capilouto at a reception in honor of Mr. Jones.

The UK College of Law provides a diverse range of opportunities for our students to learn from lawyers in various fields and, in early September, former U.S. Attorney for Alabama **Doug Jones** spoke to a full UK College of Law Courtroom. Jones discussed the 1963 bombing of the 16th Street Baptist Church in Birmingham and his re-opening of the case and prosecution of two of the four Ku Klux Klansmen responsible for the deaths of four girls and the injury of a fifth. Jones, a Birmingham native, provided historical background of the civil rights events leading up to the fateful day in September of 1963. He was nine when the bombing occurred and even knew the father of one of the girls who died. When he became U.S. Attorney, he devoted his career to holding responsible the remaining two KKK members who had not been prosecuted.

During his speech, he explained why the KKK targeted that particular church and its youth. Jones used videos, pictures and audio, most of which were used as evidence in the trials of Thomas Blanton and Bobby Frank Cherry. After the conviction of Blanton in 2001, Jones said, "They say that justice delayed is justice denied and folks, I don't believe that for a minute." Cherry was later convicted in 2002.

Jones had some advice for the law students in the room. "Remember, we are a service profession," said Jones. "It is not just about your business and your income. We owe it to our fellow man to make this place a better place and to strive to make a better community."

Judge Gregory Van Tatenhove and his law clerk, a UK College of Law graduate, Bill Brammell, are pictured with the five judges from Turkey and their Turkish facilitator.

A week later, the UK College of Law welcomed five judges from Turkey in a joint partnership with the UK Patterson School of Diplomacy and **U.S. District Judge Gregory Van Tatenhove**, Eastern District of Kentucky. The Turkish judges served on a panel with **Judge Van Tatenhove**, UK College of Law **Professor Cortney Lollar**, and with **Professor Marianna Jackson Clay** moderating. They discussed the similarities and differences between the judicial and legal education systems of Turkey and the United States. A major difference in legal education is Turkish students do not need to complete an undergraduate degree to apply for law school. They must graduate from high school, pass a written and an oral test and, if they pass both, they are admitted to a four year program followed by two years of internship.

Another difference was in regards to age. UK College of Law students were most interested in the ages of the guest judges, which ranged from age 28 to 44 and, based on the judges' comments, that the Turkish judiciary is made up of approximately 40 percent women. Judge **Zekiye Ozturk** explained that judicial appointments are based on a merit system. Newly appointed judges are placed in smaller provinces. As time goes on and inspectors deem you in good standing, you are then relocated to a larger province with more workload. "While we may be young, our caseload gives us incredible experience," Judge Ozturk said.

In a country of approximately 80 million people, the judicial system sees more than three million cases filed per year.

UK College of Law Professor Josh Douglas and Trevor Potter.

Most recently, **Trevor Potter**, national campaign finance lawyer, visited the UK College of Law for an open forum on October 1. Potter has served as general counsel to several presidential campaigns, most recently for John McCain in 2008. He is a member at Caplin & Drysdale, leading the firm's political law group. Additionally, he is the founder, president and general counsel of the Campaign Legal Center, and the former commissioner and chairman of the Federal Election Commission. Potter has frequented "The Colbert Report," a late-night satirical television program that airs on The Comedy Channel, as the campaign finance attorney for Stephen Colbert.

While at UK College of Law, Potter spoke in depth about Political Action Committees (PACs) and how they work in relation to funding election campaigns. It was his expertise in campaign finance that landed him his first guest appearance on "The Colbert Report." Potter explains: "I'm sometimes asked how in the world I got there, to which the answer, which every good lawyer should remember, is just return phone calls, even from people you've never heard of." He says he returned a Colbert Report staff member's phone call concerning PACs, which led to him speaking on the phone with Stephen Colbert. This further led him to an appearance on the show to explain on live television how to create a 501(c)3 and then funnel money from it to a PAC while remaining anonymous.

After the noontime forum, Potter spoke to UK College of Law **Professor Joshua Douglas**' election law class.

STRATEGIES FOR INTERDISCIPLINARY EDUCATION

By: Dean Susan Duncan

One of our major strategic planning goals is to "develop a strong program of interdisciplinary education, scholarship, and service." We know our students need to be looking at society's issues and problems from a multifaceted lens. As attorneys, they will be working side-by-side with all types of other professionals trained in different fields. Although this might be a newer way to structure legal education for some schools, an interdisciplinary approach to issues has had a long tradition at our school that is named after a man known for his use of non-legal sources in his work as an advocate and on the Supreme Court. **Justice Brandeis**' brief in the *Muller v. Oregon* 1908 case used social science and economics to argue for protections for women's working conditions. Today, over 100 years later, we continue to approach societal problems from a multidisciplinary perspective.

To accomplish our strategic plan goal we are in the process of reviewing all of our interdisciplinary classes, programs and activities. Space prohibits me from highlighting all of our many interdisciplinary initiatives but below I describe a few of the ways we collaborate with other disciplines.

JOINT DEGREES

In recognition of the interdisciplinary nature of law, the law school offers a number of dual degree programs providing students an opportunity to earn two degrees in a reduced period of time. These include:

- Juris Doctor/Master of Business Administration
- Juris Doctor/Master of Divinity
- Juris Doctor/Master of Science in Social Work
- Juris Doctor/Master of Arts in Humanities
- Juris Doctor/Master of Arts in Political Science
- Juris Doctor/Master of Urban Planning
- Juris Doctor/Master of Arts in Bioethics and Medical Humanities
- Juris Doctor/Master of Public Administration – Coming soon

INTERDISCIPLINARY COURSES AND EXPERIENCES

Laura Rothstein

In addition to these joint degree programs we offer several courses for law and non-law students. One popular and unique course in this category is **Laura Rothstein**'s Poverty, Health and the Law class. This class studies legal solutions to the health disparities of poor and vulnerable populations through an interdisciplinary, problem-solving approach. Students learn the basic substantive law regarding safe and affordable housing, family violence and child safety, special education and other disability rights, immigration, public health law and public benefits. This year the class includes not only 23 law students but four graduate students from public health and sociology.

Students interested in these topics may also participate in the **Doctor & Lawyers Kids program**. This medical-legal partnership joins the University of Louisville Department of Pediatrics, the Legal Aid Society, the Louisville Bar Association, Kosair Children's Hospital and the law school in a common mission: addressing the needs that affect the health and welfare of children and their families. Law students help identify and resolve legal needs before they become a crisis.

Medicine is only one example of an innovative partnership with the law school. **Tony Arnold**'s Land Use and Planning Law course enrolls both law students and graduate planning students. This course examines legal issues related to planning and land use activities in the U.S. Students study various legal and regulatory tools, including ordinances, state and federal legislation, and judicial decisions. Considerable attention is given to planning perspectives on legal problems, as well as legal perspectives on planning problems, and thus has an interdisciplinary focus.

Tony Arnold

In 2011, 10 of Professor Arnold's students in this class developed a plan to enlarge Louisville Metro's urban tree canopy that not only received a state award but also contributed to the city's efforts to plant and better care for trees.

In a previous article discussing the students' contributions to this area, **Katy Schneider**, a mayor's office volunteer who co-chairs the Louisville Metro Tree Advisory Commission, said the students' work "was also a key factor in getting our tree advisory commission started. It was tremendously valuable to us because the students had done so much of the research. It put trees on the radar of the policy-makers and decision-makers."

Finally, Brandeis students interested in entrepreneurship can gain and apply practical lawyering skills in the field of business law through the entrepreneurship clinic or enrolling in entrepreneurship classes at the business school. Law students in the clinic represent students enrolled in the Entrepreneurship MBA program at the University of Louisville College of Business who are participating in internal, national or international business plan competitions, or have other legal needs as determined by the clinic director. These opportunities offer invaluable experiences for law students who either want to represent businesses or start their own businesses.

As you can see **Brandeis School of Law** remains an active partner with many other fields in our efforts to educate our students and serve the public. In the near future we also hope to develop educational interdisciplinary law programs for professionals in other fields (e.g., teachers, human-resource managers, business innovators, environmental managers or policy makers, health professionals, etc.). As these opportunities become available, I will share them with you.

NKU CHASE

NKU CHASE COLLEGE OF LAW

NKU CHASE CELEBRATED THE INAUGURATION OF THE W. BRUCE LUNSFORD ACADEMY FOR LAW, BUSINESS + TECHNOLOGY

Modern law firms are revolutionizing the practice of law. Would-be clients can now utilize home technology to supplement the advice of the solo practitioner while virtual law firms and legal service providers threaten to tear down the twentieth-century Big Law business model. These changes present radical disruption to the legal profession that cannot be ignored by law schools.

In response to these profound disruptive changes to the profession, **NKU Chase College of Law** developed the **W. Bruce Lunsford Academy for Law, Business + Technology**, offering students an honors program. On September 23, NKU Chase celebrated the inauguration of the W. Bruce Lunsford Academy for Law, Business + Technology in the NKU Griffin Hall George and Ellen Rieveschl Digitorium. The inaugural entering class of Lunsford Scholars was in attendance.

Noted legal scholars, educators and practitioners from across the country gathered together to discuss profound disruptive changes that are sure to impact the future of the profession and legal education. They examined the expectations the market may place on future lawyers, and by extension, the training necessary for lawyers entering the modern practice of law. Five law school deans shared their views on the necessary changes to law school curricula and programming essential for law school graduates to succeed in the modern profession of law. *To view the archived webinar, visit bit.ly/LunsfordWebinar.*

At Chase, honors students have the opportunity to participate in the Lunsford Academy's honors course offerings, enhancing the comprehensive legal education provided by NKU Chase. The academy emphasizes legal technology, business, finance, leadership and other skills critical to the future of the practice of law and business. "The program produces 'Renaissance Lawyers' for the Information Age. Our Lunsford Scholars will be fluent in the languages of law, business and technology," said Lunsford Academy director and Chase Professor, **Christopher Gulinello**. "In addition to a solid foundation in the study of the law, they will need to be able to make sense of financial statements, process basic statistical analysis, understand change management best practices to lead their future teams, and be prepared to take advantage of tomorrow's technological wonders as they seek cost-effective and productive solutions to business problems." Through the academy's technology-focused, skills-based curriculum, students acquire the fundamental skills that make them more productive for their clients, more appealing to employers, and better prepared to practice law or lead organizations upon graduation.

As shared originally in the NKBA's *LexLoci*, Dean Standen said, "My goal with the Lunsford Academy is to create a stimulating and highly useful program for a limited number of honors students. We will start it small and build from there. Judging by the number and quality of the entry-level applicants, we are off to a great start. Yet I have another, secret goal for the academy and its cutting-edge curriculum. I happen to think all JD-trained graduates, whether they choose to seek an executive career or a more traditional career as a practicing lawyer, could benefit from instruction in quantitative methods, leadership, and informatics."

The academy is named for **W. Bruce Lunsford**, a 1974 Chase graduate, who committed $1 million to the program. Lunsford is chairman and CEO of Lunsford Capital, LLC, a private investment company headquartered in Louisville. *To learn more, visit lunsfordacademy.org.*

Professor Christopher Gulinello

"READING CHINESE LAW IN MANDARIN AT NKU CHASE"

At NKU Chase College of Law, **Professor Chris Gulinello** and several Chase students have developed opportunities to focus on the law, language and culture of the **People's Republic of China**.

During the past calendar year, more than 10 Chase students have been involved in one or more of the following activities related to the studying Chinese law: an elementary Chinese language course taught at NKU; an informal weekly "Chinese Chat at Chase," where students practice speaking and reading Chinese; and a Chinese business law course taught by **Professor Gulinello**, in which assigned readings are in Mandarin.

With the help of **Jiechen "Joseph" Chen**, a second-year Chase law student from China, all of these Chase students have had significant interactions with Chinese nationals studying at NKU. "I'm glad to see Chase expand the opportunities to study international business law," Chen said.

Professor Gulinello frequently invites Chinese undergraduate exchange students to join the class on Chinese business law. "Chase students appreciate the opportunity to improve their language skills and learn about China and its legal culture," he said.

Matthew Ryan, a candidate for JD/Master of Business Informatics joint degree, expected 2015, said, "It's so beneficial, having the native speakers involved. Just hearing different pronunciations and different inflections helps to really cement what we're learning." For Chen, who studied maritime law in China before coming to Chase, the best way to learn American jurisprudence is to read the cases and hear the presentations in English. He's thrilled that Chase is bringing in exchange students into the classes to help his American peers better understand the statutes and contracts written in Mandarin.

And it's not all about the language and culture of China. "Surprisingly, the Chinese business law class has improved my

knowledge of American law. Most of the law in China is similar to America's approach, said **Michael Madden**, a JD candidate with an expected graduation in 2015. "However, when there are differences, I am compelled to figure out why."

Professor Gulinello practiced general corporate law and mergers and acquisitions in Taiwan for two years. From this experience, he gained a better perspective on the global market and the broader global market for lawyers with experience in Chinese law. Over the last 11 years at NKU Chase, he recognized Kentucky and Ohio businesses have had a growing number of interactions with Chinese businesses. Armed with the recognition of this market demand and his passions for studying corporate law and the language and culture of China, **Professor Gulinello** not only created the course on Chinese business law, but he is also authoring a text on the subject, tentatively titled "A Reader in Chinese Business Law." He has published several scholarly articles discussing the law of the U.S., Taiwan and the People's Republic of China. He is currently working on two other textbooks: "Business Organizations: Practical Applications" and "Primers on Contract Law."

Diane Haag, JD Candidate, 2015, advises prospective law students, "Don't be afraid to try new classes that sound fun. The diversity of experience may help open doors for you later on down the road."

While the students are enjoying the experience, their sense of purpose drives them to take the work seriously. "I'm looking forward to developing a corporate practice, where I'll be poised to negotiate and draft contracts in Mandarin for my clients seeking to take advantage of opportunities in China," Madden said. " Haag added, "At Chase, I have gained invaluable experience through the Small Business & Nonprofit Law Clinic, Chinese business law class, other courses and CLE events in preparation for starting my own practice, where I hope to help small businesses work with suppliers, distributors, and the like in China." For now, Chen plans to launch his career by practicing international business law or immigration law in Cincinnati.

NKU Chase is developing at least one more advanced course in Chinese business law. "We look forward to continuing to expand this cutting edge program, and I encourage prospective law students interested in exploring the law and culture of China to apply to NKU Chase and I welcome practitioners with China-related experiences to share their ideas and suggestions," **Professor Gulinello** said. For more information, please contact **Professor Gulinello** at gulinelloc@nku.edu.

SUMMARY OF MINUTES: KBA BOARD OF GOVERNORS MEETING, JULY 18, 2014

The Board of Governors met on Friday, July 18, 2014. Officers and Bar Governors in attendance were, *President* **B. Johnson**; *President-Elect* **D. Farnsley**; *Vice President* **M. Sullivan**; and *Young Lawyers Division Chair* **B. Sayles**. *Bar Governors 1st District* – **M. Pitman**, **F. Schrock**; *Bar Governors 2nd District* – **T. Kerrick**, **J. Meyer**; *3rd District* – **M. Dalton**; *4th District* – **A. Cubbage**, **B. Simpson**; *5th District* –**W. Garmer**, **E. O'Brien**; *6th District* – **S. Smith**, **G. Sergent**; and *7th District* – **M. McGuire**, **J. Vincent**.

In Executive Session, the Board considered four (4) default disciplinary cases, involving two attorneys, one (1) restoration case, one (1) reinstatement case. **Brenda Hart** of Louisville, **Roger Rolfes** of Florence, and **Dr. Robert Strode** 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 status reports from the Task Force on Closed & Abandoned Practices and Lawyers Mutual Insurance Company of Kentucky, the 2015-2016 Budget & Finance Committee and the KBA Diversity Task Force.
- Heard the Annual Bar Counsel Disciplinary Statistical Report from Chief Bar Counsel **Tommy Glover** and Chief Deputy Bar Counsel **Jay Garrett**.
- Heard the year-end financial summary from Director of Accounting/Membership **Michele Pogrotsky**.
- Young Lawyers Division ("Division") Chair **Brad Sayles** reported that he appointed **Mark Flores** and **Paco Villalobos** to the YLD Diversity Committee and that YLD is actively involved in the KBA Diversity Working Group. He reported that YLD has started a social networking event to be held at all three law schools addressing career opportunities for young attorneys and law students. **Sayles** advised that YLD is working with the Communications & Publications Committee for a 2015 publication issue with articles on "Rehabilitation," "District Court 101," "Understanding the Freedoms, Inheriting, Keeping and Defending Liberty," and "Public Service." He discussed the proposed YLD goals to increase YLD membership, increase on-line services, and increase participation on committees. He stated YLD is restructuring and consolidating some of its committees that oversee U@18, Bully Proof, Disaster Legal Services and Voices Against Violence programs. **Sayles** advised that YLD has started working with ABA on its Long Range Strategic Planning.
- KYLAP Director **Yvette Hourigan** reviewed the newly formed KYLAP Foundation.
- Approved the following non-lawyer appointments to the KYLAP Commission of **Rev. Terry Johnson** of Eminence and **Leon Morrow** of Louisville.
- Approved the following appointments to the KYLAP Foundation Board of Trustees on behalf of the KYLAP Commission of **Cathy Jackson** of Erlanger (KYLAP Volunteer) and **Richard Bonenfant** of Newport (KYLAP Volunteer); and as Members at Large **John Williams** of Lexington and **Daniel Albers** of Louisville.
- Approved the following appointments to the Kentucky Bar Foundation: **William E. Johnson** of Frankfort in his capacity as KBA president, **Thomas L. Rouse** of Erlanger in his capacity as past president and **James Allen Sigler** of Paducah for the First Supreme Court District.
- Approved the appointment of KBA President-Elect **Douglass Farnsley** as the KBA President's Designee to the IOLTA Board of Trustees.
- President **William E. Johnson** reported that the Executive Committee reappointed **Robert C. Ewald** of Louisville, **George E. Long** of Benton and **Jerry D. Truitt** of Lexington to serve on the Special Conflicts Committee for another one-year term expiring June 30, 2015.
- Approved the recommendation of members to serve on the following Supreme Court Committees on behalf of the Board of Governors: Supreme Court Civil Rules Committee – **Earl M. "Mickey" McGuire** of Prestonsburg; Supreme Court Criminal Rules Committee – **William E. Johnson** of Frankfort; and Supreme Court Rules Committee – **Thomas L. Rouse** of Erlanger.
- President **Johnson** reported that the KBA Legislative Outreach Committee will continue to assist the Court and judiciary in their efforts to obtain funding from the Legislature and that past Bar Governor **Douglas C. Ballantine** of Louisville will serve as chair of the Committee.
- Approved the creation of a KBA Military Law Committee.
- President **Johnson** reported that the 2015 Annual Convention will be held June 17-19 in Lexington and that he appointed **Anita Britton** of Lexington as chair of the Convention Planning Committee and appointed **William R. Garmer** of Lexington as chair of the Convention CLE Program Committee.
- President **Johnson** reported that he planned to host receptions at the upcoming KLU programs.
- Executive Director **John D. Meyers** reported that there were 1,850 attendees at the KBA 2014 Annual Convention held in Covington which is a record for that event in Northern Kentucky.
- **Meyers** reported that the website mockup is nearly completed, that database details are being finalized and converted from the current site to the new site, that contracts have been signed for the OBC and the disciplinary clerk software.
- Approved the Elder Law Section Bylaw revisions.
- Approved the proposed bylaws for the newly created Animal Law Section.
- Approved the appointment of **Chad Meredith** as interim chair for the Civil Litigation Section.

To KBA Members

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

January 16-17, 2015

March 20-21, 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.

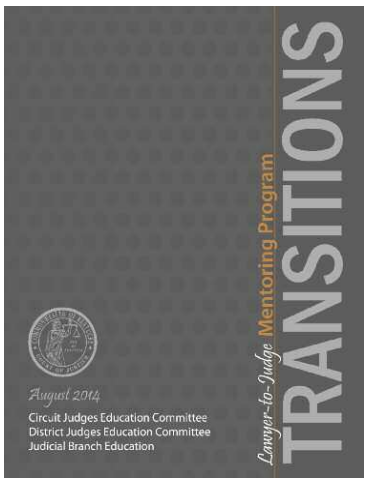
SAVE THE DATE - KBA DIVERSITY AND INCLUSION SUMMIT, APRIL 9-10, 2015 IN LOUISVILLE

The Kentucky Bar Association, the Louisville Bar Association and the Louis D. Brandeis School of Law at the University of Louisville will host a **Diversity and Inclusion Summit, April 9-10, 2015**, at the Galt House Hotel in Louisville. The summit will involve attorneys from across the state in a two-day program of discussions and education. The summit will provide practical and tangible resources and ideas for firms to implement their own diversity and inclusion programs. In conjunction with the event, 25 attorneys will participate alongside 25 law school students, 25 university students and 25 high school students in a pipeline service project coordinated by the law school and the Legal Aid Society to rally the involvement of attorneys in mentoring minority students from the high school level through college and throughout law school. Please save the date and make plans to attend this important summit. For more information please contact Mark Flores at (859) 244-7529 or you can e-mail him at mflores@fbtlaw.com. More details coming soon.

BENCH & BAR AVAILABLE THORUGH KY NFB-NEWSLINE®

The Kentucky Bar Association and Independence Place, Inc., continue to present the **Bench & Bar Magazine** in audio version through the KY NFB-NEWSLINE®. The KY NFB-NEWSLINE® audio information service is available to eligible subscribers by dialing a toll-free telephone or local call number on a touch-tone telephone; Newsline Mobile App on your i-Device; or on the web at www.nfb-newslineonline.org. Eligible individuals include those who one cannot use conventional print because of a learning disability; physical impairment restricting the use of fingers, hands or arms; visual impairment or other conditions causing limited access to print information. For more information, visit: kybar.org/documents /enews/13_newsline.pdf.

FORMAL MENTORING PROGRAM FOR NEW JUDGES ANNOUNCED



"By virtue of their appointments or election, judges are immediately thrust into a leadership role upon taking the oath of office. Judges also must make the transition into their new roles abruptly. The minute they are sworn in, they possess the full power and authority of their position."[1] Given this unique and sudden assumption of authority and responsibility, the Circuit and District Judges Education Committees, in conjunction with AOC Judicial Branch Education, recently launched the Commonwealth's first formal mentoring project for newly elected judges. The *Transitions: Lawyer-to-Judge* program is designed to assist new judges by pairing them with an experienced judge from a comparable circuit or district.

Proudly, Kentucky has long offered experienced judges who were willing to informally mentor newly elected or appointed judges. However, this is the first time that the Commonwealth has joined other states with a formal program directed at facilitating the transition between the practice of law and the Bench. The 2014 fall elections presented the potential for up to 61 attorneys to join Kentucky's Court of Justice as general jurisdiction, family or district court judges.

Following the November elections, and during the weeks preceding and following assumption of the Bench, mentor judges will assist new judges in fostering practical skills, developing a positive judicial personality and demeanor, increasing knowledge of legal customs, promoting collegial relationships, improving professional judgment, complying with ethical standards, and encouraging the use of accepted best practices. Mentor judges will also be present at the December 2014 New Judge Orientation to commence a beneficial relationship with each new judge during their first year as a member of the judiciary.

Successful completion of the *Transitions* program can take up to a year. Experienced judges who desire to serve as mentors must undergo a combination of on-line and in-person training and have already served a minimum of five years on the Bench. They must also commit to meeting all other program requirements. Newly elected judges and appropriate mentors will be paired by a *Transitions* Program Coordinator.

Once election results are certified, newly elected judges may contact AOC Judicial Branch Education Manager, Pauline Roberts, at (502) 573–2350 to register for the *Transitions* program and the New Judges Orientation.

[1] Celeste F. Bremer, Impact of a Mentoring Program on Occupational Stress, Personal Strain, and Coping Resources of Newly Appointed U.S. Magistrate Judges (Dec. 2002) (Ph.D. Dissertation Presented to School of Education, Drake University).

IN OTHER WORDS.... WHEN AND HOW TO QUOTE AND PARAPHRASE

By: Diane Kraft,
University of Kentucky
College of Law

One of the most important decisions a legal writer makes when working on a memo or brief is choosing when to quote legal authority and when to paraphrase it. A well-chosen quote can be much more effective than a paraphrase, but quotes are often overused. Succinct paraphrases can help a reader understand a court's reasoning in a difficult case, but a good paraphrase can be difficult to write. Here are some guidelines to help you decide when and how to use quotes and paraphrases most effectively.

QUOTING

In a few circumstances, it's more appropriate to quote from a source than to paraphrase:

- When citing to a **statute**, it is almost always better to quote the statute. The precise words in a statute matter, and you don't want to misrepresent the meaning of a statute by getting one word, or even one comma, wrong.

But be careful: Quote only the parts of the statute that are relevant to the case at hand.

- When discussing **key language** from a case, it's preferable to quote rather than paraphrase. For example, when you're using a term of art that is part of the court's analysis in a case, it's better to quote that word or phrase, for much the same reason it's better to quote statutes: the precise language matters, and you don't want to confuse the reader by using words other than the key words the court used. For example, when a court writes, "false imprisonment requires that the restraint be wrongful, improper, or without a claim of reasonable justification, authority or privilege,"[1] quote rather than paraphrase that language.

- Sometimes language isn't from a statute and isn't necessarily key language, but is such **apt or memorable language** that it would be difficult to improve on. Here, the original, "only a soothsayer could have known with any certainty,"[2] sounds better than the paraphrase, "No one could have foreseen…." In such cases, go ahead and quote the original.

But be careful: Use quotes sparingly, and use long block quotes even more sparingly (readers do not like block quotes, and often skip them). And never use quotations in place of legal analysis.[3]

When you choose to quote rather than paraphrase, be sure that your quote is accurate. If you need to alter the quote for conciseness or to make it fit grammatically with the rest of the sentence, follow these simple rules:[4]

- Use ellipses to indicate when one or more words within a quotation, such as citations, have been omitted. For example:

Original: Submission to the mere verbal direction of another, unaccompanied by force or threats of any character, does not constitute false imprisonment. 35 C.J.S. False Imprisonment 11, p. 636. Bare words are insufficient to effect an imprisonment if the person to whom they are spoken is not deprived of freedom of action.

Quotation: "Submission to the mere verbal direction of another, unaccompanied by force or threats of any character, does not constitute false imprisonment ... Bare words are insufficient to effect an imprisonment if the person to whom they are spoken is not deprived of freedom of action." [5]

- Use brackets to indicate when a word has been changed, part of a word has been omitted, or when one or more letters or punctuation marks have been omitted. For example:

Original: He had met his equal at last.

Quotation: The witness stated that "[h]e had met his equal at last."

Original: We hasten to observe that the able district court made its rulings before the Supreme Court issued *Crawford*, and that only a soothsayer could have known with any certainty that the Court would change the legal landscape.

Quotation: " … only a soothsayer could have known with any certainty that [*Crawford*] would change the legal landscape. [6]

PARAPHRASING

Many times, the language you want to use will not be from a statute, will not be key language, and will not be particularly apt or memorable language. In those cases, you should paraphrase the language rather than quote it. Effective paraphrasing is harder than it sounds, which is why writers often rely too heavily on quotes. If the goal is to make your writing and analysis easy for the reader to follow, however, paraphrasing is one of your most important legal writing tools.

Keep in mind that paraphrasing is not just replacing a few words here and there with synonyms, deleting some words, and perhaps tweaking the grammar. This, for example, is not a proper paraphrase:

Original: Mr. Garamond also testified that Mrs. Byrnes's furniture and most of her other belongings have remained in place in the basement suite during her time away (albeit mostly covered to avoid collecting dust). Mrs. Byrnes had her jewelry and a few other valuables removed from the suite and placed in a safe deposit box. The refrigerator and cupboard have been empty the entire time Byrnes has been in the rehabilitation facility.

Improper Paraphrase: Mrs. Byrnes's furniture and most of her other things have remained in the basement suite during her time away. Her jewelry and a few other valuables were removed from the suite and put in a safe deposit box. The refrigerator and cupboard were empty while Byrnes has been in the rehabilitation facility.

Instead, effective paraphrasing concisely and accurately restates information in a way that the reader can easily follow. In the process, it may use some of the same words and phrases as the original when no clearer substitute exists and when precision is important (as when restating key facts), but it deletes information that's irrelevant to the analysis, and is not a slave to the language or organization of the original. For example, the following is an effective paraphrase because it conveys concisely and accurately the information relevant to the issue of whether a basement suite is a "dwelling" while retaining only the necessary language from the original.

Effective Paraphrase: While Mrs. Byrnes was in the rehabilitation facility, her furniture and most of her belongings remained in the basement. Only her jewelry and a few other valuables, as well as the contents of the refrigerator and cupboard, had been removed.

Many writers try to paraphrase while looking at the original text. That technique is a recipe for a poor paraphrase. Instead, a better technique is to read the original passage several times until you are certain you understand what it's saying. Then, cover the passage and either write down or say (and perhaps record with your phone) your paraphrase of the passage. If you know the material well, you'll be able to restate it accurately in your own words. [7] Then look at the original to be sure your paraphrase is complete.

Quoting and paraphrasing are both essential tools for the legal writer. Used properly, they will help your writing to be clear, accurate, and effective.

Diane Kraft is an assistant professor of Legal Research and Writing at the University of Kentucky College of Law

1 *Banks v. Frisch*, 39 S.W.3d 474, 479 (Ky. App. 2001).

2 *United States v. Bruno*, 383 F.3d 65, 78 (2d Cir. 2004), *quoted in* Ross Guberman, "Point Made: How to Write Like the Nation's Top Advocates" 139 (2011) (Guberman uses the quote as an example of including short quotations in parentheticals).

3 E.g., Judith D. Fischer, "Pleasing the Court: Writing Ethical and Effective Briefs" 26 (2d ed. 2011) (citing a case where attorneys were assessed fees and costs in part for using long block quotations from case law in place of legal analysis).

4 Two excellent sources for a more in-depth look at the rules on proper use of quotations (and much else) are Bryan Garner's "The Red Book: A Manual on Legal Style" (3d ed. 2013) and Mary Barnard Ray and Jill Ramsfield's "Legal Writing: Getting it Right and Getting it Written" (5th ed. 2010).

5 *United States v. Bruno*, 383 F.3d 65, 78 (2d Cir. 2004), *quoted in* Guberman, *supra note* 2, at 39.

6 *Id.*

7 As Albert Einstein purportedly said, "If you can't explain it simply, you don't understand it well enough."

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John D. Meyers, Publisher, September 25, 2014

CHIEF JUSTICE MINTON REPORTS ON COURT SYSTEM'S ACHIEVEMENTS IN 2014 STATE OF THE JUDICIARY ADDRESS

By: Leigh Anne Hiatt, APR,
Public Information Officer

Chief Justice John D. Minton Jr. gave the legislature "good news about how our court system is making great strides on many fronts" during the annual State of the Judiciary address held on September 5 in Frankfort. His remarks took place before the General Assembly's Interim Joint Committee on Judiciary. The full address can be found at http://courts.ky.gov/Documents /Newsroom/CJMintonSofJ9514.pdf

"After years of balancing impossibly tight budgets, streamlining our organizational structure and cutting costs at every turn, the Judicial Branch is starting to regain its footing," he said. "Our hard work and sacrifice are paying off. While we still have many challenges ahead, we're climbing back to solid ground and are poised to improve services across all levels of the court system."

Chief Justice Minton said that technology is key to the long-term viability of the court system and reported on the new applications and tools being launched by the **Administrative Office of the Courts**. After years of planning and programming, Kentucky is joining the federal courts and other state courts that offer the ability to file court cases electronically. eFiling saves time and money over the paper system and will be available in all 120 counties by the end of 2015. In addition, the new CourtNet 2.0 application pairs the ability to access Kentucky civil and criminal cases online with sophisticated search and security functions.

"Now that our efforts are coming to fruition, it's exciting to see how these sophisticated new resources are going to revolutionize the practice of law in Kentucky," he said.

He noted that Kentucky's Pretrial Services program is being recognized nationally for reducing crime by 15 percent among defendants on pretrial release while also increasing the number of defendants released before trial. These results reflect the first six months that judges statewide have used a public safety assessment tool to better predict when defendants can safely be released pending trial.

In other updates, Chief Justice Minton said that Senate Bill 200, which reformed Kentucky's juvenile justice system, is a victory for the children and families of Kentucky. He said the court system is working hard to implement the requirements of this new legislation.

He also outlined several proposals that would address the changing needs of Kentucky Drug Court. These include improving services for the high-risk/high-need population, adopting evidence-based practices and offering an expungement process for Drug Court graduates.

He announced that Kentucky now has a means to investigate and review complaints against circuit court clerks, the elected court officials who maintain records for Circuit Court and District Court. The **Circuit Court Clerk Conduct Commission** was formed in 2013 and the Circuit Court Clerk Code of Conduct was established in 2014.

He also said the AOC has contracted with the **National Center for State Courts** to conduct a judicial workload assessment in an effort to quantify the caseloads of judges so that any changes that might be proposed in the future will be based on a comprehensive, statewide study.

In closing, Chief Justice Minton thanked the legislators for their support at critical times during a difficult period for the courts. "Over the last six years, you have had a front-row seat to the court system's trying season," he said. "Drastic budget cuts, the near crisis with our aging court technology and a national movement to modernize state courts converged in such a way that our short-term tailspins could easily have become long-term disruptions. Fortunately for the millions of Kentuckians we serve, that did not happen."

The meeting took place at the new facilities of the AOC at 1001 Vandalay Drive in Frankfort. The AOC moved into its new building in November 2013 as a cost-savings measure after leasing space elsewhere in Frankfort for many years. With the move, the AOC owns its building for the first time and will save approximately $1 million a year in lease payments.

INFORMATION SOUGHT FOR KBA DIVERSE SPEAKER DIRECTORY

The Kentucky Bar Association's Diversity in the Profession Committee seeks information for its **Diverse Speaker Directory**, a resource for both program organizers and diverse legal experts who have an interest in speaking and moderating. The directory was developed in response to a recognized need for diverse legal experts across a broad spectrum of backgrounds, and will provide a comprehensive and centralized database of legal experts who self-identify their status from a race, ethnicity, gender, sexual orientation/gender identity, and disability perspective.

The KBA Diversity in the Profession Committee encourages legal experts to create a complete Diverse Speakers Directory profile with information about their particular legal expertise as well as their demographic data. This will help program organizers and meeting planners to identify and include panelists and moderators that are representative of the constituencies that they serve as well as the legal profession. Access the form by clicking here. Please complete and return to Elaine Baesler, KBA executive assistant, at ebaesler@kybar.org.

THE KBA CONGRATULATES ITS NEWEST MEMBERS!

From left, Josh Brock of Lawrenceburg, Andrea Brown of Lexington and Nicholas Calmes of Richmond await entry to the Supreme Court chamber for swearing in ceremonies.

New attorneys received their oaths of office on Friday, October 17, in the Supreme Court of Kentucky Chamber in the state Capitol in Frankfort. The KBA continued its tradition of honoring its newest members, their families and friends with a reception in their honor throughout the day at the Kentucky Bar Center. A total of 295 new attorneys were recommended for admittance to the practice of law following the July 2014 bar examination.

Dwight Jordan Lacy of Louisville, second from right, enjoys his first day as a new attorney with family members Thomas Williams, at left, Leslie Lacy and Flora Knight.

New KBA member Sean Dennis of Louisville, far left, enjoys the reception at the Kentucky Bar Center with his wife, Joanna, his infant son, Jack, and his daughters, Charlotte (in his arms), and Caroline.

Deputy Chief Justice Mary C. Noble greets candidates for bar admission prior to swearing in ceremonies in the Supreme Court chamber.

Candidates for bar admission await entry into the Supreme Court Chamber. A total of 295 new attorneys were recommended for admittance to the practice of law following the July 2014 bar examination.

Matthew Day of Louisville, far right, celebrates his admission to the bar with wife Susan Day, far left, and daughters Noelle and Liliana Day at the Kentucky Bar Center's reception for new members of the KBA.

Mitchell Krock of Lexington, left, and Hunter Kendrick of Danville prepare for swearing-in ceremonies at the state Capitol in Frankfort.

"THE 2014 SOLO AND SMALL FIRM LEGAL TECHNOLOGY GUIDE: CRITICAL DECISIONS MADE SIMPLE," ABA LEGAL PRACTICE DIVISION

By: Michael Losavio

The law is part of the new space of information density, evolving with the Internet of Things and electronic court processes. Change is always a bit traumatic but can lead to great benefits. As Kentucky courts move to eFiling so, too, will there be some rough spots that will lead to much improved legal process for the Commonwealth as more and more attorneys join the process.

The core of legal computing will still reside back in the office, as the basic processes for serving clients begin there. Selecting good systems for client service is essential, though a tough decision for small firms and single practitioners.

The **American Bar Association**'s annual guide for law office technology can help with those decisions. The authors of the "Solo and Small Firm Legal Technology Guide" acknowledge that tech advice may be out of date the moment it's given, but they rightly note that the general principles for choosing systems will remain useful. There is also relative stability for many areas of law office technology that have matured, though caution is advised for new areas such a cloud computing.

The guide begins with advice on desktop systems and moves from there to useful peripheral equipment and networking options. System power and memory become critical issues with the size of electronic documents that may need to be processed and transmitted to others, including the courts. Peripherals are important to the electronic, eFiling office for services like scanning paper documents or processing digital video and audio.

Then comes coverage of the basic software needed to run the practice. The guide includes a review of **OpenOffice** for those that don't yet wish to spend for Microsoft or Corel's applications. It discusses Acrobat, voice recognition and optical character recognition software to leverage the benefits of a powerful system and reduce the need for administrative services, helpful for a new practitioner.

It reviews the current stable of law office management packages, including case management, time & billing, document management and document assembly packages. These suites can power-up a practice where the volume of business has grown. The guide also notes that the feature sets may overlap between packages; Acrobat, for example, may also serve as a document management (and document assembly) tool for a law office. It then gives an overview of mobile computing issues from remote desktops and cloud services to smart phones that can help the practice.

The guide includes a review of 32 utility packages that offer special benefits for the practice. These include back-up programs, e-shredders, metadata analyzers and scrubbers, search utilities, compression utilities, time-line generators and even a program to improve writing. It also features a broad overview of the practical and ethical benefits and risks of social media for lawyers, from discovery to advertising. And it includes as an appendix an overview for litigators on use of the iPad in litigation.

The guide concludes with discussion of the to-be-hoped for wonders of the paperless office, what the e-court makes much more likely. That discussion suggests how different applications integrate to make this happen, promoting efficiency and reducing costs. The key focus of that discussion is the efficiency it promotes, which helps our clients, our practices and the courts before which we practice. The closing chapter discusses the future of legal technology, but its true focus is on the future of legal practice. The "Legal Convenience Store" may be one model for consumer practice; at the other end, the authors note how Kia Motors did a technology and practice efficiency audit of nine outside counsel firms and all nine failed. Practice demands in a competitive world need us to know what works best.

Electronic filing in state courts will be a boon. Few who use it as mandated by the federal courts would chose to go back to paper process. "The 2014 Solo and Small Firm Legal Technology Guide" is a useful support for practitioners with current tech questions and preparing for the future of court practice in Kentucky.

Nelson, Sharon, Simek, John and Maschke, Michael, "The 2014 Solo and Small Firm Legal Technology Guide: Critical Decisions Made Simple," American Bar Association Law Practice Division, Chicago, IL, 2014.

HELP IMPROVE THE PROFESSION BY CONTRIBUTING TO CONTINUING LEGAL EDUCATION

By: Carl N. Frazier, Fifth District Representative Continuing Legal Education Commission

We all know that continuing legal education helps us be better lawyers. CLE informs lawyers of legal developments and acquaints them to emerging or unfamiliar practice areas. The benefit derived from CLE is directly related to the quality, relevance, and timeliness of the program. How can we help ensure that CLE programming is outstanding and therefore most beneficial to Kentucky lawyers?

Two responsibilities of the Continuing Legal Education Commission are to "[e]ncourage and promote the offering of high quality continuing legal education" and "[c]onduct, sponsor, or otherwise provide high-quality continuing legal education." SCR 3.630. To carry out these important obligations, the commission relies upon the expertise and hard work of the talented Kentucky Bar Association CLE staff. But the commission members and staff cannot do it alone. Your input and participation is critical to ensuring successful CLE programming.

Here are just a few of the ways you can help out:

EVALUATIONS

All CLE programs must offer attendees the opportunity to complete an evaluation questionnaire addressing the quality of program. SCR 3.650(2)(i). Please take a moment to do so after every program you attend. The commission members and staff carefully consider your comments and suggestions when planning each year's Kentucky Law Update and annual convention. Completing evaluations is the quickest and easiest way to help improve the quality of CLE programming.

PROGRAM AND SPEAKER IDEAS

Have an interesting idea for a CLE? Know an area of the law where more good-quality CLE is needed? Heard an interesting speaker who would make a great CLE presenter? Let us know by contacting any commission member or staff.

VOLUNTEER

Each year, the Kentucky Bar Association relies upon a cadre of volunteers to moderate and speak at the Kentucky Law Update and Convention. If you would be willing to present on a particular topic or simply moderate a program, let us know.

GET INVOLVED IN SECTIONS AND DIVISIONS

There are over 25 sections and divisions of the Kentucky Bar Association. These groups cover all areas of practice from alternative dispute resolution to workers' compensation. KBA sections and divisions routinely sponsor excellent CLE programming that is specific to the interests of each group's membership. Consider becoming more involved in KBA sections and divisions by participating in their CLE programming. For a list of KBA sections and divisions, visit www.kybar.org/73.

With your help, we can continue to ensure that CLE programming meets the needs of Kentucky attorneys and helps elevate the profession at large.

Carl Frazier is a member in Stoll Keenon Ogden's Lexington office and has been with the firm since 2007. A member of the tort, trial & insurance services and business litigation practices, his practice focuses primarily on civil litigation, including the defense of products liability, professional negligence, insurance bad faith, appellate advocacy, insurance coverage, and personal injury actions of all types. He also serves on the firm's personnel committee. Frazier was appointed by the Kentucky Supreme Court to the Kentucky Bar Association's (KBA) Continuing Legal Education Commission. He is the current co-chair of the KBA's Diversity Working Group, which promotes diversity and inclusion within the legal profession, previously served on the KBA Board of Governors and its Executive Committee, and is past chair of the KBA Young Lawyers Division. He was previously the Kentucky/Tennessee representative for the ABA Young Lawyers Division. In the business and civic community, he serves on the boards for Lawyers Mutual Insurance Company of Kentucky and Leadership Lexington, and is president-elect of the Transylvania University Alumni Board. He is a past board member and vice president of the Lexington Opera Society.

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Justice Michelle M. Keller
Supreme Court Liaison

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.

Looking for Upcoming KBA Accredited CLE Events?

Look no further...

Check out www.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.

Supreme Court of Kentucky

IN RE:
ORDER AMENDING
RULES OF CRIMINAL PROCEDURE (RCr)

2014-22

The following rules' amendments shall become effective January 1, 2015.

RULES OF CRIMINAL PROCEDURE (RCr)

I. RCr 3.22 Transmission of papers

RCr 3.22 shall read:

If at the conclusion, or upon waiver, of the preliminary hearing the defendant is held to answer, the clerk shall transmit all papers in the proceedings to the clerk of the court to which the defendant has been held, and shall transmit a copy of all such papers to the Commonwealth's Attorney.

II. RCr 5.22 Procedure upon failure to indict

RCr 5.22 shall read:

(1) If the defendant has been held to answer pursuant to RCr 3.14(1) and the votes of the grand jurors are insufficient in number to find an indictment as to any one or more charges or counts presented to the grand jury, the foreperson shall forthwith so report in writing to the circuit court. The circuit court shall thereupon make an order dismissing any such charges or counts without prejudice, discharging the defendant from custody as to any such charges or counts, exonerating the defendant's bail and any conditions thereon as to any such charges or counts or directing a refund of any money or bonds deposited as bail as to any such charges or counts, as the case may be.

(2) If the defendant has been held to answer pursuant to RCr 3.14(1), and the grand jury finally adjourns without having either indicted such defendant or referred the matter to the next grand jury by a writing filed with the circuit court, the circuit court shall thereupon make an order dismissing all charges or counts against such defendant without prejudice, discharging such defendant from custody as to any such charges or counts; or, if such defendant is free on bail that has not been forfeited, exonerating such defendant's bail and any conditions thereon as to any such charges or counts or directing a refund of any money or bonds deposited as bail as to any such charges or counts, as the case may be.

(3) In any event, if a defendant has been held to answer, without being indicted, for longer than 60 days from the finding of probable cause pursuant to RCr 3.14(1), the circuit court shall, upon motion, thereupon make an order discharging such defendant from custody; or, if such defendant is free on bail that has not been forfeited, exonerating such defendant's bail and any conditions thereon or directing a refund of any money or bonds deposited as bail, as the case may be.

(4) Failure of the grand jury to return an indictment against a defendant does not prevent any charge against such defendant from being submitted to another grand jury.

III. RCr 8.18 Defenses, Objections and Requests that must be made before trial; Waiver of a Motion, Defense, Objection, or Request; Relief from Waiver

RCr 8.18 shall read:

(1) Defenses, Objections and Requests That Must Be Made Before Trial

Except for good cause shown, the following shall be raised before trial:

(a) a motion alleging a defect in instituting the prosecution;

(b) a motion alleging a defect in the indictment or information—but at any time while the case is pending, the court may hear a claim that the indictment or information fails to invoke the court's jurisdiction or to state an offense;

(c) a Rule 7.24 request or motion for discovery or inspection;

(d) a Rule 8.07(1)(A) notice of insanity defense;

(e) a Rule 8.07(2)(A) notice of intention to introduce expert evidence relating to a mental disease or defect or any other mental condition of the defendant bearing on—

(i) the issue of guilt;

(ii) the issue of punishment; or

(iii) the issue of guilt and the issue of punishment;

(f) a Rule 8.27 motion to suppress evidence;

(g) a Rule 8.29 motion to sever charges or defendants; and

(h) a Rule 8.31 motion for separate trials.

(2) Waiver of a Motion, Defense, Objection, or Request; Relief from Waiver

A party waives any Rule 8.18(1) defense, objection, or request not raised by the deadline the court sets under Rule 8.20 or by any extension the court provides. Upon a finding of good cause, the court shall grant relief from the waiver.

IV. RCr 8.20 Deadlines for Motions, Defenses, Objections and Requests; Ruling on Motions, Defenses, Objections and Requests.

RCr 8.20 shall read:

(1) Deadlines for Motions, Defenses, Objections and Requests

The court may, at the arraignment or as soon afterward as practicable, set deadlines for the parties to make or assert pretrial motions, defenses, objections and requests and may also schedule hearings on such motions, defenses, objections and requests.

(2) Ruling on Motions, Defenses, Objections and Requests

The court shall decide every pretrial motion, defense, objection and request within a reasonable time before the date of trial unless it finds good cause to defer a ruling. When factual issues are involved in deciding a motion, the court shall state its essential findings on the record.

V. RCr 8.27 Suppression of evidence

New rule RCr 8.27 shall read:

(1) Motion. A motion to suppress evidence shall be filed by the deadline set by the court pursuant to Rule 8.20 for the filing of such motion. If the court has set no deadline under Rule 8.20, the motion shall be filed within a reasonable time before trial.

(2) Hearing. The court shall conduct a hearing on the record and before trial on issues raised by a motion to suppress evidence. No jury and no prospective juror shall be present at any such hearing.

(3) Witness's statements.

(a) Production of witness's statements. Except for good cause shown, not later than forty-eight (48) hours before a suppression hearing, a party who reasonably anticipates calling a person to testify as a witness at the suppression hearing shall furnish every other party with a copy of all statements of such person (other than the defendant) that relate to the subject matter of that person's anticipated testimony at the suppression hearing.

(b) Producing the Entire Statement. If the entire statement relates to the subject matter of such person's anticipated testimony as a witness at the suppression hearing, the court must order that the statement be delivered to the moving party.

(c) Producing a Redacted Statement. If the party who called or anticipates calling such person as a witness at the suppression hearing claims that the statement contains information that is privileged or does not relate to the subject matter of the witness's testimony or anticipated testimony at the suppression hearing, the court must inspect the statement in camera. After excising any privileged or unrelated portions, the court must order delivery of the redacted statement to the other party. If a party objects to an excision, the court must preserve the entire statement with the excised portion indicated, under seal, as part of the record.

(d) Recess to Examine a Statement. The court may recess the proceedings to allow time for a party to examine the statement and prepare for its use.

(e) Sanction for Failure to Produce or Deliver a Statement. If the party who called the witness willfully disobeys an order to produce or deliver a statement, the court must strike the witness's testimony from the record.

(f) "Statement" Defined. As used in this rule, a witness's "statement" means: (1) a written statement that the witness makes and signs, or otherwise adopts or approves; (2) a substantially verbatim, contemporaneously recorded recital of the witness's oral statement that is contained in any recording or any transcription of a recording; or (3) the witness's statement to a grand jury, however taken or recorded, or a transcription of such a statement.

(4) Briefing. The court shall allow a party to file a brief in support of or in opposition to any such motion or objection, either in advance of the hearing, upon its final adjournment, or both.

(5) Applicability of other rules. Rules 8.14, 8.18 and 8.20 apply to the suppression of evidence of alleged confessions, of the fact or the alleged fruits of a search or seizure and of a purported identification made by an alleged witness.

Comment: New RCr 8.27 is a new version of existing RCr 9.78.

VI. RCr 8.29 Misjoinder of offenses

New rule RCr 8.29 shall read:

If two (2) or more offenses are charged in the same indictment, information, complaint or uniform citation and they cannot be properly joined, the Commonwealth may be required to elect which offense it will prosecute.

Comment: New RCr 8.29 is existing RCr 9.14.

VII. RCr 8.31 Separate trials

New rule RCr 8.31 shall read:

If it appears that a defendant or the Commonwealth is or will be prejudiced by a joinder of offenses or of defendants in an indictment, information, complaint or uniform citation or by joinder for trial, the court shall order separate trials of counts, grant separate trials of defendants or provide whatever other relief justice requires. A motion for such relief must be made before the jury is sworn or, if there is no jury, before any evidence is received. No reference to the motion shall be made during the trial. In ruling on a motion by a defendant for severance the court may order the attorney for the Commonwealth to deliver to the court for inspection in camera any statements or confessions made by the defendants that the Commonwealth intends to introduce in evidence at the trial.

Comment: New RCr 8.31 is existing RCr 9.16.

VIII. [**RCr 9.14 Misjoinder of offenses**]

Deletion of RCr 9.14:

[If two (2) or more offenses are charged in the same indictment, information, complaint or uniform citation and they cannot be properly joined, the Commonwealth may be required to elect which offense it will prosecute.]

Comment: Existing RCr 9.14 is shifted to RCr 8.29.

IX. [**RCr 9.16 Separate trials**]

Deletion of RCr 9.16:

[If it appears that a defendant or the Commonwealth is or will be prejudiced by a joinder of offenses or of defendants in an indictment, information, complaint or uniform citation or by joinder for trial, the court shall order separate trials of counts, grant separate trials of defendants or provide whatever other relief justice requires. A motion for such relief must be made before the jury is sworn or, if there is no jury, before any evidence is received. No reference to the motion shall be made during the trial. In ruling on a motion by a defendant for severance the court may order the attorney for the Commonwealth to deliver to the court for inspection in camera any statements or confessions made by the defendants that the Commonwealth intends to introduce in evidence at the trial.]

Comment: Existing RCr 9.16 is shifted to RCr 8.31.

X. [**RCr 9.78 Confessions, searches, and witness identification; suppression of evidence**]

Deletion of RCr 9.78:

[If at any time before trial a defendant moves to suppress, or during trial makes timely objection to the admission of evidence consisting of (a) a confession or other incriminating statements alleged to have been made by the defendant to police authorities, (b) the fruits of a search, or (c) witness identification, the trial court shall conduct an evidentiary hearing outside the presence of the jury and at the conclusion thereof shall enter into the record findings resolving the essential issues of fact raised by the motion or objection and necessary to support the ruling. If supported by substantial evidence the factual findings of the trial court shall be conclusive.]

Comment: A new version of existing RCr 9.78 is in RCr 8.27.

XI. RCr 13.12 Exhibits Containing Sexual Conduct Of A Minor

New rule RCr 13.12 shall read:

When evidence of a sexual nature concerning a minor is entered as an exhibit during a hearing or trial, the court shall ensure the material is not recorded onto the video record of the proceedings. Any exhibits containing such material shall be sealed and marked as "Sealed pursuant to RCr 13.12."

XII. [**VIII ARRAIGNMENT AND PLEADINGS**] **VIII ARRAIGNMENT, PLEADINGS, AND MOTIONS**

All sitting. All concur, except: Venters, J., dissents on the proposed amendments to RCr 8.18, RCr 8.20 and RCr 8.27.

ENTERED: November 7, 2014.

CHIEF JUSTICE

Supreme Court of Kentucky

IN RE:
ORDER AMENDING
FAMILY COURT RULES OF PROCEDURE
AND PRACTICE (FCRPP)

2014-21

The following rules' effective January 1, 2015 are amended in their entirety and shall read as follows:

FAMILY COURT RULES OF PROCEDURE AND PRACTICE (FCRPP)

I. Title and Scope of Rules

FCRPP 1 Title and Scope

(1) Pursuant to KRS 403.130, these rules constitute a separate section of the civil rules and shall be known as the Kentucky Family Court Rules of Procedure and Practice. They may be cited as such, or by the abbreviation "FCRPP."

(2) These Rules shall be applicable to the procedure and practice in all actions pertaining to dissolution of marriage; custody and child support; visitation and timesharing; property division; maintenance; domestic violence; paternity; dependency; neglect or abuse; termination of parental rights; adoption; and status offenses, or any other matter exclusively within family law jurisdiction, except for any special statutory proceedings, which shall prevail over any inconsistent procedures set forth in these Rules.

(3) Self represented litigants shall be held to knowledge of these rules the same as parties represented by counsel.

(4) The Rules of Civil and Criminal Procedure shall apply to family law matters to the extent they are not inconsistent with these Rules.

II. Dissolutions and Property Division

FCRPP 2 Preliminary Matters

(1) Original Pleadings. All original pleadings, including forms, in a dissolution action shall be signed by the preparer, filed with the clerk of the court, and if applicable, shall include, unless otherwise ordered by the court, the following:

(a) A verified petition;

(b) Proof of service;

(c) A verified response, or a verified entry of appearance in lieu of a response;

(d) Unless waived by the court pursuant to KRS 403.180(4)(b), a verified separation agreement;

(e) The Final Verified Disclosure Statement;

(f) A verified waiver of notice of final hearing;

(g) A verified deposition or interrogatories for proof of the allegations of the petition if done without a hearing;

(h) A divorce education certificate; and

(i) A child support work sheet.

(2) Multiple Actions. When actions concerning the same subject matter are filed in different circuits, the first action filed shall be the controlling action, subject to transfer by the court of that circuit on a motion for forum non conveniens or other appropriate legal grounds. A motion for transfer shall be filed prior to or with the response. On notice to the parties, the courts in both circuits may confer concerning the proper venue.

(3) Preliminary Mandatory Disclosure. A preliminary verified disclosure statement which contains the contents of the official AOC form, AOC-238, Preliminary Verified Disclosure Statement, shall be exchanged between the parties within 45 days of service of the petition on the respondent, and objections thereto shall be exchanged 20 days thereafter but the disclosures shall not be filed in the record unless ordered by the court or required by local rule. The official AOC form, AOC-238, is available for use in compliance with this rule.

(4) Exchange of Information and Documents. The parties shall sign and return specific releases for relevant information and documents unless objected to in writing. Such releases shall contain a provision directing that any information and/or documents provided in writing to the requesting counsel or pro se party shall simultaneously be transmitted to the other counsel or pro se party, at requesting party's expense. Upon objection, the requesting party may file a motion to compel.

(5) Status Quo Orders. Without limiting a party's relief under CR 65, upon notice and opportunity to be heard, a court may enter a status quo order regarding disposition of the marital estate. Any such order may be entered on the AOC-237. A status quo order may include but not be limited to the following:

(a) Neither party shall, except as necessary to pay reasonable living expenses, incur unreasonable debt, sell, encumber, gift, bequeath or in any manner transfer, convey or dissipate any property, cash, stocks or other assets currently in their possession or in the control of another person, company, legal entity or family member without permission of the court or an agreed order signed by both parties or their attorneys.

(b) Neither party shall allow the cancellation or lapse of any health, life, automobile, casualty or disability insurance currently covering themselves or a family member or change the named beneficiaries on such policies prior to receiving permission of the court or filing an agreed order signed by both parties or their attorneys.

(6) Case Management.

(a) Mediation.

(1) The parties may agree to mediate at any time. After notice and opportunity to be heard and unless prohibited by KRS 403.036 (domestic violence), the parties may be ordered to mediate any issues before further proceedings.

(2) Within 10 days of a final mediation, if the parties have been unable to resolve all issues, the petitioner shall file a motion for a case management conference or final hearing date, unless previously scheduled by the court.

(b) Case Management Conference.

(1) Unless notice is given to the court that a case is being mediated, within 60 days of service of the petition upon the respondent, the petitioner shall file a motion for a case management conference.

(2) Both parties and their counsel shall attend the conference, unless otherwise ordered by the court.

(3) Each party shall file the following documents at least 7 days prior to the conference:

(i) Any related motions; and

(ii) Any stipulations or agreements reached.

(4) In the event of failure of a party or parties to appear at the conference, the court may, in accordance with its order, conduct a hearing in which proof may be taken or the case dismissed, as the court may determine appropriate.

(7) Trial. The trial shall not be continued except as otherwise ordered for good cause shown on the record.

(8) Temporary Motions.

(a) Any ex parte motion shall be accompanied by a supporting affidavit sufficient to state grounds for injunctive relief, and if granted, shall be set for hearing with all parties at the earliest available date.

(b) Any pendente lite motions shall be served on the opposing party and set for a hearing before the court unless otherwise agreed to by the parties.

FCRPP 3 Obtaining a Decree of Dissolution

(1) Matters Not Requiring a Trial.

(a) If the parties reach an agreement on all issues, a decree of dissolution may be obtained without a trial by filing a motion or agreed order to submit for decree of dissolution of marriage, and the parties shall further comply with any local rule requiring additional filings.

(b) A decree shall not be final until the original is signed by the court and entered by the clerk.

(c) If the parties reach an agreement on individual issues short of settling the entire case, the agreement, signed by both parties, may be submitted to the court for approval and entry.

(2) Default cases.

In all cases of default, the motion to submit for decree shall state the following:

(a) That no answer or pleadings have been received by the moving party or counsel;

(b) That the respondent was personally served and 20 days have elapsed since service, or that a warning order attorney was appointed, has filed a report and affidavit and that 50 days have elapsed since appointment of the warning order attorney; and,

(c) Shall include certification that the motion and notice of trial or submission has been served on the opposing party at the party's last known address; and if the party is on active military duty, that the provisions of the Servicemembers' Civil Relief Act have been followed.

(3) Matters Requiring a Trial.

(a) If the parties do not reach an agreement on any or all issues, a trial shall be held, on motion, as set by the court.

(b) No later than 5 days prior to the trial, the parties shall file a final verified disclosure statement in the record if property matters are in dispute at that trial; or the parties may file an affidavit that there are no changes in circumstance since the completion of the preliminary verified disclosure statement, if filed. The final verified disclosure statement shall contain the contents of the official AOC form, AOC-239, Final Verified Disclosure Statement, which is available for use in compliance with this rule. Further, any affidavit filed in lieu of the final verified disclosure statement shall contain the content of the official AOC form, AOC-239.2, Affidavit of No Change in Circumstances Requiring the Filing of a Final Verified Disclosure Statement, which is also available for use in compliance with this rule.

(c) A copy of final verified disclosure statement or the affidavit in (b) above, together with any supporting documentation, shall be provided to the opposing party 15 days prior to trial unless otherwise ordered by the court.

(4) Evidence and Exhibits.

(a) A court-appointed expert's report shall be in lieu of live testimony, unless either party subpoenas the expert to testify or unless the court orders otherwise. The party who subpoenas the expert shall be responsible for paying the expert's fee for appearance at trial, unless otherwise ordered by the court.

(b) In the trial order, the court shall order parties to exchange the list of exhibits to be submitted at trial. Absent good cause shown, failure to provide an exhibit list may result in the exclusion of such exhibit at trial.

(c) Originals of depositions, interrogatories or requests for admissions, shall not be filed in the court record unless offered as proof. The attorney who noticed the taking of a deposition, or propounded the interrogatories or requests for admissions, shall be the custodian of the record for the originals, and shall present them when directed by the court or at the request of any party.

(5) Post-Decree Litigation.

A fee of $50.00 shall be paid by the movant in domestic relations cases reopened after 6 months from the entry of the decree for the purpose of modifying the decree. This does not include motions in 42 U.S.C. Title IV-D cases for child support enforcement. The clerk shall collect any fee upon the filing of the motion, unless the movant files a motion to proceed in forma pauperis.

(a) Reopening for purposes of this rule means any motion for modification of an order filed more than 6 months after entry of the order. A case is considered reopened until all matters in the motion are resolved.

(b) Once a case is reopened and the fee is paid, another fee will not be required unless 6 months or more have elapsed since entry of the order on the motion that re-opened the case.

(c) This fee shall not be required for motions to enforce an order and which are so titled.

FCRPP 4 Procedures Before the Domestic Relations Commissioner

(1) In jurisdictions having no family court, the circuit judge may appoint a domestic relations commissioner, who shall serve at the pleasure of the court. The court may refer domestic relations matters under KRS Chapter 403 to the domestic relations commissioner, except for domestic violence proceedings, contempt proceedings and injunctive relief proceedings. Any local rules relating to domestic relations commissioners shall be approved by the Chief Justice and be uniform in all divisions of circuit court within each county of each circuit.

(2) Each domestic relations commissioner shall have been licensed to practice law for at least eight years at the time of appointment, unless otherwise authorized by the Chief Justice, and shall satisfy the annual continuing legal education minimum requirement with domestic relations law education. Additionally, each domestic relations commissioner shall attend a training program, at least once every two years, which focuses on the dynamics and effects of domestic violence including the availability of community resources, victims' services and reporting requirements. Domestic relations commissioners shall not otherwise engage in the practice of domestic relations law.

(3) The domestic relations commissioner shall hear all matters and file a report promptly pursuant to KRS 454.350(2). Testimony may be heard orally before the commissioner or by deposition or interrogatory. All actions involving indigents shall be heard by the commissioner without fee. Proceedings before the commissioner shall be recorded by audio or video and a recording log shall be kept. The domestic relations commissioner shall file the recorded hearings and the recording log in the record with the clerk of the court. Transcriptions shall not be required for any purpose within this Rule.

(4) The domestic relations commissioner shall have the authority to make recommendations to the judge regarding motions for temporary orders of custody, support and maintenance. All temporary and final decrees and orders shall be entered by the court upon review of the recommendations of the domestic relations commissioner as set forth below:

(a) Within 10 days after being served with a copy of the commissioner's recommendations, any party may file written objections thereto with the court. After hearing the court may adopt the recommendations, modify them, or reject them in whole or in part, or may receive further evidence or may recommit them for further hearing.

(b) The circuit court shall sign any recommended temporary or post-decree order within 10 days after the time for filing exceptions has run unless a motion for a hearing on the exceptions has been filed. All temporary recommendations of the domestic relations commissioner which become orders of the court shall be without prejudice and subject to the court's de novo review on final hearing.

(c) If the parties stipulate that the commissioner's findings of fact shall be final, only questions of law arising upon the recommendations shall thereafter be considered.

(d) All final decrees shall be entered by the court within 20 days of submission if no exceptions have been filed. If exceptions have been filed, entry of the final decree shall occur within 10 days of disposition of the exceptions.

(5) For any case assigned, the domestic relations commissioner shall receive a fee of $60 per hour, assessed at a rate of $15.00 for each quarter hour or part thereof. Such fees shall be paid through the office of circuit court clerk to the commissioner and shall be due on the fifth working day following the conclusion of the hearing. No more than $600 shall be assessed in any case regardless of the number and length of hearings unless recommended by the circuit judge and approved by the Chief Justice for extraordinary circumstances shown. If a case is reopened additional fees totaling not more than $200 may be assessed. No more than $15 shall be assessed in any uncontested divorce.

(6) The compensation of domestic relations commissioners shall be by fee charged upon the parties, or paid out of any fund or subject matter of the action which is in the custody or control of the circuit court. This compensation shall be paid to the circuit court clerk, who shall issue payment to the commissioner.

(7) All domestic relations commissioners shall be limited in their total personal compensation derived from fees to not more than $48,000 per annum unless approved by the Chief Justice. Fees in excess of the personal compensation of the commissioner shall be remitted to the Administrative Office of the Courts with the annual accounting for all amounts received.

(8) The Administrative Office of the Courts shall establish audit and accounting standards, prescribe bookkeeping and accounting practices and procedures, and otherwise perform audits and oversee the financial accounts of domestic relations commissioners. A copy of any audit shall be submitted by the Administrative Office of the Courts to the chief judge of the circuit. In the event that the audit reveals an accounting or other irregularity, a copy shall also be submitted to the Chief Justice.

(9) The commissioner shall not retain his or her recommendations as security for his or her compensation. When the party ordered to pay the compensation allowed by the court does not pay it after notice and within the time prescribed by the court, that party may be subject to civil contempt.

FRCPP 5. Maintenance.

(1) A motion for temporary maintenance shall be accompanied by copies of the movant's last three pay stubs or, if movant is self-employed, proof of the movant's current income, and by an affidavit setting forth movant's monthly expenses and income and the monthly income of the party from whom maintenance is sought.

(2) The notice of hearing accompanying a motion for temporary maintenance shall contain the following statement: "You must file with the Court, at least 24 hours prior to the time of the hearing, a responsive affidavit setting forth your net monthly income and expenses and attach copies of your last three pay stubs or, if self-employed, proof of your current income."

(3) Motions to Establish or Modify Permanent Maintenance

(a) All motions to establish or modify permanent maintenance shall be accompanied by the following:

(i) A statement from movant setting forth the amount of maintenance requested.

(ii) Copies of the movant's last three pay stubs or, if movant is self-employed, proof of the movant's current income.

(iii) An affidavit setting forth movant's monthly expenses and income and the monthly income of the party against whom the motion is brought, if known.

(iv) The most recently filed federal and state income tax return.

(b) The respondent shall file the above financial information with the court and serve it on the opposing party 5 days prior to the hearing.

(c) The notice of hearing accompanying a motion to establish or modify permanent maintenance shall contain the following statement: "You must file with the court, at least 24 hours prior to the time of the hearing, copies of your last three pay stubs, or if self-employed, proof of your current income and by an affidavit setting forth your monthly expenses and income, and the most current federal and state tax returns."

III. Custody, Shared Parenting, Visitation and Support

FCRPP 6 General Provisions

(1) The provisions of this section shall apply to all actions in which there are disputes regarding custody, shared parenting, visitation or support.

(2) A parent or custodian may move for, or the court may order, one or more of the following, which may be apportioned at the expense of the parents or custodians:

(a) A custody evaluation;

(b) Psychological evaluation(s) of a parent or parents or custodians, or child(ren);

(c) Family counseling;

(d) Mediation;

(e) Appointment of a guardian *ad litem*;

(f) Appointment of such other professional(s) for opinions or advice which the court deems appropriate; or,

(g) Such other action deemed appropriate by the court.

(3) The court or domestic relations commissioner shall conduct a hearing on any motion for temporary custody, time sharing, visitation or child support, within 60 days of the filing of the motion except for good cause stated on the record. Nothing herein prevents the parties from entering into an agreement on these issues.

(4) In all proceedings for the dissolution of marriage in which children of the marriage are minors, or in any custody proceedings, the court may order the parents or custodians and children to participate in counseling or divorce education on a case-by-case basis, which shall be at the expense of the parties.

FCRPP 7 Custody

(1) Unless otherwise ordered by the court, in any action in which the permanent custody or time-sharing of the child(ren) is in issue, each party shall, not less than 14 days prior to the day set for hearing, provide the other party(ies) with a list of the names and addresses of every person and a short statement of the subject of their testimony, other than a parent or the child(ren) of the parents, expected to be called as a witness, as well as a list of exhibits to be entered.

(2) Relocation.

(a) Before a joint custodian seeks to relocate, written notice shall be filed with the court and notice shall be served on the non-relocating joint custodian. Either party may file a motion for change of custody or time-sharing within 20 days of service of the notice if the custodians are not in agreement; or, the parties shall file an agreed order if the time sharing arrangement is modified by agreement. See Pennington v. Marcum, 266 S.W.3d 759 (Ky. 2008) and Wilson v. Messinger, 840 S.W.2d 203 (Ky.1992).

(b) Before a sole custodian seeks to relocate, written notice shall be filed with the court and notice shall be served on the non-custodial parent. If the court ordered visitation is affected by the relocation, the non-custodial parent may file a motion contesting the change in visitation within 20 days of service of the notice.

SUPREME COURT STANDING COMMITTEE ON THE FCRPP (2012) COMMENTARY

Pursuant to KRS 403.770, if the relocating custodian has an active Emergency Protective Order or Domestic Violence Order against the other parent or custodian, the relocating custodian must not be required to disclose to the other party the relocation destination. The court and clerks will strictly comply with the statutory mandates set forth in KRS 403.770. If the domestic violence action is not pending in the same circuit, the court may require the relocating custodian to disclose the relocation destination provided only if the location is filed under seal, with strict confidentiality maintained by the court and clerk, and the location is not disclosed to the opposing party.

FCRPP 8 Time-Sharing/Visitation

(1) A parent shall be entitled to time-sharing/visitation as ordered by the court, which may be in accordance with the Model Time-Sharing/Visitation Guidelines, unless otherwise agreed to by the parties or ordered by the court.

(2) Model Time-Sharing/Visitation Guidelines are set forth in Appendix A to these Rules or other guidelines may be applied and set forth in local rules.

FCRPP 9 Support

(1) Once support has been set by the court, it shall continue in full force and effect unless modified by the court, or ended by operation of law.

(2) An order directing the payment of child support shall be entered utilizing the AOC-152, Uniform Child Support Order and/or Wage/Income Withholding Order which is the form prescribed by the Administrative Office of the Courts pursuant to KRS 205.713 and KRS 205.802. This form shall be located on the Court of Justice website and shall include the following:

(a) The amount and frequency of the support payments;

(b) That the payment shall be paid

(i) By wage/income withholding, to begin immediately; or,

(ii) If wage/income withholding is not ordered to begin immediately for good cause shown, as ordered by the court and as directed in KRS 403.215; or,

(iii) According to a written agreement reached between both parties which provides for an alternative arrangement to wage/income withholding.

(c) In non-IV-D cases the federal Income Withholding [FN1] for Support (IWO) form OMB 0970-0154, and in IV-D cases the state CS-89, shall be utilized to notify the employer/income withholder of any wage/income withholding ordered by the court.

(d) The party responsible for medical and other ordered expenses of the child(ren); and,

(e) The social security numbers of the parties and child(ren), CR 7.03 notwithstanding.

(3) Notice of any wage/income withholding shall be served upon the employer and the employee as follows:

(a) In non-IV-D cases, the OMB 0970-0154 shall be accompanied by the underlying AOC-152.

(b) In IV-D cases, the CS-89 shall be utilized.

(4) Motions to Establish or Modify Child Support.

(a) A motion to establish or modify child support shall be accompanied by the following:

(1) A completed child support guidelines worksheet.

(2) Copies of the movant's last three pay stubs or, if movant is self-employed, proof of the movant's current income.

(3) The most recently filed federal and state income tax returns.

(4) Verification of the cost of health insurance for the child(ren) only.

(5) A notice of hearing accompanying a motion for child support which shall contain the following statement: "You must file with the Court, at least 24 hours prior to the time of the hearing, a completed child support guidelines worksheet and copies of your last three pay stubs or, if self-employed, proof of your current income and the most current federal and state tax returns."

(b) The responding party is to similarly file this financial information at least 24 hours prior to the hearing.

(c) All parties shall exchange said information 10 days prior to the hearing.

(d) In addition, counsel shall certify, prior to the hearing being held, that reasonable efforts were made to resolve all the issues in dispute.

IV. Domestic Violence

FCRPP 10 Issuance of Summons

(1) If an emergency protective order is not issued due to an insufficient relationship as identified in KRS 403.720(2) or (4), or for failure to state an act or threat of domestic violence between the parties, the finding of the insufficient relationship or failure to state an act or threat of domestic violence shall be noted on the petition by the judge, and no summons shall be issued.

(2) If the relationship is one recognized under KRS 403.720(2) or (4) and there is a finding of domestic violence and abuse and a finding of immediate and present danger, an emergency protective order shall be issued.

(3) If there is no finding of an immediate and present danger of domestic violence and abuse, when the relationship is one recognized under KRS 403.720(2) or (4), but the court determines that domestic violence and abuse exists, a summons shall be issued and a hearing shall be held to determine if a domestic violence order should be issued. Any finding at the hearing shall constitute an appealable order.

FCRPP 11 Contempt Proceedings

(1) No petitioner shall be held in contempt for failure to appear at a domestic violence hearing or for failing to prosecute a civil or criminal contempt violation of a protective order except for good cause shown on the record. Failure to appear may result in denial of the petition.

(2) When the court conducts contempt proceedings in domestic violence actions, the party subject to contempt shall be represented by counsel, unless waived, and an attorney shall be appointed by the court if the party qualifies as an indigent.

FCRPP 12 Reissuance of Emergency Protective Order Upon Transfer to Another Circuit

When the local domestic violence protocol requires that a case be transferred to another circuit due to a pending dissolution case, an emergency protective order shall continue and the summons shall be re-issued by the initiating court, pursuant to KRS 403.740(4), for a period not to exceed 14 days if service has not been made on the adverse party by the date of transfer, or as the court determines is necessary for the protection of the petitioner. Thereafter, reissuance of the summons shall occur as needed in the court of transfer.

FCRPP 13 Domestic Violence Protocols

(1) Domestic violence cases shall be conducted according to the local domestic violence protocol.

(2) The court shall not limit or restrict a victim's access to seek a protective order for domestic violence.

(3) The court shall provide 24-hour access to protection from domestic violence.

(4) Domestic violence cases shall retain the domestic violence case file number even if heard with another matter.

(5) The court shall establish schedules for domestic violence hearings and shall provide them to anyone authorized to verify domestic violence petitions.

(6) The court shall inform the respondent regarding the purchase of a firearm, and the surrender of same, in compliance with 18 U.S.C. Section 922(g)(8), during the pendency of an emergency protective order or domestic violence order, and shall inform the respondent regarding the confiscation, retention and return of firearms.

V. Paternity Actions

FCRPP 14 Paternity Reopenings

(1) A fee of $50.00 shall be paid by the movant in paternity cases reopened after 6 months from the entry of the paternity judgment for the purpose of modifying any support, custody or visitation ordered. This does not include motions in 42 U.S.C. Title IV-D cases for child support enforcement. The clerk shall collect any fee upon the filing of the motion, unless the movant files a motion to proceed in forma pauperis.

(a) Reopening for purposes of this rule means any motion for modification of an order filed more than 6 months after entry of the order. A case is considered reopened until all matters in the motion are resolved.

(b) Once a case is reopened and the fee is paid, another fee will not be required unless 6 months or more have elapsed since entry of the order on the motion that reopened the case.

(c) This fee shall not be required for motions to enforce an order and which are so titled.

(2) Nothing in this Rule shall preclude the district court from declining jurisdiction on custody and visitation and referring the action to the circuit court pursuant to KRS 406.051(2); nor shall this Rule preclude an action for custody, visitation or support from being filed in the circuit court by a party after the entry of a judgment of paternity in district court. In either event the appropriate filing fee shall be paid by the moving party, unless the movant/petitioner files a motion to proceed in forma pauperis.

(3) In family court jurisdictions nothing in this Rule shall preclude the family court judge from ordering the custody, visitation and support matters in a paternity action be initiated in a circuit action. In such instance, a new circuit civil petition shall be filed by the movant/petitioner and the appropriate filing fee shall be paid unless in forma pauperis status is granted by the court.

FCRPP 15 Genetic Testing

When paternity is an issue in any action, the court may order the mother, child and the putative father to submit to genetic tests as follows:

(1) In a case in which paternity is denied or in which the parties request genetic testing, on motion made by any party, a pretrial order shall be entered by the court forthwith which requires both parties and the child to submit to genetic tests in accordance with KRS 406.081 or 406.091 unless an agreed order is entered.

(2) Within 30 days of receipt of the genetic report, the petitioner shall file the original report with the court in support of a motion to dismiss, a motion for trial or a motion for summary judgment. This does not preclude prehearing conferencing in the interim which may extend the 30 days by agreement or resolve the issues.

(3) In those cases in which the genetic test report excludes the defendant from the paternity of the child, the court, after the expiration of 30 days from the date of the filing of the exclusionary report, shall enter an order of dismissal in favor of the defendant unless a motion for additional testing pursuant to KRS 406.091 is filed prior to the expiration of the 30 days.

VI. Dependency, Neglect or Abuse

FCRPP 16 Orders in Dependency, Neglect or Abuse Actions

To the extent not otherwise specified, any order entered in a dependency or neglect or abuse action shall be on the appropriate Administrative Office of the Courts forms.

FCRPP 17 Notice in Dependency, Neglect or Abuse Actions

(1) Judicial Notice. In making any determinations with regard to a child in a dependency or neglect or abuse action, the court may consider the findings of fact and court orders from any other court proceeding in any other court file involving the child or the child's parents or the person exercising custodial control or supervision, if the court is aware of such proceedings. To the extent that the court relies on such, the court shall include a copy of that material in the record.

(2) Notice and Opportunity to be Heard. Prior to any review or permanency hearing, the state child welfare agency shall inform the court of the name and address of the foster parents, pre-adoptive parents and any relatives who are providing care for the child. The clerk shall provide notice of any review or permanency hearing to all parties and to the child's foster parents, pre-adoptive parents, and any relatives who are providing care for the child. The foster parents, pre-adoptive parents or any relative who is providing care for the child shall have an opportunity to be heard and may be subject to cross examination but shall not be designated as a party to such a proceeding solely on the basis of such notice and right to be heard.

FCRPP 18 Service

(1) A copy of the petition and summons, and an emergency custody order, if any, shall be served upon parents or persons exercising custodial control or supervision or who have been awarded legal custody by a court or claims a right to legal custody under the law of this state. It may be served by any person authorized to serve process except the state child protective service agency.

(2) A notice and statement of the rights and a blank affidavit of indigency, which contain the contents of the official AOC forms, AOC-DNA-2.2, Notice of Emergency Removal, and AOC-DNA-11, Financial Statement, Affidavit of Indigence, Request for Counsel and Order, shall be served with the emergency custody order. The official AOC forms are available for use in compliance with this rule.

SUPREME COURT STANDING COMMITTEE ON THE FCRPP (2012) COMMENTARY

If a permanent custody motion is filed within a Dependency, Neglect and Abuse (DNA) action pursuant to KRS 620.027, the movant shall ensure that personal service of the permanent custody motion has been perfected upon both parents and any other legal custodian, except as otherwise directed by the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA). Personal service shall be perfected in accordance with the Kentucky Rules of Civil Procedure, CR 4, et. seq. If said service has not been properly perfected in the DNA action, the court should deny the motion and require the movant to file a proper petition for child custody pursuant to KRS Chapter 403.

FCRPP 19 Emergency Custody Orders in Dependency, Neglect or Abuse Actions

(1) Any request for an emergency custody order in a dependency, neglect or abuse case shall be in writing and shall be accompanied by an affidavit for emergency custody order which contains the contents of the official AOC form, AOC-DNA-2.1, Affidavit for Emergency Custody Order, and which alleges dependency, or abuse or neglect. The affidavit shall be presented to the judge with any other documentation presented at the time of the filing of the request. The official AOC form may be utilized for compliance with this rule.

(2) The person seeking the emergency custody order shall indicate on the affidavit whether there are other proceedings pending, or any orders of custody, related to the child in the Commonwealth or any other state.

(3) The emergency custody order shall contain the contents of the official AOC form, AOC-DNA-2, Emergency Custody Order, which is available for use in compliance with this rule. In no event shall a child be removed pursuant to KRS 620.060 only on a verbal order.

(a) Upon issuance of an emergency custody order by the judge, the person seeking the emergency custody order shall file the emergency custody order and the affidavit with the clerk no later than the close of the next work day and the clerk shall assign a case number.

(b) If not filed with the emergency custody order, a petition shall be filed with the clerk within 72 hours of taking the child into custody in the same case file as the emergency custody order and affidavit.

(c) The court may, after issuing an emergency custody order, transfer the case for forum non conveniens to the county where the dependency, abuse or neglect is alleged to have occurred and shall notify the court to which the case is being transferred, upon issuance of the transfer order.

FCRPP 20 Petition

(1) A petition pursuant to KRS Chapter 620 shall contain the contents of the official AOC form, AOC-DNA-1, Dependency Neglect or Abuse Petition, which is available for use in compliance with this rule. In proceedings involving siblings, separate petitions shall be filed for each child and individual case numbers shall be assigned by the clerk of the court, but all siblings' files shall be assigned to the same judge.

(2) When a petition is filed a copy shall be mailed or provided by the clerk to the parents or other person exercising custodial control or supervision, the state child protective service agency, the county attorney, any

guardian *ad litem*, and any counsel of record, no later than the business day following the filing of the petition.

FCRPP 21 Notice of Temporary Removal Hearing

(1) The clerk shall provide notification of the temporary removal hearing to the parents or other person exercising custodial control or supervision, county attorney, the state child protective service agency, any guardian *ad litem* and any counsel of record.

(2) The order entered at the hearing shall contain the contents of the official AOC form, AOC-DNA-3, Order-Temporary Removal Hearing, which is available for use in compliance with this rule.

FCRPP 22 Orders from Hearings

(1) Adjudication Hearing. The order entered at the hearing shall contain the contents of the official AOC form, AOC-DNA-4, Order-Adjudication Hearing, which is available for use in compliance with this rule.

(2) Disposition Hearing. The order entered at the hearing shall contain the contents of the official AOC form, AOC-DNA-5, Order-Disposition Hearing, which is available for use in compliance with this rule.

(3) Permanency Hearing. The order entered at the hearing shall contain the contents of the official AOC form, AOC-DNA-6, Order-Disposition Hearing, which is available for use in compliance with this rule.

(4) Permanent Custody Order. Any order of permanent custody entered pursuant to KRS 620.027 shall contain the contents of the official AOC form, AOC-DNA-9, Order-Permanent Custody, which is available for use in compliance with this rule.

(5) Verbal Approval or Stamped Signatures. No order in a dependency, neglect and abuse action may be entered on verbal approval or stamped signature.

SUPREME COURT STANDING COMMITTEE ON THE FCRPP (2012) COMMENTARY

Faxed or scanned original signatures and encrypted or otherwise secure digital signatures authorized by the Supreme Court have been deemed to be acceptable methods of signature for purposes of these Rules.

FCRPP 23 Continuances

(1) If the court grants an extension of time or a continuance for any hearing other than the annual permanency hearing, it shall make written or oral findings on the record that the continuance is necessary in the best interest of the child, for discovery or presentation of evidence or witnesses, to protect the rights of a party, or for other good cause shown.

(2) The annual permanency review hearing shall be conducted at least annually and shall not be continued beyond 12 months from the placement of the child in foster care for any reason, including good cause.

SUPREME COURT STANDING COMMITTEE ON THE FCRPP (2012) COMMENTARY

Pursuant to 45 C.F.R. 1356.21(b)(2)(i), the state child welfare agency must obtain a judicial determination that it has made reasonable efforts to finalize the permanency plan that is in effect (whether the plan is reunification, adoption, legal guardianship, placement with a fit and willing relative, or placement in another planned permanent living arrangement) within 12 months of the date the child is considered to have entered foster care and at least every 12 months thereafter while the child is in foster care. Under 45 C.F.R. 1356.21(b)(2)(ii), if such a judicial determination is not made, the child becomes ineligible under title IV-E at the end of the month in which the judicial determination was required to have been made, and remains ineligible until such a determination is made.

FCRPP 24 Dismissal

Once filed, a petition shall be dismissed only upon court order.

FCRPP 25 Transfer

Cases shall not be transferred from one county to another prior to adjudication except on a specific finding of improper venue or forum nonconveniens.

FCRPP 26 Appearances

Any attorney appearing on behalf of a party in a dependency, neglect or abuse action shall file a written entry of appearance unless an order appointing the attorney as guardian *ad litem* or court-appointed counsel has been entered. An attorney shall not withdraw from representation except upon motion to withdraw granted by the court.

FCRPP 27 Records and Transcripts

(1) An electronic or stenographic record of interviews with children, including a recording of any in-camera proceedings, shall be filed under seal with the clerk and may be made available to the parties or their counsel on motion and written order of the court.

(2) In courts that have more than one county in their jurisdiction any recordings made in a county other than where the action is filed shall be delivered to the clerk of the county where the action is filed by the court ordering the hearing.

FCRPP 28 Reports

Any dispositional report shall be filed three days prior to a dispositional hearing and shall contain the contents of the official AOC form, AOC-DNA-12, Dependency, Neglect or Abuse Dispositional Report, which is available for use in compliance with this rule.

FCRPP 29 Case Plan and Case Progress Reports

The court shall require the following to be filed in the court record and provided to all parties:

(1) The out of home case plan;

(2) Any visitation agreement for the case plan or the case permanency plan; and,

(3) Any prevention plan or safety plan developed by the child protective service agency.

(4) The state child welfare agency shall provide the names and addresses of the child's foster parents, pre-adoptive parents or relatives providing care to the child, court appointed special advocate, and foster care review board member assigned to the case with the case permanency plan or case progress report filed with the court on a form prescribed by the Administrative Office of the Courts.

FCRPP 30 Reviews

(1) Permanency Progress Review. In addition to the annual permanency hearing mandated by KRS 610.125, the court shall conduct a permanency progress review no later than 6 months after a child is placed in foster care, in the home of a non-custodial parent, or other person or agency, when that child was sixteen years of age or younger at the time of the filing of a dependency, neglect or abuse petition.

(2) Independent Living Review. In addition to the permanent placement review and the annual permanency hearing, and when the child remains in foster care or committed to the state child welfare agency, the court shall conduct an independent living review at least 6 months prior to the child turning 18 years of age to ensure that training on independent living and other appropriate services have been included in the case plan and are being provided to the child.

SUPREME COURT STANDING COMMITTEE ON THE FCRPP (2012) COMMENTARY

With respect to FCRPP 30(1), if a permanent custody motion is filed within a Dependency, Neglect or Abuse (DNA) action pursuant to KRS 620.027, the movant shall ensure that personal service (of the DNA action) has been perfected upon both parents and any other legal custodian, except as otherwise directed by the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA). Personal service shall be perfected in accordance with the Kentucky Rules of Civil Procedure, CR 4, et. seq. If said service has not been properly perfected in the DNA action, the court should deny the motion and require the movant to file a proper petition for child custody pursuant to KRS Chapter 403.

FCRPP 31 New Action

Any new allegation or request for removal after a child has achieved permanency shall be filed as a new action.

VII. Adoption and Termination of Parental Rights

FCRPP 32 Venue and Petition

(1) Venue. When filed in the same county in which a KRS Chapter 620 proceeding has been held, a proceeding under KRS Chapter 625 shall be assigned to the same family court division that heard the KRS Chapter 620 action. Otherwise, venue shall proceed according to KRS 625.050(4).

(2) Petition.

(a) A separate petition shall be filed for each child and individual case numbers shall be assigned by the clerk of the court in proceedings filed pursuant to KRS Chapters 199 and 625, and in the case of siblings, shall be heard by the same judge.

(b) Every petition in an adoption or termination of parental rights action shall include the case number of any underlying juvenile case, specifically dependency, neglect or abuse or termination of parental rights cases, and shall include the name of any guardian *ad litem* previously appointed.

FCRPP 33 Adoption

(1) No request for final hearing shall be made prior to the filing of the state child protective service agency report pursuant to KRS 199.510, and the guardian *ad litem* report, if any, pursuant to KRS 199.515.

(2) In the event of an uncontested adoption, a hearing shall be held within 60 days of the filing of a request for a final hearing.

(3) A continuance of any final hearing date shall not be granted except upon good cause shown. Annual permanency review hearings shall continue to be held in any dependency, neglect and abuse action as required by FCRPP 23 until finalization of the adoption.

FCRPP 34 Involuntary Termination

(1) Immediately upon the filing of any petition for involuntary termination of parental rights, the petitioner shall obtain a pretrial date. In the event the parents are not served prior to the pretrial date, the pretrial date shall be used as a case status review to expedite the proceeding.

(2) A continuance of any final hearing date shall not be granted except upon good cause shown. The annual permanency review hearings shall continue to be held in any dependency, neglect and abuse action as required by FCRPP 23 until permanency is achieved.

FCRPP 35 Orders Terminating Parental Rights

The clerk of the court shall send two certified copies of the order terminating parental rights to the state child protective agency. The prospective adoptive parent or his or her attorney, if any, may obtain a certified copy of the order terminating parental rights from the state child protective agency to attach to the adoption petition.

FCRPP 36 Post-Termination of Parental Rights Review

If an order terminating parental rights is entered, a copy of the order shall also be certified to the record in the underlying dependency, neglect and abuse case which shall be identified in the order. The clerk of the court in the underlying dependency, neglect and abuse case shall docket the matter for a review hearing within 90 days from the date of the entry of the order of termination of parental rights and shall docket the matter as directed by the court at least annually thereafter until permanency is achieved.

VIII. Status Offenders

FCRPP 37 Review

At any time during a status offense action, the court on its own motion, or on motion of any interested person, may determine that a status matter is more appropriate as a KRS Chapter 620 proceeding and direct the state child welfare agency to investigate and/or provide services to the child and/or family; amend the petition pursuant to KRS 610.010(13) and order it served; or, require a new petition to be filed. See also KRS 605.130(3).

FCRPP 38 Interstate Compact on Placement of Children

Pursuant to KRS Chapter 615, the child shall be presented forthwith to the court without formal petition. The court shall utilize the forms provided pursuant to the Interstate Compact.

FCRPP 39 Diversion

Prior to the court issuing an order for a formal hearing or the county attorney requesting a formal hearing, the case shall be processed by the court designated worker pursuant to KRS 610.030.

FCRPP 40 Petition

(1) Every petition shall be accompanied by the AOC-JW-40, Preliminary Inquiry Formal/Informal Processing Criteria and Recommendations; and where diversion has been attempted pursuant to KRS 630.050, shall also include an AOC-40.1, Unsuccessful Diversion Agreement, which includes preliminary intake inquiry findings.

(2) A habitual truancy petition shall be accompanied by an affidavit and truancy evaluation form in compliance with KRS 159.140 and which contains the contents of the official AOC form, AOC-JV-41, Affidavit and Truancy Evaluation Form, and which is available for use in compliance with this rule.

(3) A beyond control of school petition shall be accompanied by an affidavit and beyond control of school evaluation form which contains the contents of the official AOC form, AOC-JV-38.1, Affidavit and Beyond Control of School Evaluation Form, and which is available for use in compliance with this rule.

(4) A beyond control of parent petition shall be accompanied by an affidavit and beyond control of parent evaluation form which contains the contents of the official AOC form, AOC-JV-38, Affidavit and Beyond Control of Parent Evaluation Form, and which is available for use in compliance with this rule.

(5) A habitual runaway petition shall be accompanied by a pre-adjudicative detention criteria with attachments which contains the contents of the official AOC form, AOC-JW-39, Pre-Adjudicative Detention Criteria, and which is available for use in compliance with this rule.

FCRPP 41. Summons

Upon the filing of the petition, the clerk shall issue a summons to the parent(s) or other person exercising custodial control or supervision of the child, setting a date for initial appearance as directed by the presiding judge.

FCRPP 42. Proceedings

(1) Pursuant to KRS 610.060, the judge shall explain to the child on the record his or her rights and the charge utilizing a notice which contains the contents of the official AOC form, AOC-JV-49, Notice of Juvenile Rights and Consequences for Status Offenders, and which is available for use in compliance with this rule.

(2) A public advocate shall be appointed for the child unless otherwise waived on the record by obtaining private counsel. The court may place the child on terms which address the child's alleged behavior(s), and may order participation in a service, program or local resource to assist the child.

(3) A pretrial conference may be held in the court's discretion.

(4) For disposition, the court shall enter a juvenile status offense order which contains the contents of the official AOC form, AOC-JV-36, Juvenile Order Status Offense, to order terms, services, programs and/or resources to address the needs of the child and family pursuant to KRS 630.120(5). These orders may not require an involuntary drug screen of the parent(s) or other person exercising custodial control or supervision in the status offense case. The court may also adopt recommendations in the dispositional report. For a child who is committed to the state child protective service agency, the court shall also enter a disposition order which contains the contents of the official AOC form, AOC-JV-31, Juvenile Status Offense Disposition Order. The official AOC forms are available for use in compliance with this rule.

FCRPP 43 Informal Adjustments

(1) For any status offender petition resolved by an informal adjustment as defined by KRS 600.020(31), unless explicitly stated otherwise, the terms of the informal adjustment shall remain in effect for a period not to exceed one year or until the child's eighteenth birthday, whichever comes first.

(2) On notice of a violation of the terms of an informal adjustment to the county attorney, and motion filed with the court and noticed to the interested parties, the court shall re-docket the case, set aside the informal adjustment, and reinstate the original petition upon a showing that the violation could not be remedied without court intervention.

(3) In the event that the alleged violation of the terms of the informal adjustment would constitute grounds for an original petition the county attorney may move to file an amended petition or file a new petition after consulting with the case worker and the family involved.

FCRPP 44 Detention of Status Offenders

(1) Pursuant to KRS 630.100, no status offender shall be placed in secure detention unless:

(a) The offender is alleged to be an habitual runaway; or,

(b) The offender is alleged to be in contempt of a valid court order which contains the contents of the official AOC form, AOC-JV-36, Juvenile Order Status Offense; or a finding of contempt of court has been entered in a formal court proceeding and a valid court order has been entered which contains the contents of the official AOC form, AOC-JV-36, Juvenile Order Status Offense. The official AOC-JV-36 may be utilized for compliance with this rule.

(2) Any status offender appearing before the court shall be provided a public advocate or shall be provided the opportunity to retain private counsel.

(3) Release of a child in detention to non-secure alternatives may be to:

(a) The child's parents or legal guardians; or

(b) The state child protective service agency if the child is committed to that agency; or

(c) The state juvenile justice agency for alternative detention services, if the child qualifies for such a placement; or

(d) A non-secure crisis or other mental health unit/facility.

(4) If the parents or legal guardians are unavailable or unwilling to accept the child and there is no other alternative under Section (3) above:

(a) Another responsible adult relative or other interested adult with an established relationship with the child, including the person who may have been exercising custodial control or supervision but does not have actual legal custody, shall be contacted as directed by the presiding judge and the child released to his/her care; or

(b) The child shall be placed in an alternative placement, with possible referral to the state child protective service agency.

(5) No child shall be detained for more than twenty-four (24) hours in secure detention without a hearing before the court within that twenty-four (24) hour period of the detainment, exclusive of weekends and holidays. Each court shall establish a local protocol to assure that the hearing is scheduled within twenty-four (24) hours, exclusive of weekends and holidays.

(6) A judge shall conduct a due process hearing prior to detaining a child in a secure detention facility for contempt and shall consider any alternatives to a secure detention placement, and other alternatives identified in agency reports submitted within 48 hours pursuant to KRS 610.265(3)(d)(3). If the court has determined by findings on the record that no less restrictive alternatives are available or appropriate, then the child may be securely detained. Any such court order shall indicate the length of detainment.

IX. Appendix A

Appendix A Model Time-Sharing Visitation Guidelines

Model Time-Sharing/Visitation Guidelines

The following schedules are suggested as **guidelines** for the parents and the court in establishing time-sharing/visitation schedules. Each case will present unique facts or circumstances which shall be considered by the court in establishing a time-sharing/visitation schedule and **the final**

schedule established by the court or agreed to by the parents may or may not be what these guidelines suggest.

1. The time-sharing/visitation schedule set by the court for holidays, school breaks and summer break should control over regularly scheduled time-sharing/visitation time, even if this allows successive time-sharing/visitation periods.

2. The parent exercising time-sharing/visitation should be responsible for timely picking up the child(ren) at the beginning of the time-sharing/visitation period and returning the child(ren) in a timely manner at the end of the time-sharing/visitation period.

3. Times in a time-sharing/visitation schedule should be set in the time zone where the child primarily resides.

4. For time-sharing/visitation times pertaining to school holidays, whether in a formal school or home-schooled, the school holidays where the child(ren) primarily resides should apply.

5. Each parent should provide to the other parent contact numbers and addresses (unless a domestic violence order is in effect) where the child(ren) can be located during their scheduled time-sharing/visitation time.

6. The parent exercising time-sharing/visitation should be given a minimum of every other weekend as time-sharing/visitation time with the child(ren) and one midweek overnight time-sharing/visitation. The parent having such time-sharing/visitation should be responsible for delivering the child(ren) to school, child care, or the other parent's home as specifically ordered by the court or agreed to by the parents.

7. Holidays.

a. If a holiday is celebrated on a Monday following a parent's regularly scheduled time-sharing/visitation, then that parent should be permitted to extend parenting time until 6:00 p.m. on the holiday, unless the parents agree otherwise.

b. Other holidays.

(i) Parent exercising time-sharing/visitation.

1) During the first full year after divorce/custody proceedings have been filed, the non-residential parent should have time-sharing/visitation scheduled as follows:

a) New Year's Day and July 4th from 8:00 a.m. until 6:00 p.m.

b) Thanksgiving, beginning at 6:00 p.m. the day school ends until 3:00 p. m. Thanksgiving Day.

c) Christmas/Winter Break, beginning at 6:00 p.m. the day school ends until noon on December 25.

d) Holidays not listed that are of special interest to the family should be assigned to the non-residential parent in time amounts similar to those in a), b) and c) above.

2) Holiday time not scheduled above to the parent exercising time-sharing/visitation should be with the other parent.

3) Mother's Day and Father's Day, regardless of any conflict with the above proposed schedule, should be spent with the appropriate parent from 8:00 a.m. until 6:00 p.m.

4) Fall Break or Spring Break, as allowed by the child(ren)'s school calendar, should be scheduled for the parent with whom the child(ren) primarily resides in the first full year after the divorce/custody proceedings are filed from 6:00 p.m. the day school ends until 6:00 p.m. the following Friday. If school breaks are longer than one week due to the school schedule, the parent with whom the child(ren) primarily resides should be scheduled for the first half of the break and the other parent should be scheduled for the last half.

5) Summer Break should be scheduled to allow the parent exercising time-sharing/visitation a minimum of two periods of two consecutive weeks during the Summer Break. Each parent should provide the time periods he or she desires to the other parent before the end of the school year, or at least 60 days in advance of the requested time. If a child(ren) must attend summer school in order to pass to the next grade, summer time-sharing/visitation should not prevent school time.

6) Birthdays: Unless the birthday falls on a regularly scheduled time-sharing/visitation day, the parent exercising time-sharing/visitation should be scheduled for birthday time from 5:00 p.m. until 8:00 p.m. If it is a regular day of the parent exercising time-sharing/visitation where the child(ren) does not primarily reside, the other parent should have birthday time from 5:00 p.m. until 8:00 p.m.

(ii) Alternating years: For each year thereafter, the time-sharing/visitation set out above should alternate between the parent with whom the child(ren) primarily resides and the parent exercising time-sharing/visitation.

8. Waiting/Tardiness/Cancellations.

a. In the event either parent will be more than 30 minutes late, due to reasonable unforeseen circumstances, to pick up the child(ren), he or she should provide direct notice to the other parent or a designated third party and make suitable arrangements for exchange of the child(ren).

b. If time-sharing/visitation is missed through no fault of the parent, and reasonable notice has been given, that time should be made up, if reasonable to do so.

c. If the child(ren) is ill, the parent who has the child should give 24-hour notice, if possible, to allow for appropriate plans to be made.

9. Transportation: The parents should transport the child(ren) in a safe manner, which includes utilizing the appropriate child restraint systems and not driving under the influence of intoxicants.

All sitting. All concur.

ENTERED: November __7__, 2014.

CHIEF JUSTICE

KENTUCKY LAWYER ASSISTANCE PROGRAM FOUNDATION, INC.

By: John M. Williams

Over the past 30 years, a group of dedicated Kentucky lawyers has assisted its fellow members of the bar. From their original incarnation as the Kentucky Bar Association (KBA) **Alcohol and Drug Abuse Committee** to today's **Kentucky Lawyer Assistance Program** (KYLAP), these men and women have volunteered their time to help those in dire need. We now have the opportunity to expand that help in new and exciting ways through the Kentucky Lawyer Assistance Program Foundation, Inc.

Much has been written about the stresses and impairments faced by attorneys. A simple Google search of "lawyer impairment" garners over 2,000,000 hits! Stress, anxiety and depression are often present in even the most successful appearing attorneys. We are no strangers, either, to drug and alcohol abuse and addiction.

Kentucky's 18,000 lawyers suffer from the same maladies which afflict everyone, except often to a greater extent. According to the **National Institutes of Health**, 7.2 percent of Americans 18 years of age or older suffer from alcohol abuse or addiction.[1] This number skyrockets to 18 percent to 25 percent when limited to attorneys.[2] This means that as many as 4,500 of our fellow Kentucky attorneys may be alcoholics. Just under 10 percent of the general public experience mood disorders.[3] Consider, though, that attorneys suffer from depression at rates three to four times that of the rest of society.[4] Sadly, in recent months, Kentucky made national news for its rash of attorney suicides.[5] Even if you have not been personally affected, it is likely that you will encounter many attorneys impaired not only in the practice of law but their very lives.

Some of the very traits that make a good lawyer can stand in the way of that lawyer getting help. Who among us wants to admit that he or she needs help? In our practices, we project to our clients that we are the best person for the job. We need no help. There is also a certain machismo in the profession which can be a great asset as an advocate but deadly to the person in need of help. We do not dare admit fear or anxiety when dealing with our opposition. This attitude is poisonous when applied to addiction and mental illness.

By now, KYLAP's mission should be well known to the Kentucky Bar. It provides assistance to those attorneys in need of help. This assistance takes many forms from reaching out to impaired attorneys to monitoring their progress in treatment and recovery. This mission is not limited to practicing lawyers. Former lawyers and law students also benefit. As a volunteer KYLAP counselor, I can attest to the substantial efforts made daily to assist our fellow attorneys.

But, we need to do more. In fact, we must. Toward that end, the Kentucky Lawyer Assistance Program Foundation, Inc. has been formed to further advance KYLAP's goals. I am pleased to have been asked to serve on the foundation's board of trustees, along with several other Kentucky lawyers. We are excited by the prospects for the foundation.

The foundation is a 501(c) (3) non-profit corporation authorized under Kentucky Supreme Court Rule 3.910(8). It will provide loans to impaired lawyers to help cover the costs of treatment, bar dues, disciplinary fees and other expenses which have been barriers to seeking help. We also will help fund educational programs for the bar and public to encourage wellness, sobriety, good mental health and recovery. The goal is twofold: 1) assistance to the legal community; and 2) protection of the public from harm caused by impaired lawyers.

Early intervention and treatment not only benefit the affected lawyer but the public, too. The foundation will provide resources to assist lawyers in getting help.

Many times, lawyers are hesitant to seek help out of fear that their practices will be damaged by their absence. Loans to ease the financial burden will encourage treatment. The irony, of course, is that an impaired attorney will likely do more damage by continuing to represent his or her clients.

The cost for inpatient or outpatient substance abuse treatment can be onerous. By the time many attorneys come to KYLAP's attention, they have depleted their resources. Even those with health insurance often find that their plans only cover treatment while under medical care, i.e., hospitalization. As a result, treatment programs (typically 28 days but much longer in some cases) must be paid out of pocket.

The foundation will provide short-term loans to lawyers in need where finances are an impediment to treatment. We envision assistance to lawyers who cannot afford the cost of treatment. The prime requirement for eligibility will be need. Likewise, we may under certain circumstances make loans to cover disciplinary costs, bar dues and other expenses incurred in maintaining the lawyer's license. Any person obtaining a loan can expect to enter into an agreement with KYLAP under which his or her treatment and recovery program will be monitored. Such monitoring agreements are commonly used by KYLAP.

Importantly, the foundation is not intended as a vehicle to prop up an impaired lawyer's practice. It is not a bank to finance a floundering practice of an attorney who refuses to accept help. Rather, it is designed as a short-term bridge to ease the burden of seeking that help. Loans to pay off business or personal debts unrelated to treatment will not be made. We are not in the business of saving law practices. We hope to save lives, instead.

In addition to assisting individual attorneys, the foundation will advance education of both the bar and the public. While we have made great inroads in the past few years, more must be done. We hope to educate attorneys in all seven Kentucky Supreme Court Districts through local bar associations and our KYLAP volunteers. The public, too, can benefit as we reach out to our communities to educate non-lawyers on the issues facing the legal community.

Are these lofty goals? Perhaps, but we have seen other states establish similar foundations with great success. There is no reason why we cannot do the same in Kentucky. Of course, none of this will be possible without money. The need is twofold: First, KYLAP's resources are limited. The foundation is designed to create a separate source of funding. Second, the foundation will operate as a separate entity, allowing KYLAP

to focus on its only mission – saving lives.

In the coming months, the foundation will begin in earnest its fundraising efforts to assist in realizing its goals. We will be asking members of the Kentucky Bar for help in both raising awareness and money. If every KBA member donated $10 to the foundation, we would be a long way toward our goals. If you are one of the fortunate few who have not been affected by mental illness or addiction (either personally or through a friend or loved one), it is likely that you know a member of our profession who needs help and can't or won't seek it.

When you hear from us in the future, please consider helping the foundation just as we hope to help our fellow attorneys. If you want more information about the foundation, please contact me or KYLAP Director Yvette Hourigan at yhourigan@kylap.org. For information about KYLAP, please visit www.kylap.org.

John M. Williams is a member of Rajkovich, Williams, Kilpatrick & True, PLLC, in Lexington. He is a volunteer counselor for KYLAP and a trustee of the Kentucky Lawyers Assistance Program Foundation, Inc. He may be contacted at (859) 245-1059 and at williams@rwktlaw.com.

1 Substance Abuse and Mental Health Services Administration (SAMHSA). *2012 National Survey on Drug Use and Health (NSDUH).* www.samhsa.gov/data/NSDUH/2012SummNatFindDetTables/DetTabs/NSDUH-DetTabsSect5peTabs1to56-2012.htm#Tab5.8A.

2 G. Andrew H. Benjamin, Bruce D. Sales & Elaine J. Darling, *Comprehensive Lawyer Assistance Programs: Justification and Model*, 16 L. & Psychol. Rev. 113, 115 (1992).

3 www.nimh.nih.gov/Statistics/1ANYMOODDIS_ADULT.shtml, citing Kessler RC, Chiu WT, Demler O, Walters EE. *Prevalence, Severity, and Comorbidity of Twelve-month DSM-IV Disorders in the National Comorbidity Survey Replication* (NCS-R). Archives of General Psychiatry, 2005 Jun, 62(6):617-27.

4 W.W. Eaton, J.C. Anthony, W. Mandel & R. Garrison, *Occupations and the Prevalence of Major Depressive Disorder*, 32 J. Occupational Med. 1079 (1990).

5 www.cnn.com/2014/01/19/us/lawyer-suicides/index.html.

KENTUCKY LAWYER ASSISTANCE PROGRAM DIRECTOR YVETTE HOURIGAN GARNERS NATIONAL AWARD FOR EFFORTS TO COMBAT DEPRESSION AND SUICIDE

Lexington attorney Yvette Hourigan received the Dave Nee Foundation's national David S. Stoner Uncommon Counselor Award on Saturday, October 11, for her efforts educating the legal community in combatting depression and suicide through her work as director of the Kentucky Lawyer Assistance Program (KYLAP).

Hourigan received the award from the foundation — a charitable and educational nonprofit committed to fighting depression and preventing suicide — at its annual fall gala at Lincoln Center in New York City. Hourigan was also honored for her work addressing mental health issues in Kentucky's three law schools and in her community.

KYLAP is a program of the Kentucky Bar Association (KBA) which offers confidential help to members of the Kentucky legal community who are struggling with mental health issues, such as depression, alcohol and substance abuse, stress, compulsive gambling or any other condition that may adversely impact the individual's personal or professional life.

"The Kentucky Bar Association joins the David Nee Foundation in honoring Yvette's work with the all-volunteer KYLAP Commission and the KBA Board of Governors to address the disturbing trend of attorney suicides within Kentucky's legal community," said John D. Meyers, KBA executive director. "Yvette has drawn much-needed attention to the higher rate of depression among attorneys, and her dedicated efforts are indeed worthy of the foundation's praise."

The David S. Stoner Uncommon Counselor Award is given annually to a member of the legal profession who exhibits extraordinary compassion and concern for their co-workers, family, friends, and community and who also actively fight the stigma of depression and other mental illnesses within the legal field. The award is named in memory of Stoner for his unwavering commitment to the Dave Nee Foundation which he served dutifully and most enthusiastically from 2006 to 2010.

The David Nee Foundation was created in 2005. Its mission is to eliminate the stigma associated with depression and suicide by promoting and encouraging not only the diagnosis and treatment of depression among young adults, but also the education of young people, their families, and friends about the disease of depression.

"I am so humbled to be honored as the Dave Nee Foundation's Uncommon Counselor for 2014," Hourigan said upon receiving the award. "KYLAP is fortunate to work with such a compassionate and generous foundation and I look forward to continuing to educate and encourage Kentucky's law students, lawyers and judges about the high rate of success in treating the debilitating depressions and anxieties which may lead to lawyer suicide."

Hourigan received her undergraduate degree from Murray State University and her J.D. from the University of Kentucky College of Law. Upon graduation, she served as a law clerk for the Honorable Chief Justice Joseph Lambert of the Supreme Court of Kentucky. Thereafter, Hourigan practiced in Lexington where she focused primarily on plaintiffs' personal injury work, including nursing home negligence, automobile wrecks and other civil litigation until becoming the director of KYLAP in February 2011.

For more information about KYLAP, visit www.kylap.org. For more information about the KBA, visit www.kybar.org.

KYLAP HOSTS LAWYERS IN RECOVERY MEETINGS IN NORTHERN KENTUCKY AND LEXINGTON

The Kentucky Lawyer 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.

Find a Mentor and Take Charge of Your Future!

*G*reat *P*lace to *S*tart

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.

Kentucky Bar Association

2015 New Lawyer Program

Essential Fundamentals for the Professional and Ethical Practice of Law

"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

January 28-29, 2015
Marriott Louisville Downtown
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Additional information available at www.kybar.org/195

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WWW

Have an item for WHO, WHAT, WHEN & WHERE? The *Bench & Bar* welcomes brief announcements about member placements, promotions, relocations and honors. Notices are printed at no cost and must be submitted in writing to: Managing Editor, *Bench & Bar*, 514 West Main Street, Frankfort, KY 40601 or by email to sroberts@kybar.org. Digital photos must be a minimum of 300 dpi and two (2) inches tall from top of head to shoulders. There is a $10 fee per photograph appearing with announcements. Paid professional announcements are also available. Please make checks payable to the Kentucky Bar Association.

ON THE MOVE

Fultz Maddox Hovious & Dickens PLC announces that **Kyle G. Bumgarner** has joined the firm as an associate, after a three-year clerkship with the Hon. David L. Bunning of the United States District Court for the Eastern District of Kentucky. Bumgarner's practice is focused on commercial litigation and healthcare matters. He earned a B.A. from Centre College in 2008 (*cum laude*), double majoring in government and economics. He was also a three-year letterman for the Centre College football team. Bumgarner earned a J.D. in 2011 from Northern Kentucky University Salmon P. Chase College of Law, graduating first in his class. While in law school, he served as managing editor for the Northern Kentucky Law Review and was awarded the Bratton-Wirthlin Trial Advocacy Award for outstanding performance in trial advocacy.

The law firm of **Quintairos, Prieto, Wood & Boyer** announces that **Andrew Schulz** has joined the firm as an associate. Schulz's practice primarily focuses on civil and commercial litigation in the areas of insurance defense and insurance fraud/SIU (Special Investigations Unit). Schulz earned his J.D. from Thomas M. Cooley Law, graduating *cum laude*.

Stites & Harbison, PLLC, is pleased to announce that attorney **William G. Geisen** has been appointed chair of the firm's construction service group. His new role began September 1. Geisen succeeds **Buckner Hinkle, Jr.**, who most recently served as the service group chair since 2009. Hinkle will continue his legal practice in construction law and business litigation. Geisen is a member (partner) of Stites & Harbison as well as office executive member of the Covington office. His practice focuses on construction law, including contract negotiation, dispute resolution and litigation. He is active in various construction industry organizations, including Allied Construction Industries, board of directors; American Bar Association, Forum on the Construction industry, member; Kentucky Bar Association, Construction and Public Contract Law Section, member and former chair; Midwest/ Midsouth Construction Law Institute, chair, Planning Committee; and the Construction Users Roundtable. Geisen is the only attorney from the Greater Cincinnati area who is a fellow in the American College of Construction Lawyers, an honor reserved for the top one percent of the U.S. construction bar.

Dinsmore & Shohl's Colin H. Lindsay has been selected as the United States Magistrate Judge for the Western District of Kentucky. Chief Judge Joseph H. McKinley, Jr., announced that Lindsay will assume office Jan. 1, 2015, upon the retirement of U.S. Magistrate Judge James D. Moyer. Lindsay is a partner in the litigation department of Dinsmore & Shohl, LLP, practicing primarily in commercial, intellectual property and product liability litigation and serving as a member of the firm's diversity committee. He has substantial trial experience and has twice served as an adjunct instructor at the University of Louisville Louis D. Brandeis School of Law where he taught advanced trial practice. He was the 2009 president of the Louisville Bar Association and has recently been appointed as a member of the Center for Racial and Ethnic Diversity by the president of the American Bar Association. He received his undergraduate degree from West Virginia University and his J.D. from Emory University School of Law.

Deren L. Worrell joined **Johnson Trust Company** in August of 2014 as vice president of Trust Services and Trust Counsel. She will focus on matters involving Johnson Trust Company's role as custodian, trustee, or successor trustee. Prior to joining the firm, Worrell was a senior wealth planner with PNC Wealth Management and practiced as a tax, estate planning, and exempt organizations attorney with Bourland, Wall & Wenzel in Fort Worth, Texas. Worrell serves on the board of the Women's Crisis Center of Northern Kentucky and is a member of the Foundation Advisory Network for Greater Cincinnati Foundation.

As part of their ongoing efforts to broaden the range of services provided to their clients, **Billings Law Firm, PLLC (BLF)**, announces that **John Franklin Billings** has joined the firm as senior counsel. Billings is a veteran attorney, licensed in the states of Kentucky, Ohio, and West Virginia, and the U.S. Tax Court, bringing more than 36 years of experience in commercial transactions, business organizations, commercial and business litigation, real estate, planning and zoning, wills, trusts, estate planning, probate, maritime transactions, and creditors' rights matters.

DelCotto Law Group (DLG) announces that **Jamie L. Harris** has been named a member of the firm. Harris joined DLG in 2007, and her practice focuses on complex business and personal bankruptcy. Outside of work, Harris enjoys volunteering for organizations like Junior Achievement of the Bluegrass.

The law firm of **Dolt, Thompson, Shepherd, & Kinney PSC, (DTSK)**, announces that **Alexandra D. Logsdon** has joined the firm as an associate. Logsdon began work at DTSK as a law clerk in 2012 and assisted in all aspects of the civil litigation process. Her practice will primarily concentrate on medical malpractice, personal injury, and product liability. Logsdon received her B.B.A. in business management from the University of Kentucky in 2010. She graduated *magna cum laude* from the University of Kentucky College of Law in 2014. During law school, she served as the administrative editor for the Kentucky Journal of Equine, Agriculture, and Natural Resources Law.

Dan Carman

Kirby J. Fullerton

In addition to his usual criminal defense practice in Lexington at **Dan Carman, Attorney at Law, PLLC**, Carman has joined with **Kirby J. Fullerton** to open **CF Abogados – Carman & Fullerton, PLLC**. CF Abogados is a fully Spanish-English bilingual law office located in the Security Trust Building in downtown Lexington, handling criminal defense and immigration matters. Specifically, the firm assists clients with removal bonds, removal proceedings, visas, asylum, and various other types of immigration cases, and can be visited at lexingtonabogado.com.

Fultz Maddox Hovious & Dickens PLC is pleased to announce that **Jason P. Smith** has joined the firm as an associate. Smith focuses his practice primarily on business and real estate transactions, including commercial agreements and leasing, finance, and contract law. He received a B.S. in health & sport studies from Miami University (2006), his J.D. from the Loyola University Chicago School of Law (2013), and his M.B.A. from the Loyola University Chicago Quinlan School of Business (2014). During law school, he served as an elected representative of the Student Bar Association, a member of the International Law Review, and as a student clinician in the Business Law Clinic.

J. Christine Warren joined **Johnson Trust Company** in January of 2014 as a senior trust associate. Warren was promoted in September 2014 to trust counsel, and will focus on assisting clients and their advisors in estate planning, asset protection, and charitable giving matters. Prior to joining the firm, Warren worked as an associate attorney with Graf Stiebel & Coyne in Cincinnati. She serves on the board of the Women's Crisis Center of Northern Kentucky.

The Evansville office of **Kightlinger & Gray, LLP**, has moved. The new offices are located at 7220 Eagle Crest Boulevard in Evansville, Ind., 47715-9815. Since opening its Evansville office in 1976, Kightlinger & Gray, LLP, has demonstrated a long-term commitment to serving clients in Evansville, southwestern Indiana, and western Kentucky. Four attorneys currently practice in the Evansville office, including partner **Sacha Armstrong**. In addition to the Evansville office, Kightlinger & Gray, LLP, also has offices in Indianapolis, Merrillville, and New Albany, Ind., and Louisville.

Jennifer L. Brinkley has returned to her position with **Martin Management Group** in Bowling Green as manager of human resource administration. Brinkley is responsible for the administration of Martin Management Group's employee benefit programs for 430 employees in six states. She provides guidance on employment-related issues and is responsible for the organization's compliance with labor rules and regulations. Brinkley has a diverse background in domestic relations, litigation, employment law, and criminal law. In 2011 she earned her M.A. in criminology from Western Kentucky University and was named Outstanding Criminology Graduate Student of the Year. She earned her J.D. from the University of Kentucky College of Law in 2005 and was recently awarded the Young Professional Award from the University of Kentucky College of Law Alumni Association.

Taylor, Keller & Oswald, of London announces that **Katie Bing** has joined the firm as an associate. Her practice will focus primarily on insurance defense and family law. Before joining Taylor, Keller & Oswald, Bing served as a law clerk for the Honorable Mary C. Noble, deputy chief justice for the Supreme Court of Kentucky. Bing graduated from the University of Kentucky College of Law in 2013, where she was the special features editor for the Kentucky Law Journal and president of the Student Public Interest Law Foundation. At graduation, she was awarded the UK College of Law Faculty Cup, awarded to the graduate who makes the most outstanding contribution to the College of Law. After receiving her undergraduate degree from the University of Kentucky in 2008, she spent two years as a first grade teacher in Lake Village, Ark., as part of the Teach for America program. Bing currently serves as an at-large representative for the Kentucky Bar Association's Young Lawyers Division and is an associate member of the Central Kentucky Inns of Court.

Stites & Harbison, PLLC, announces that attorney **Jamie L. Cox** has been appointed chair of the firm's real estate & banking service group. Her new role began October 1. Cox succeeds **Julian Bibb**, who has served as the service group chair for the past 10 years. Bibb will continue his legal practice focused on banking, real estate law, and land conservation. Cox is a member (partner) of Stites & Harbison based in Louisville. She concentrates on commercial real estate development and leasing, commercial lending, and corporate-related real estate issues with an emphasis on the hospitality industry and New Markets Tax Credits transactions. She is a fellow of the American College of Real Estate Lawyers. She is also a LEED Accredited Professional. Cox is active in various community organizations. Currently she serves on the board of directors of The Morton Center and Sarabande Books, Inc.

The law firm of **Dolt, Thompson, Shepherd & Kinney PSC**, announces that **Terrance L. Massey, Jr.**, has joined the firm as an associate. Massey brings knowledge and experience in complex civil litigation, including elder abuse, long-term care, pharmaceutical product liability, and medical malpractice. His practice will primarily concentrate on medical malpractice, personal injury, and product liability. Massey received his B.A. from the University of Pennsylvania in 2006 and earned his J.D. from the University of Louisville Louis D. Brandeis School of Law in 2011.

Thompson Miller & Simpson PLC announces that **Ian C. B. Davis** has joined the firm as an associate. Davis received his B.A. from Sewanee: The University of the South and his J.D. in 2009 from the University of Kentucky College of Law.

He was on the Kentucky Law Journal. Davis will practice in the fields of commercial and healthcare litigation and will advise healthcare clients on regulatory and administrative matters.

Mehr Fairbanks Trial Lawyers, PLLC, is pleased to announce the addition of their new associate, **Elizabeth Thornsbury**. Thornsbury is native of southern West Virginia and has resided in Lexington for eight years upon moving here to attend the University of Kentucky (UK). She is an active member of programs focused on helping the youth of the country, including two previous summers spent working with AmeriCorps Energy Express for underprivileged children. Thornsbury previously acted as co-president for the National Middle School Association, UK Chapter and as a student ambassador for the National Reading Association. Prior to graduation, Thornsbury spent two summers working as a judicial clerk. Following law school graduation and the Kentucky Bar Exam, Thornsbury began working with Mehr Fairbanks Trial Lawyers, PLLC, as a law clerk. In October 2014, she joined the firm as an associate upon passing the Kentucky Bar Exam.

Tilford Dobbins & Schmidt PLLC has changed its name from **Tilford Dobbins Alexander PLLC** and announces this change effective immediately. They have served the Louisville community since 1901 and will continue building on the same tradition of prompt and efficient legal services delivered by their professionals. Our attorneys provide legal services in the areas of corporate practice, business planning, tax, estate planning and probate, litigation, insurance defense, real estate, and domestic/family law. Tilford Dobbins & Schmidt PLLC, 401 West Main Street, Suite 1400, Louisville, KY 40202, Phone: (502) 584-1000, tilfordlaw.com.

The Zoppoth Law Firm announces that **Bradley S. Zoppoth** has joined the firm as an associate. His practice will be primarily focused on employment law and business litigation. Zoppoth graduated in May 2011 from Southern Methodist University in Dallas where he earned his bachelor's degree in political science. He then earned his J.D. in May 2014 from Oklahoma City School of Law. He was admitted to practice law in Kentucky in October 2014.

Bonita K. Black and **Rebecca Bates Manno** have joined **Steptoe & Johnson PLLC**, broadening the firm's presence in Louisville. They join Steptoe & Johnson lawyers **Henry M. Reed, III**, and **David B. Malone**, who have been practicing with the firm in Louisville since 2011 and 2012, respectively. The addition of Black and Bates Manno expands the firm's corporate, transactional, litigation, and municipal finance practices in Kentucky. Prior to joining Steptoe & Johnson, both attorneys practiced with the law firm of Frost Brown Todd LLC. **Black** focuses her practice in general corporate law, mergers, corporate finance law, public finance, and acquisitions and divestitures. She will be the Louisville office managing member. She earned her bachelor's degree from the University of Kentucky and her law degree from Harvard Law School. **Bates Manno's** practice focuses on litigation with an emphasis on information management and electronic discovery issues. She works closely with clients to establish policies and procedures for the use and storage of electronic media, and trains employees on records retention. She also partners with clients to guide them through the discovery phase of litigation. Bates Manno earned her bachelor's degree as well as her legal degree from the University of Richmond.

William K. Burnham is an associate in the Louisville office of **Quintairos, Prieto, Wood & Boyer, P.A**. Burnham focuses his practice in the areas of medical malpractice defense, long-term care defense and insurance defense litigation. Burnham has spent the last 10 years working as an associate at an insurance defense firm with a practice primarily focused in the area of medical malpractice, long-term care and toxic tort defense. Burnham has participated in numerous trials, mediations and arbitrations. Burnham received his J.D. from Suffolk University Law School in 2004. He earned a Bachelor of Arts from George Washington University is 2000. Burnham is licensed to practice law in Kentucky and Indiana. He is admitted to practice before the U.S. District Courts for the Western District of Kentucky and the Northern and Southern Districts of Indiana. He is a member of the Louisville and Kentucky Bar associations.

Stites & Harbison, PLLC, announces that **Robert (Bob) Connolly** has been elected as the firm's new chair effective January 2015. Connolly will succeed **Ken Sagan**, who will have served as the firm's chair-elect and chair for four-and-a-half years. Sagan, based in the firm's Lexington office, will return to practicing law full-time, helping clients with sophisticated business transactions. Connolly is a member of the firm's torts & insurance practice and business litigation service groups. His practice includes defending complex product liability claims and construction and commercial disputes. A *magna cum laude* graduate of Dartmouth College, Connolly was recruited in 1980 out of Washington & Lee University School of Law by Stites & Harbison. He has spent his entire legal career with the firm based in the Louisville office. Connolly was recently elected a fellow in the American College of Trial Lawyers, limited to one percent of the trial bar in North America. He also is involved in the Litigation Counsel of America (fellow), American Bar Association (fellow), and Defense Research Institute (member). Connolly served on the firm's management committee (1995-2007).

Buechner, Haffer, Meyers & Koenig, Co., LPS, announces the addition of **Mark W. Jordan**, J.D., FLMI, CLU, ChFC. Jordan practices in the areas of estate planning, probate, taxation, insurance and business law. He has published over 60 articles and has given numerous presentations and training seminars across the nation on these topics. Jordan received his law degree from the University of Cincinnati in 1980, and a B.S.F.S. degree in international economics from the School of Foreign Service at Georgetown University.

IN THE NEWS

Gov. Steve Beshear recently reappointed **Stites & Harbison, PLLC**, attorney **Bob Beck, Jr.**, to a third term as ***Kentucky Horse Racing Commission chair***. His term runs from July 1, 2014, through June 30, 2017. Beck was originally appointed and has served as chair since 2008. The Kentucky Horse Racing Commission (KHRC) is an independent agency of state government tasked with regulating horse racing and parimutuel wagering on horse racing and related activities within the Commonwealth of Kentucky. Beck is a transactional lawyer based in Stites & Harbison's Lexington office.
In addition to his transaction practice, Beck is a mediator and arbitrator concentrating on transactional matters, equine and commercial projects and disputes. He is also a member of the American Arbitration Association mediation and arbitration panel. Beck's civic and community involvement has included memberships on the board of advisors of Vanderbilt Law School,

board of directors of the Kentucky Horse Park Foundation, the Lexington Philharmonic, the Fayette County Bar Association and the Lexington Arts and Cultural Council, which he previously served as president. He is a founder and member of the board of directors and former president of the American College of Equine Attorneys.

Lawrence & Associates announces that **Justin L. Lawrence** has been named to the ***board of trustees for Redwood in Kenton County***. Redwood is a school that helps adults and children with disabilities reach their full potential in life. Justin previously served two years on the Redwood Board of Overseers.

English Lucas Priest & Owsley LLP attorney **Sarah Jarboe** was recently selected for one of only 12 slots nationwide for the ***American Bar Association's Section of Environment, Energy, and Resources (SEER) Leadership Development Program***. Jarboe, who practices environmental and administrative law and litigation, serves as newsletter vice chair of SEER's Smart Growth and Green Building Committee and vice chair of the Kentucky Bar Association's Environment, Energy and Resources Section. The Leadership Development Program positions participants to focus their future section involvement to facilitate SEER leadership roles in the future. She is a graduate of Vanderbilt Law School, where she was the top environmental law student in 2010 and served as managing editor of the Environmental Law and Policy Annual Review Journal. She earned her Bachelor of Arts degree at the University of Louisville.

Whitehall House & Gardens recently elected **Stites & Harbison, PLLC**, attorney **Cassie Wiemken** to its ***board of regents***. She will serve a three-year term (2014-17). Whitehall House & Gardens is a historic home and estate garden that is owned and operated by the not-for-profit Historic Homes Foundation, Inc. The mission of the group is to preserve, educate and present the house as a Victorian interpretation of a southern plantation and to develop and maintain the grounds and gardens as a green space for future generations. Wiemken is an attorney based in Stites & Harbison's Louisville office. She is a member of the business litigation service group and class action defense group. She represents clients in complex class actions, professional malpractice, real estate, and product liability litigation. Wiemken serves as a volunteer lawyer for the Legal Aid Society.

Dinsmore & Shohl's Laura D'Angelo has been named to the ***OperaLex Board of Directors*** and the ***Kentucky Hunter Jumper Association Board***. D'Angelo will serve a one year term on the OperaLex board from July 1, 2014 to June 30, 2015. OperaLex is a private, not-for-profit organization dedicated to supporting and promoting opera in Kentucky. In January, D'Angelo was named to the board of directors for the Kentucky Hunter Jumper Association. D'Angelo is a partner in the firm's Lexington office. She is nationally recognized as a leader in corporate, equine and gaming law and teaches equine law at the University of Kentucky College of Law.

Kentucky Defense Counsel, Inc. (KDC), has been named the recipient of ***DRI's 2014 Rudolph A. Janata Award***. This award is presented annually to an outstanding state or local defense bar organization that has undertaken an innovative or unique program contributing to the goals and objectives of the organized defense bar. Kentucky Defense Counsel is also pleased to announce that KDC President-Elect **Casey Stansbury** has been named the recipient of DRI's 2014 Albert H. Parnell Outstanding Program Chair Award. This award honors an individual who created a dynamic educational program. The honoree also displayed leadership, dedication and creativity in seminar development. Kentucky Defense Counsel strives to increase the quality of legal services which its members render to their clients, facilitate the communication of such information, ideas, and litigation techniques as to improve the skills of its members, and improve the administration of justice in our courts. Kentucky Defense Counsel, Inc., is a not-for-profit state legal defense organization based in Harrods Creek. DRI-The Voice of the Defense Bar is a national not-for-profit organization based in Chicago, Ill.

The Louisville Sports Commission (LSC) recently elected **Stites & Harbison, PLLC**, attorney **Vonda Kirby** to its ***board of directors***. She will serve a three-year term running 2014-17. The 64-member board includes leaders from local businesses as well as government, civic and sports organizations. The mission of LSC is to attract, create and host quality sporting events in the Louisville area that increase economic vitality, enhance the quality of life, promote healthy lifestyles and brand Louisville as a great sports town. Kirby is an attorney based in Stites & Harbison's Louisville office. She is a member of the business litigation service group. Outside of the firm, Kirby serves on the attorney steering committee of Citizens for Better Judges and volunteers for the Legal Aid Society of Louisville. She was recently named to Lawyers of Color magazine's Hot List 2014, which recognizes early-to mid-career minority attorneys excelling in the legal profession.

Gov. Steve Beshear has appointed Frankfort native **Jennifer Yue Barber** to represent the state at large on the ***Kentucky State Fair Board*** for a three-year term expiring in December 2017. Barber is among 10 new members on the board, which has been reorganized and expanded to include some of the state's major economic drivers. The board no longer oversees only agriculture-specific events, but has experienced explosive growth in other business, especially with the management of operations and events held at the Kentucky Exposition Center and the Kentucky International Convention Center. As an attorney in Louisville, Barber has represented the Kentucky Chamber of Commerce and the U.S. Chamber of Commerce in numerous constitutional tax issues. Her law practice focuses in the areas of state and local tax, tax controversy and litigation, and she serves as a key advisor on Kentucky tax policy and economic incentives. A Frankfort native, Barber graduated from the University of Kentucky with a bachelor's degree in 2005 and from the UK College of Law in 2008.

The Leadership Louisville Center recently elected **Stites & Harbison, PLLC's Marjorie Farris** to its ***board of directors***. She will serve a three-year term. Farris is the Louisville office executive member as well as a member (partner) of Stites & Harbison. Farris is an experienced trial lawyer who has handled a wide variety of litigation ranging from products liability, insurance bad faith, ERISA, complex business litigation, and class actions. She has actively defended more than 50 class actions nationwide. Farris is also active with The Center for Women & Families, serving as chair of its board of directors. Created in 1979, the Leadership Louisville Center is the region's most valuable resource for leadership development and civic engagement.

The Kentucky Registry of Election Finance unanimously re-elected **Craig C. Dilger** to serve as its ***chairman***, marking an unprecedented eighth consecutive term for the Louisville attorney. His service as chairman marks the longest continuous period of service as chairman in the registry's history. Dilger is a Louisville native, and a graduate of Bellarmine University and the Northern Kentucky University Salmon P. Chase College of Law. He is a member of the business litigation practice with the law firm of Stoll Keenon Ogden PLLC. Dilger is a member of the American, Kentucky and Louisville Bar associations, and a member of the American Inn of Court, Brandeis Chapter.

Scott White, a shareholder at **Morgan & Pottinger, P.S.C.**, has been awarded the ***2014 Robert F. Houlihan Memorial Award***. The Kentucky Lawyer Assistance Program (KYLAP) established the Robert F. Houlihan Memorial Award, which is given annually to the outstanding KYLAP volunteer. The award reflects Houlihan's years of service to the lawyers of the Commonwealth, and is presented annually to the attorney who best exemplifies that ideal.

The Federation of Defense and Corporate Counsel (FDCC) recently inducted **Stites & Harbison, PLLC** attorney **Ashley Ward** as a ***member of the organization***. He is the sole attorney member of FDCC from Lexington. The Federation of Defense and Corporate Counsel is an international organization founded in 1936 to further the principles of knowledge, justice and fellowship. Members include defense counsel in private practice, in-house corporate and insurance counsel, and non-attorney claims executives. Current membership is approximately 1,400. Ward is a member (partner) of Stites & Harbison and has practiced in the torts and insurance service group since 1986. He has tried more than 20 jury trials to verdict. He focuses on product liability, personal injury, medical malpractice and contractual disputes. Ward also has considerable experience litigating will contests and other fiduciary disputes. He is a member of the board of directors for the Urban League of Lexington-Fayette County.

Gov. Steve Beshear recently appointed **Stites & Harbison, PLLC**, attorney **Janet Craig** to the ***board of directors of the Kentucky Commission on Women***. Stites & Harbison Attorney **Anne Gorham** was also recently elected to the board of directors of the Kentucky Commission on Women Foundation, Inc. The commission is dedicated to elevating the status of women and girls in the Commonwealth, empowering them to overcome barriers to equity, and expanding opportunities to

Anne Gorham

Janet Craig

achieve their fullest potential. **Craig** is a member (partner) of the firm based in Lexington and serves as chair of its health care and insurance regulatory service groups. She represents a host of insurers and HMOs on matters ranging from market conduct and financial exams to mergers, change of control and rate filings. **Gorham** is a member (partner) in the firm's Lexington office where she is a member of the construction service group. Her practice focuses on construction law and litigation and sustainability and emerging technologies. She is a fellow in the American College of Construction Lawyers, serves on their board of governors and will chair their annual meeting in 2016.

Dinsmore & Shohl's Caroline Lynch Pieroni and **Alina Klimkina** have been accepted into the ***Louisville Bar Association (LBA) Leadership Academy*** as a part of the 2014-15 class. The LBA's Leadership Academy spans six months and focuses on developing leaders to make an impact in their profession and community. The goal is to empower attorneys to contribute to Louisville, embrace diversity and strive to practice the highest standards of the legal profession. **Pieroni** is a member of the firm's litigation department, focusing her practice on employment litigation, business litigation and First Amendment and media law. She has served as chair of the firm's Legal Aid Associates Campaign since 2012, a program which raises funds for the Legal Aid Society. **Klimkina** is a member of the firm's labor & employment department, where she represents a variety of clients in all areas of employment law, including

Caroline Lynch Pieroni

Alina Klimkina

pre-litigation investigations, litigation and appeals.

Bob Young, partner at **English Lucas Priest & Owsley LLP**, was elected chair of the ***American Bar Association (ABA)'s Law Practice Division*** at the ABA's annual conference in Boston for a one-year term. The ABA Law Practice Division helps lawyers better manage the business side of their practice. Young previously served as vice-chair of the division and chair of the Law Practice Management Strategy and Planning Committee. He also was chair of the diversity committee of the law practice division from 2009 to 2011, leading the group through a major reorganization. His group's work helped lead the ABA to hire a chief diversity officer to assist law firms wanting to create more opportunities for female attorneys, attorneys from diverse cultural backgrounds, attorneys who identify as lesbian, gay, bisexual or transgender and attorneys who have disabilities. He is a member of the Bowling Green-Warren County Bar Association, American Association for Justice, Kentucky Justice Association, Kentucky and American Bar associations. Young received a B.A. from Western Kentucky University in 1986 and a J.D. from the University of Louisville Louis D. Brandeis School of Law in 1990. His law practice focuses on medical malpractice, pharmaceutical and medical device litigation.

Melinda Sunderland, a shareholder at **Morgan & Pottinger, P.S.C.**, was selected by Business First of Louisville as a ***"Forty Under 40"*** honoree, an achievement that recognizes people under the age of 40 who are leaders in the business community in addition to their strong civic engagement. Nearly 500 young professionals were nominated for the honor this year.

Gov. Steve Beshear recently reappointed **Stites & Harbison**, PLLC, attorney **J. David Porter** to the ***Western Kentucky University (WKU) Board of Regents***. His six-year term runs from 2014-20. In addition, Porter was re-elected chair of the board of regents and will serve a second one-year term. He also serves as a member of the WKU Foundation Board. The WKU Board of Regents is responsible for establishing the policies of the university. Porter was originally appointed to the board of regents in 2008. Porter is a member (partner) of Stites & Harbison in the trusts & estate planning service group based in the Lexington office. Porter is a fellow and Kentucky State Chair of the American College of Trust and Estate Counsel. Besides serving on WKU's Board of Regents, Porter also serves as vice president of the Kentucky Bar Foundation and as a board member of the Lexington Philharmonic Orchestra Foundation, Lexington Medical Society Foundation, Inc., and Lexington Public Library Foundation, Inc.

Dinsmore & Shohl's Michael Abate and **Sarah McKenna** have been invited to join the Louis D. Brandeis American Inn of Court. Membership is offered at various levels depending on experience. Masters of the Inn have at least 16 years of law practice and are comprised of judges and attorneys. Barristers have been practicing for six to 15 years, and associates are just beginning their legal career with up to five years of experience.

Michael Abate

Abate joins in Inn of Court as a barrister. Abate is of counsel to the litigation department; he as extensive experience litigating at all levels of the federal court system and has handled matters concerning a wide range of constitutional, statutory, and administrative subjects.

Sarah McKenna

McKenna joins the Inn of Court as an associate; she is a member of the litigation department. She practices general civil litigation focusing her practice on business and fiduciary matters, breach of contract and personal injury.

Emily H. Cowles, a shareholder at **Morgan & Pottinger, P.S.C., (M&P)** was named a ***"Top Woman in Business"*** by the The Lane Report. Cowles is managing director of M&P's Lexington office, and she leads M&P's equine law practice.

Managing Intellectual Property magazine recently selected two **Stites & Harbison, PLLC** attorneys, **Amy Sullivan Cahill** and **Mandy Wilson Decker**, to the second edition of Managing Intellectual Property's (IP) ***"Top 250 Women in IP."*** Cahill and Decker are the only IP women attorneys honored from Kentucky on the list that recognizes the leading women IP lawyers in the U.S. **Cahill** is a member

Amy Sullivan Cahill

(partner) of Stites & Harbison based in Louisville. Her practice focuses on trademark and copyright litigation, advertising review, trademark prosecution, trade secret counseling and litigation, licensing and transactional matters including clinical research trials.

Mandy Wilson Decker

Decker, also a member (partner) of the firm and based in Louisville, is a registered patent attorney. Her practice focuses on intellectual property protection strategy, including counseling clients on infringement, validity and patentability, transfer of intellectual property, patent drafting, and patent prosecution.

Wyatt, Tarrant & Combs, LLP, announces that **Gary Banet** has been selected by Louisville's *Business First* for its ***"Forty Under 40"*** award. According to Business First, "Forty Under 40 is a select group of up-and-comers who are on the leading edge in their occupations and share their time and talents in community service." Banet focuses his practice on estate planning, estate and trust administration, estate and trust litigation, and business succession planning. He is a past president of the Southern Indiana Estate Planning Council, a member of the Louisville Estate Planning Council, a district representative of the Indiana State Bar Association's Probate, Trust and Real Property Section and recently completed the Indiana State Bar Association Leadership Development Academy. Banet is also active within the community; he is secretary of the boards of directors of the Community Foundation of Southern Indiana and One Southern Indiana Foundation, and a leader of many other community organizations. Banet earned his undergraduate degree from Indiana University-Bloomington, his master's degree from the University of Louisville and his law degree from the Brandeis School of Law at the University of Louisville, *magna cum laude*.

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
James Rodney Carter	Cadiz	KY	May 11, 2014
Ronald G. Combs	Hazard	KY	Nov. 24, 2013
Vincent Dimasi	Cincinnati	OH	June 23, 2014
Donald Ralph Freese	St. Petersburg	FL	Sept. 3, 2013
David L. Gittleman	Louisville	KY	Sept. 18, 2014
David L. Harrington	Murray	KY	August 11, 2014
John L. Pendley	Lexington	KY	Sept. 5, 2014
Mark Joseph Stanziano	Somerset	KY	June 27, 2014
James Alvin Tidwell	Charleston	IL	April 12, 2014
David G. Webb	Lawrenceburg	KY	Sept. 8, 2014

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:

Kentucky Bar Association, Executive Director
514 W. Main St., Frankfort, KY 40601-1812

* 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.

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Paradise Found
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Excellent Opportunity for military veteran in Jacksonville FL.
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Graydon Head & Ritchey, LLP, an 80+ attorney law firm in Cincinnati, OH seeks a highly motivated environmental attorney to join our growing practice group. Applicants should have a substantial experience with environmental laws, regulations (RCRA, CERCLA, EPCRA). Specific experience in the area of hazardous waste would be particularly helpful. Additionally, candidates who have had direct client responsibility are preferred. Candidates must have a strong academic record, and possess excellent written and verbal communication skills. Candidates must be licensed in the state of Ohio and/or the state of Kentucky. We offer a competitive compensation and attractive benefits package. Please reply in confidence to:

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Graydon Head & Ritchey, LLP
1900 Fifth Third Center, 511 Walnut Street
Cincinnati, OH 45202
(Phone) 513-629-2858, (Fax) 513-651-3826
E-mail: bhopewell@graydon.com

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Business Tax Attorney
Graydon Head & Ritchey, LLP, an 80+ attorney law firm in Cincinnati, OH, seeks a highly motivated attorney with business tax experience for our Business and Finance Client Service Department. Candidates should have experience with federal income tax issues of closely-held businesses, focusing on pass-through and transactional work. An LL.M. is a plus. Preferably candidates should be licensed in Ohio and/or Kentucky. Candidates must demonstrate high intellectual capacity, excellent analytical, writing, and communication skills, and an interest in business development. We offer a competitive compensation and attractive benefits package. Please reply in confidence with your resume, law school transcript, and a cover letter to:

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