A Very Good Year

P37
PAYMENT PROCESSING, EXCLUSIVELY FOR ATTORNEYS.

1.95% & 20¢ per transaction  No swipe required  No equipment needed

LawPay

The way law firms get paid.

LawPay is the only payment solution backed by 42 of the 50 state bars and offered through the ABA Advantage Program. In accordance with IOLTA guidelines and the ABA Rules of Professional Conduct, LawPay guarantees complete separation of earned and unearned fees, giving you the confidence and peace of mind that your transactions are handled the right way.

www.LawPay.com/ksbar | 866.376.0950

LawPay is a registered ISO/MSP of BMO Harris Bank, N.A., Chicago, IL
Regular Features

37 | A Very Good Year
By Jordan Yochim

5 | 2016-17 KBA Board of Governors & Board of Trustees Elections
14 | Fellows 2016 Recognition
28 | 2017 KBA Awards
34 | Crazy Corbett on Trial
   By Deb Goodrich

36 | Kansas Legal Services
   By Marilyn Harp
39 | Bylaws of the Kansas Bar Association

6 | KBA President
   By Steve Six
7 | YLS President
   By Nathan P. Eberline
11 | Law Practice Management Tips & Tricks
   By Larry N. Zimmerman
12 | Substance & Style
   By Betsy Brand Six
20 | Law Students' Corner
   By Portia Riggins
23 | The Diversity Corner
   By Mira Mdivani
24 | Members in the News
51 | Appellate Decisions
55 | Appellate Practice Reminders
59 | Classified Advertisements

Cover design by Ryan Purcell
The Journal of the Kansas Bar Association is dedicated to advancing the professionalism and legal skills of lawyers, providing services to its members, serving the community through advocacy of public policy issues, encouraging public understanding of the law, and promoting the effective administration of our system of justice.
2017-18 KBA Officers & Board of Governors Elections

It’s not too early to start thinking about KBA leadership positions for the 2017-18 leadership year.

The KBA Nominating Committee, chaired by Natalie Haag of Topeka, is seeking individuals who are interested in serving in the positions of **Vice President**, **Secretary-Treasurer**, **KBA Delegate to the ABA House of Delegates**, and **Young Lawyer Delegate to the ABA**.

**Officers**

- **President**: Steve Six, 2016-17, Greg Goheen 2017-18
- **President-elect**: Greg Goheen, 2016-17, Bruce W. Kent 2017-18
- **Vice President**: OPEN, Mira Mdivani is eligible for nomination
- **Secretary-Treasurer**: OPEN
- **KBA Delegate to the ABA House of Delegates**: Rachael K. Pirner is eligible for re-election
- **Young Lawyer Delegate to the ABA**: Joslyn Kusiak is eligible for re-election

Interested candidates should send detailed information to Jordan Yochim, KBA Executive Director, at 1200 SW Harrison St., Topeka, KS 66612, or at jeyochim@ksbar.org by **Friday, January 6, 2017** for distribution to the Nominating Committee. Candidates seeking an officer position may be nominated by petition bearing 50 signatures of regular members of the KBA, with at least one signature from each governor district. Petitions are due **January 27, 2017**.

**Board of Governors**

Candidates seeking a position on the Board of Governors must file a nominating petition, signed by at least 25 KBA members from that district, with Jordan Yochim by **Friday, January 27, 2017**. If no one files a petition, the Nominating Committee will reconvene and nominate one or more candidates for open positions. The six KBA districts with seats up for election are:

- **District 1**: Diana Toman is eligible for re-election, Johnson County.
- **District 3**: OPEN-Eric Rosenblad is **not** eligible for re-election, Allen, Anderson, Bourbon, Cherokee, Crawford, Labette, Linn, Montgomery, Neosho, Wilson, Woodson counties.
- **District 7**: Gary Ayers is eligible for re-election, Sedgwick County.
- **District 8**: OPEN-John Swearer is **not** eligible for re-election, Barber, Barton, Harper, Harvey, Kingman, Pratt, Reno, Rice, and Stafford counties.
- **District 11**: OPEN-Nancy Gonzales is **not** eligible for re-election, Wyandotte County.
- **District 12**: 3 OPEN Positions-William Quick is **not** eligible for re-election, Out-of-state.

To obtain a petition for the Board of Governors, please contact Jordan Yochim at the KBA office at (785) 234-5696 or via email at jeyochim@ksbar.org. If you have any questions about the KBA nominating or election process or about serving as an officer or member of the Board of Governors, please contact Natalie Haag via email at nhaag@capfed.com, or Jordan Yochim at (785) 234-5696 or via email at jeyochim@ksbar.org.
Get Ready for the Millennials

Don Draper: “That’s the way it works, there are no credits on commercials.”
Peggy Olsen: “But you got the CLEO. [an advertising award Draper received based on Peggy’s work].”
Don Draper: “It’s your job, I give you money, . . . you give me ideas.”
Peggy Olsen: “You never say ‘Thank you.’”
Don Draper: “That is what the money is for! You are young, you will get your recognition, and honestly it is absolutely ridiculous to be two years into your career and counting your ideas. Everything to you is an opportunity . . . and you should be thanking me every morning when you wake up along with Jesus for giving you another day.”
Peggy: [fights back tears]

Hopefully the dialogue above does not resemble a modern law office and senior lawyers are better than Draper at expressing their thanks for their younger colleague’s work. If you were nodding your head reading the quote thinking Don is spot on, well . . . get ready for the Millennials. The presence of Millennials in the workplace is expected to grow from 45% to 50% by 2020. Are Millennials different? Sure, they were brought up differently than us. The average millennial gets over 181 texts per day, looks at their phone 43 times a day, and has an attention span of eight seconds. They are hopeful, optimistic, tech savvy, and socially connected multi-taskers. Millennials expect flexibility at work, have high self-esteem and are emotionally attached to their digital habits. They are looking for purpose, meaning, balance, collaboration and transparency in their work. All excellent qualities for your law office—but are you offering what these talented Millennials seek?

Some of you may think, why should you change anything at work for Millennials, you pay them money right? Some good reasons to be flexible with this generation include wanting younger lawyers and staff members to enjoy the work they do and keeping them with your firm. Financially you should care because an unhappy, disengaged employee who leaves is expensive to replace. And research shows that the number one reason millennials leave is because of their relationship with their boss. Your law office is only as good as the people who serve your clients, and if you want to retain and attract the next generation of employees who can connect with the next generation of your clients, you need to engage with Millennials on their terms.

So what can you do? In Chasing Relevance, author Dan Negroni recommends you start by recognizing the power of relationships—learn to connect with Millennials. Provide real, authentic and caring relationships with your team. Create shared goals and priorities for employee engagement. Empower the office culture and the employees to drive results. When a Millennial seeking balance and flexibility in her life leaves at 4pm for yoga, avoid telling her that when you were a young lawyer you billed 12 hours a day and never took a vacation. That Millennial will be back on her computer at 10pm finishing the brief long after you are asleep.

---

1. This column is completely taken from an excellent presentation at the National Conference of Bar Presidents by Dan Negroni, author of Chasing Relevance: 6 Steps to Understand, Engage and Maximize Next Generation Leaders in the Workplace, an excellent read.
2. Draper is a fictional character on the television show Mad Men set in the 1960s at the Sterling Cooper advertising agency on Madison Avenue.
3. Olson is Draper’s secretary, later promoted to copywriter and eventually a founding member of Sterling Cooper Draper Pryce.

---

About the KBA President

Steve Six is a partner at Stueve Siegel Hanson in Kansas City, Mo. He specializes in complex litigation, focusing on class actions and commercial litigation.

ssix@ksbar.org

---

GilsbarPRO

Fastest smartest malpractice insurance. Period.
The Strength of a Story

I was fortunate to have a history teacher who presented the past through rich storytelling that too often is lacking in the classroom. Max Girres, who will always be Mr. Girres to me, not only introduced me to American history, but he also taught my parents and their siblings. To this day, any reference to the War of 1812 prompts the memory of Mr. Girres wheeling a record player into our classroom to introduce us to Johnny Horton and “The Battle of New Orleans,” as he bopped along to the music with enthusiasm and panache. Needless to say, he earned the celebrity that comes with being a beloved teacher in a small town.

I thought about Mr. Girres recently as I was listening to a lecture on Korematsu v. United States, the landmark case addressing Japanese internment camps during World War II. He came to mind due to a project he assigned that has stayed with me for the past 20 years. My friends and I created a re-enactment Japanese internment camps during World War II.1 We port and a display on the internment camps in Iowa, one of which was just a 20-minute drive from my hometown.2 We focused on the rope-making efforts by the POWs, and I suspect my youthfulness at the time caused me a degree of insensitivity when considering the Americans who were uprooted and imprisoned after the bombing of Pearl Harbor.

But it was not possible to remain insensitive when listening to Professor Kermit Hall’s analysis of the Supreme Court’s approach toward the constitutional authority for internment camps. In Korematsu, the plaintiff found himself caught in one of the tensest periods of American history: the response to Japan’s bombing of Pearl Harbor. Consider the setting in Topeka hours after the bombing, as described by a reporter to Time Magazine:

War came to Topeka at 1:30 PM on a quiet, warm, 56 degrees, sunshiny Sunday. Most Topekans had finished big Sunday dinners and were napping on their sofas. First flash over Columbia’s WIBW came at the end of the Spirit of ‘41 program. I got it over NBC Blue network while listening to the Great Plays series. I was in the bath tub. The second bulletin in re the attack on Manila made me sick. My parents, brother and sister are in Manila. My wife turned pale and said, ‘There it is.’ My telephone rang a few seconds later. I was called to help issue an extra and write [a] ‘What it’s like over there’ story. Daily Capital switchboards were jammed immediately. One man, with distinct rural midwestern accent, asked: ‘What the Hell’s going on out there? Has Uncle Sam declared war yet? Why in Hell hasn’t he? How old do you have to be to get in the Army and Navy?’ Others wanted to know if it were true.3

By December 8, President Roosevelt asked Congress to declare war on Japan with the famous commentary, “Yesterday, December 7, 1941—a date which will live in infamy—the United States of America was suddenly and deliberately attacked by naval and air forces of the Empire of Japan.”4 Roosevelt continued to describe how the Japanese government deliberately deceived the United States, and “[w]ith confidence in our armed forces—with the unbounding determination of our people—we will gain the inevitable triumph—so help us God.”5

In the following weeks, war became the country’s focus. As Dr. John Tierney Jr., Professor of International Relations, described it, Pearl Harbor wiped out the remaining calls for isolationism and brought unity across the country: “Unity embraced all walks of domestic life, media and theatrical, unions, management, both political parties, all interest groups, women, men, the literati, Christians, Jews, and denominations of all stripes. From 1942 on, there was no commercial construction, from cars to dishwashers; all food was rationed and travel restricted.”6

This milieu shaped FDR’s decision to issue Executive Order 9066, which authorized the Secretary of War to prescribe military areas and exclude people from those areas.7 In May of 1942, the Western Defense Command in San Francisco issued Civilian Exclusion Order No. 34, which evacuated “all persons of Japanese ancestry, both alien and non-alien.”8 From that action, Fred Korematsu, the son of Japanese immigrants, found himself under order to report for detainment. He was a 23-year-old welder at Bay Area shipyards. Korematsu’s parents left their home and reported to a racetrack south of San Francisco, but he stayed behind in Oakland with his Italian-American girlfriend.9 He later left, even having plastic surgery on his eyes to avoid recognition, but the authorities eventually arrested him, and the newspapers branded him a spy.10

Eventually, Korematsu’s case made it to the United States Supreme Court, which issued a decision that today’s justices criticize as shameful.11 The Court explained that “Korematsu was not excluded from the Military Area because of hostility to him or his race. He was excluded because we are at war with the Japanese Empire, because the properly constituted military authorities feared an invasion of our West Coast and felt constrained to take proper security measures…”12

Those in dissent offered a critique that continues today. Justice Robert Jackson noted that by rationalizing the Constitution to show that it sanctioned such a military order, the Court, “for all time has validated the principle of racial discrimination in criminal procedure and of transplanting American citizens. The principle then lies about like a loaded weapon, ready for the hand of any authority that can bring forward a plausible claim of an urgent need.” This fear of unchecked power is one that resonates in a time of tumult and fear. It is also a concern that should resonate with the legal community.

(Cont. on Page 8)
Our nation of laws is complex, and we have a responsibility to speak well on matters that warrant consideration and discussion. If we fail to offer thoughtful analysis and reason in times when it so often seems lacking, then we risk the washing away of procedures and protections that this country affords us. We must engage within the community to serve as a voice on the principles this country has historically valued.

Martin Niemöller was the oft-quoted German pastor who expressed poetic regret for failing to speak out when Nazi officials came for others who were in his community. He observed that while others may have been part of his physical community, their differences prevented actualization of community. There was no empathy—only fear.

We must each work to understand the issues and choose to speak, so others can better understand the purpose of our profession and, more importantly, our justice system. You need not add a Johnny Horton soundtrack to the history behind the law, but a good story and explanation can go far toward increasing understanding and bringing meaningful value to our community.

5. Id.
10. Id.

About the YLS President

Nathan P. Eberline serves as the Associate Legislative Director and Legal Counsel for the Kansas Association of Counties. His practice focuses on public policy, legal aspects of management, and KOMA/KORA. Nathan holds a J.D. from the University of Iowa College of Law and a B.A. from Wartburg College in Waverly, Iowa.

eberline@kansascounties.org

The Journal of the Kansas Bar Association
WHAT IS ABA FREE LEGAL ANSWERS?
ABA Free Legal Answers allows users to pose legal questions to be answered by volunteer attorneys:
• Users will need to meet income eligibility guidelines
• Questions must be regarding civil legal matters
• Answers will be provided by volunteer attorneys in the users’ respective states
• Links will be provided to lawyer referral and other legal services projects for those not eligible or who need more in-depth legal representation

ABA Free Legal Answers increases services to low-income populations:
• Allows users in rural areas to access legal resources from across the state
• Provision of brief advice allows legal services staff attorneys to focus on full representation
• Provision of brief advice can prevent larger legal crises from developing
• OnlineTNjustice.org—the Tennessee model for ABA Free Legal Answers—has, in its few years of service, received over 10,000 legal questions

CAN I PARTICIPATE AS A PRO BONO ATTORNEY?
Yes, as long as you are licensed in a participating state and in good standing. Scan the QR code below or go to abafreelegalanswers.org and click on “Attorneys Volunteer Here.”

ABA Free Legal Answers increases pro bono opportunities:
• Convenient pro bono opportunity that attorneys can fit into their schedule
• Attorneys can log in and provide answers 24/7/365
• Reaches volunteer populations with restricted time in which to provide pro bono, such as stay-at-home parents, corporate attorneys, and government attorneys

The American Bar Association offers:
• No cost to participating states
• Malpractice insurance for all volunteer attorneys will be provided
• Web hosting will be provided
• A national staff person to maintain the site, manage the queue, and collect and analyze data

QUESTIONS?
If your state is not already participating and you are interested in learning more, contact Tali Albukerk at 312.988.5704 or abafreelegalanswers@americanbar.org.
Support of Lawyers - All Concern Encouraged = SOLACE

Have you ever had a car accident out of town and needed a place to stay temporarily? Have you, or someone you know, experienced a flood in her office or home? Or particularly in Kansas, perhaps a tornado has severely damaged your office, as happened in Greensburg some years ago. Has a family member fallen ill and needed extended care, requiring you to be away from your home or your practice unexpectedly? Wouldn’t it have been helpful to have someone offer help and support in whatever form you needed? Maybe a place to stay, or some clean clothes, or help with making medical care or travel arrangements would have relieved some of your distress.

These are the kinds of situations where SOLACE might help here in Kansas. Here’s the story.

An Overland Park lawyer called me in May. His son had recently been in a very bad bike accident, and the lawyer had wished at the time that there was a group within the legal profession that could have offered support and assistance. I told him I thought there was such an organization in some other states called SOLACE, and that I’d find out more. I did so and got more information about SOLACE.

We know that solace is a word meaning comfort or consolation in a time of distress or sadness, so the fact that SOLACE is an acronym for “Support of Lawyers – All Concern Encouraged” is fitting. Its function is to reach out to any individual lawyer who has experienced a sudden loss or catastrophe and offer whatever services, individual and collective, SOLACE volunteers can provide that are needed by the lawyer experiencing the loss. The focus is on personal and practical assistance rather than becoming involved in someone’s legal practice or providing assistance for an impairment. We know that family, neighbors, colleagues and fellow church members are all valuable conduits of support. But sometimes they are hurting too, or far away, or the need exceeds their capacity. Sometimes, we need all the help we can get, from all these sources.

SOLACE could be a valuable service for some Kansas lawyers, and one way to provide it is a joint partnership between KALAP and the KBA. Each organization has special skills that fit well in an endeavor of this kind. Both are dedicated to serving the legal profession in Kansas. Both have outstanding, caring volunteers, and both have an organizational structure already in place. Requests for help made to SOLACE would be confidential within the SOLACE community, but NOT in the same fashion as the KALAP confidentiality in S.C. Rule 206. Since the KBA has the ability to receive phone calls about lawyers needing the type of help provided by SOLACE, they are the logical point of entry through a phone call. KALAP will assist with the organization and oversight of the volunteers.

SOLACE is part of a national network begun in 2002 by a judge in Louisiana, Hon. Jay C. Zainey, with the help of Mark C. Surprenant, a New Orleans attorney. It has become a national network in over 20 locations. Nebraska has a SOLACE program, as does Delaware and of course, Louisiana. Each state can vary the structure as they wish but the core mechanics are very simple: a state coordinator oversees a network of volunteers. When the coordinator learns of a lawyer with a problem or situation suitable for SOLACE help, he or she ascertains what that lawyer needs and then solicits the volunteers for the assistance requested.

That can range from simply sending a card to providing a family with meals, emotional support, help with grocery shopping, child care, transportation or other services. Current social networking makes it very easy to communicate and mobilize the volunteers.

SOLACE asks its members to do two things: first, be alert to your local legal community and let SOLACE know if someone has a need. Second, sign up as a SOLACE volunteer. It will not cost you anything, you will not be required to make any contribution. However, being on the volunteer email list, you will see what members of the legal community are doing for each other and will have the opportunity to be a part of that caring network. Although the recipients of assistance from SOLACE are exceedingly grateful, I daresay those who are able to provide help feel just as happy when they can help another lawyer in a time of need. The founders have also found that word of mouth reports about SOLACE and the good it does often results in positive public relations for the legal community.

So what do you say? Are YOU willing to step up? If you are, or just want more information, please call KALAP at 785-368-8275, or Deana Mead at the KBA, 785-861-8839. I know many of our Kansas lawyers are already selflessly helping their colleagues. But we can do more, or perhaps we can share the burden, or be more organized through SOLACE as just one more tool. Let’s get started providing comfort in a time of distress to our fellow Kansas lawyers.

About the Author

Anne McDonald was appointed to the Lawyers Assistance Program Commission at its inception in 2001 and has served as the Executive Director of KALAP since 2009. She graduated from the University of Kansas School of Law in 1982.

mcdonalda@kscourts.org
A Gadget Wish-List

A google search of holiday gifts for lawyers is a disappointment. Top suggestions include document scanners, phone chargers, and printers meaning we must have overlooked accounting as the most boring of the learned professions. Where is the magic, the fun, the unpredictable? In that vein, maybe we can build a better lawyer's wish book.

Nintendo Switch – (Nintendo.com, price n/a) – I will let my fanboy flag fly for what will be the hottest video game platform of 2017. Lawyers need downtime and the Switch indulges with a video game console that transfers seamlessly from the big screen at home to portable play on the airplane. All the major Nintendo properties are expected (e.g. Mario, Zelda, and Splatoon) as well as third-party content like Skyrim and NBA 2K17. Innovative controllers accommodate a variety of single-player and multi-player options, and it is clear Nintendo still sees its console as a gaming platform that brings players together in real life. Fitting for a gaming company founded in 1889 producing playing cards.

Echo Dot – (Amazon.com, $49.99) – I was an early adopter of the original hands-free, voice-controlled assistant called Echo and my family became so hooked that my son and daughter bought their own when they moved out. The new Dot does all the same tricks but without the room-filling sound of Echo's great speakers, allowing it to list $130 less. Ask the Dot to search Wikipedia, read books from Audible, order pizza or groceries, hail an Uber, or manage your calendar by voice control as if you were on the bridge of the USS Enterprise. Dot can also control “smart home” devices such as lights, thermostats, and appliances.

Ruby Receptionist – (CallRuby.com, monthly pricing from $259 - $989) – Lawyers need a great receptionist and Ruby fits the bill. The virtual receptionist service uses real human beings to answer your calls in English or Spanish, collecting information from callers, taking voice mail, or routing calls to you or your staff. Callers love the professionalism and lawyers get a comparatively inexpensive efficiency boost. I know solos who use Ruby as their first “hire” and larger firms that picked the service to give staff more time off the phone.

USB Computer Killer – (Kukuruku.com, price n/a) – This frightful device looks like an ordinary USB thumb drive but can nuke your computer. Insert it into the USB port on your computer and it will draw power to charge internal capacitors. Once the capacitors reach a certain voltage, they release the stored energy back into the computer destroying it. Why would you need such a device? No real reason other than to remind yourself to never, ever plug an untrusted USB drive into your computer.

Raspberry Pi 3 or Pi Zero – (Adafruit.com, $5 - $35) – The Raspberry Pi is a tiny computer barely the size of a deck of cards and the Pi Zero is smaller yet - concealable in a pack of gum. The computers are aimed at hobbyists comfortable with the Linux operating system or willing to try Windows 10’s Internet of Things. They are useful for creating an inexpensive video kiosk display like those seen at hotels and airports, a media center for online and offline video viewing, or a wiki-server for collaborative document and knowledge management. The Pi 3 is faster than prior models and comes with integrated Bluetooth and wi-fi. The Pi Zero is tiny and cheap making it perfect for embedded projects.

FLORA Microcontroller – (Adafruit.com, $14.95) – The FLORA is a 1.75” diameter microcontroller that can control LEDs and displays, read sensor feedback, and control electric motors and servos. Its main purpose is to control wearable electronics for lawyers preferring digital fashions. For example, my wife wanted a new and unique clothing accent for an event so we made and programed a scarf which detects the color of an object and then recreates that color in softly twinkling lights. (It is unclear whether the scarf would be approved for wear in court.)

Locator Tags – (TheTileApp.com, starts at $25) – These little tags work hard to prevent your stuff from going missing. The one-year battery in the tag emits a Bluetooth signal that works with an app on your Android or iOS device to drop a pin on a map for the location of the tagged object. If you and the tagged object wander apart, an alarm will sound. Some forgetful lawyers appreciate them attached to briefcases, laptops, or even beloved overcoats as the tag will never let them wander off without a loud reminder.

ABA 10 Questions Live – (AmericanBar.org, free) – The ABA hosts a monthly Google Hangout with “…innovative lawyers whose careers follow unexpected paths.” Most featured lawyers find some intersection between law and technology. October’s guest was Rajesh De who worked with the 9/11 commission and later as general counsel to the NSA during the Snowden affair. Another guest was Julianne Walsh who started in big firm law, went home to raise her children, and then returned as an attorney in a litigation software and support company. ABA members can submit questions and participate live in the 30-minute episodes.

Creativity is a lawyer’s life. Discovering new arguments, composing a persuasive brief, or seeing challenges or opportunities others miss are more of our profession than our document scanners or printers. Consequently, some of our lawyer toys and gadgets should focus on our creative side. Let the accountants be the boring ones in 2017. ■

About the Author

Larry N. Zimmerman is a partner at Zimmerman & Zimmerman P.A. in Topeka and former adjunct professor teaching law and technology at Washburn University School of Law. He is one of the founding members of the KBA Law Practice Management Committee.

kslpm@larryzimmerman.com
In Defense of the Stick-In-the-Mud: A Case for In-Text Footnotes

I recently updated my phone. The result was that my emails were organized in a different way, I was unable to readily find my flashlight, and when I swiped right I barely recognized what was on the screen. In other words, I was annoyed. Then I went to my regular grocery store and, in what seemed to me a cruel twist of fate, the store decided to rearrange and move all my staples to different aisles. Have I become a stick-in-the-mud, unhappy with change of any kind? Or did I have a valid reason to complain?

Judge James Bredar, a United States District Judge for the District of Maryland, recently complained about lawyers who had strayed from tradition and changed the way they include citations in their briefs. The lawyers had put the citations in footnotes. Before diving in to his order denying a motion to dismiss, Judge Bredar took the time to chastise both sides' attorneys for their failure to “observe certain rules as to the format of motion papers.”

Are these two rogue lawyers? Likely they were following the advice of Bryan Garner. Garner has famously advocated for uncluttering legal writing, including legal briefs, by putting the citations in the footnotes. Garner argues that putting citations in the footnotes will make legal writing easier to read. He argues that by removing the citations from the text, you will shorten your sentences and paragraphs and will discuss the law more effectively because you will notice that your citation cannot substitute for your legal analysis. He also argues your writing will flow better, which will allow you to more easily vary your sentence structure and better develop your ideas.

Judge Bredar disagrees, stating that citations in footnotes are “a hindrance to the Court’s consideration of the parties’ respective arguments.” Judge Bredar is in good company: Many high profile members of the judiciary agree with him, including Judge Richard Posner, the late Justice Antonin Scalia, and the Kansas Supreme Court. Are these judges and justices just afraid of change, wary of updating their approach (or their phones) for fear things will no longer be where they are used to finding them?

If the judge or justice reads legal documents on an iPad or phone, that fear may be valid: On such devices, readers must scroll down to read footnotes, which will often cause them to lose their place in the text. Given that more lawyers and judges appear to be reading legal documents on such screens, this alone might be a reason to avoid them. But even when writing for the judge or other reader who plans to read a paper copy, there may be other good reasons to avoid footnote citations.

First, while Garner argues that putting citations in the footnotes will make sentences and paragraphs shorter, he admits that doing so requires making the actual text of the sentences and paragraphs longer. One of the most common arguments for including citations in the text is that the citation provides the law-trained reader with valuable information about the precedential value of the source of the information cited. Garner argues this information, if important, should be in the text and not just the citation. For example, rather than saying, “The statute is constitutional” and then citing a case, you would say, “The Kansas Supreme Court stated in 1993 that the statute was constitutional.”

I am not convinced this works well in actual practice and seemingly contradicts the very goals of putting citations in the footnotes. A writer who puts the source and perhaps date of every citation in the text makes their writing cluttered and clumsy. I know because many of my students do this when they attempt legal writing for the first time. I can assure you that “id.” is much less cumbersome than, “the Kansas Supreme Court also said.” And yet if you err on the side of under inclusion of such information in the text, you have forced your readers to scroll their eyes to the bottom of the page, more dramatically interrupting their flow.

That leads to the second argument against putting citations in the footnotes: Lawyers who prefer footnoted citations presume a level of disinterest in the citations I am not sure exists. Many proponents of text-based footnotes argue legal readers have trained themselves to skip over the citations. I would argue instead that we have trained ourselves to skim them. Any skeptical reader, be that a judge, opposing counsel, or a senior lawyer reading a memo from a junior attorney, will want to know the writer has cited appropriate authority. We are not always willing to rely on the writer’s judgment about when the court or the date should be included in the text. When the citations are in the text, the reader can, with minimal effort, notice any deficiencies. Relegating citations to the footnotes implies a level of trust between the writer and reader that often is not present.

The final reason to leave footnotes in the text is that your reader, like me, may get annoyed when the expected location of important information changes. If your reader is someone with the power to decide your client’s fate or your holiday bonus, it may not be worth the risk. Given how frequently and quickly many aspects of our lives change, perhaps we should give the stick-in-the-mud a break and leave citations in the text.
2. Id. Like many courts, the local rules for the U.S. District Court for the District of Maryland do not specifically prohibit or allow citations in footnotes. In arguing the lawyers had failed to follow the rules, Judge Bredar cited to the Bluebook: “In non-academic legal documents, such as briefs and opinions, citations generally appear within the text of the document immediately following the propositions they support. Footnotes should only be used in non-academic legal documents when permitted or required by local court rules.” Id., citing The Bluebook: A Uniform System of Citation R. B1.1, at 3 (Columbia Law Review Ass’n et al. eds., 20th ed. 2015).
4. Id. at 22.
5. Id.
8. Kansas Supreme Court Rule 6.07(a)(4) states, “Footnotes should be avoided, but, if footnotes are absolutely necessary, every footnote must commence on the same page as the text to which it relates.”
11. Id.

About the Author

Betsy Brand Six lives in the same town she was born in, has been married to the same person for 21 years, and has lived in the same house for 19 years. She practiced environmental law for the same law firm for 13 years before gathering the strength to make a change to academia in 2004. She is a Clinical Associate Professor, the Director of Academic Resources, the Director of Diversity & Inclusion, and the Robert A. Schroeder Teaching Fellow at the University of Kansas School of Law.

bsix@ku.edu

KALAP Foundation
Upholding the Integrity of the Bar

A Campaign to Benefit Lawyers in Need

515 S. Kansas Avenue
Suite 202
Topeka, KS 66603
(785) 368-8275
1-888-342-9080
kalap@kscourts.org
www.kalap.com

bsix@ku.edu
# Fellows 2016 Recognition

Giving levels as of 5/31/16

## New Fellow Pledge

<table>
<thead>
<tr>
<th>Name</th>
<th>Location</th>
<th>Sponsor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jeff Chanay</td>
<td>Topeka</td>
<td>Karen L. Torline, Shawnee</td>
</tr>
<tr>
<td>Jane Colombo</td>
<td>Overland Park</td>
<td>Sherri L. Wattenbarger, Kansas City, MO</td>
</tr>
<tr>
<td>David Eron</td>
<td>Wichita</td>
<td></td>
</tr>
<tr>
<td>Katherine E. Marples</td>
<td>Lawrence</td>
<td></td>
</tr>
<tr>
<td>Tamara Niles</td>
<td>Arkansas City</td>
<td></td>
</tr>
<tr>
<td>Steve Six</td>
<td>Kansas City, MO</td>
<td></td>
</tr>
<tr>
<td>Nancy J. Dixon</td>
<td>Topeka</td>
<td></td>
</tr>
<tr>
<td>Aaron L. Kite</td>
<td>Dodge City</td>
<td></td>
</tr>
<tr>
<td>Sarah E. Warner</td>
<td>Lenexa</td>
<td></td>
</tr>
<tr>
<td>Jeff Chanay</td>
<td>Topeka</td>
<td>Karen L. Torline, Shawnee</td>
</tr>
<tr>
<td>Jane Colombo</td>
<td>Overland Park</td>
<td>Sherri L. Wattenbarger, Kansas City, MO</td>
</tr>
<tr>
<td>David Eron</td>
<td>Wichita</td>
<td></td>
</tr>
<tr>
<td>Katherine E. Marples</td>
<td>Lawrence</td>
<td></td>
</tr>
<tr>
<td>Tamara Niles</td>
<td>Arkansas City</td>
<td></td>
</tr>
<tr>
<td>Steve Six</td>
<td>Kansas City, MO</td>
<td></td>
</tr>
<tr>
<td>Nancy J. Dixon</td>
<td>Topeka</td>
<td></td>
</tr>
<tr>
<td>Aaron L. Kite</td>
<td>Dodge City</td>
<td></td>
</tr>
<tr>
<td>Sarah E. Warner</td>
<td>Lenexa</td>
<td></td>
</tr>
</tbody>
</table>

## New Fellow Completing $1,000 Pledge

<table>
<thead>
<tr>
<th>Name</th>
<th>Location</th>
<th>Sponsor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Norman E. Beal</td>
<td>Shawnee</td>
<td></td>
</tr>
<tr>
<td>Martha B. Crow</td>
<td>Leavenworth</td>
<td></td>
</tr>
<tr>
<td>Nancy J. Dixon</td>
<td>Topeka</td>
<td></td>
</tr>
<tr>
<td>Aaron L. Kite</td>
<td>Dodge City</td>
<td></td>
</tr>
<tr>
<td>Sarah E. Warner</td>
<td>Lenexa</td>
<td></td>
</tr>
<tr>
<td>Jeff Chanay</td>
<td>Topeka</td>
<td>Karen L. Torline, Shawnee</td>
</tr>
<tr>
<td>Jane Colonno</td>
<td>Overland Park</td>
<td>Sherri L. Wattenbarger, Kansas City, MO</td>
</tr>
<tr>
<td>David Eron</td>
<td>Wichita</td>
<td></td>
</tr>
<tr>
<td>Katherine E. Marples</td>
<td>Lawrence</td>
<td></td>
</tr>
<tr>
<td>Tamara Niles</td>
<td>Arkansas City</td>
<td></td>
</tr>
<tr>
<td>Steve Six</td>
<td>Kansas City, MO</td>
<td></td>
</tr>
<tr>
<td>Nancy J. Dixon</td>
<td>Topeka</td>
<td></td>
</tr>
<tr>
<td>Aaron L. Kite</td>
<td>Dodge City</td>
<td></td>
</tr>
<tr>
<td>Sarah E. Warner</td>
<td>Lenexa</td>
<td></td>
</tr>
</tbody>
</table>

## New Fellow Gold

- Hon. Fred Six, Lawrence

## New Fellow Platinum

- Whitney B. Damron, Topeka

## New Fellow Diamond

- David J. Rebein, Dodge City

## Pillar of Profession

- Thomas V. Murray, Lawrence

## Pillar of Foundation

- Arden J. Bradshaw, Wichita
- Laura Ice, Wichita
- Robert W. Minto, Jr., Missoula, MT
- Edward J. Nazar, Wichita
- Frank C. Norton, Salina
- Mikel L. Stout, Wichita

## Fellow Diamond

- Sara S. Beezley, Girard
- Michael P. Crow, Leavenworth
- Gloria Farha Flentje, Wichita
- James L. Hargrove, El Dorado
- Hon. Marla J. Luckert, Topeka
- Daniel D. Metz, Lincoln
- Byron E. Springer, Lawrence

## Fellow Platinum

- Thomas A. Adrian, Newton
- Gerald L. Goodell, Topeka
- E. Lou Bjorgaard Probasco, Topeka

## Fellow Gold

- Constance M. Achterberg, Salina
- Anne E. Burke, Overland Park
- Whitney B. Damron, Topeka
- Hon. Jesse D. Euler, Wathena
- Jack Focht, Wichita
- Dennis L. Gillen, Wichita
- Richard F. Hayse, Topeka
- Alvin D. Herrington, Wichita
- Albert J. Kirk, Wichita
- John R. Morse, Sanibel, FL
- C. David Newberry, Topeka
- James D. Oliver, Overland Park
- Linda S. Parks, Wichita
- David G. Seely, Wichita
- William H. Seiler, Jr., McPherson
- Hon. Dale L. Somers, Topeka
- H. David Starkey, Topeka
- Hon. David J. Waxse, Kansas City
- Mary Kathryn Webb, Wichita
FELLOW SILVER (con’t.)

John J. Jurczyk Jr., Kansas City
Norman R. Kelly, Salina
Bruce W. Kent, Manhattan
Craig D. Kershner, Manhattan
Stephen M. Kerwick, Wichita
E. L. Kinch, Wichita
Katherine L. Kirk, Lawrence
John G. Kite, Saint Francis
Mark W. Knackendoffel, Manhattan
Randee Koger, McPherson
Gerald R. Kuckelman, Atchison
Tammie E. Kurth, Liberal
Mark T. Lair, Chanute
Jodde O. Lanning, Overland Park
Hon. Edward Larson, Topeka
Eric J. Larson, Wichita
Charles F. Lay, Spring Hill
Hon. Steve Leben, Topeka
Charles D. Lee, Hutchinson
Gregory A. Lee, Topeka
Amy S. Lemley, Wichita
Jacqueline K. Levings, Wichita
Joe L. Levy, Coffeyville
Aubrey G. Linville, Salina
Richard D. Loffswold, Jr., Girard
Aubrey G. Linville, Salina
Hon. James A. Patton, Hiawatha
Kenneth E. Peirce, Hutchinson
Kent T. Perry, Overland Park
H. Douglas Pfalzgraf, Wellington
Timothy V. Pickell, Westwood
Hon. G. Joseph Pierron Jr., Topeka
Rachel K. Pirner, Wichita
Hon. David R. Platt, Junction City
Hon. Sally D. Pokorny, Lawrence
Alan R. Post, Chatham, IL
Bradley Post, Wichita
Marc A. Powell, Wichita
Hon. James A. Pusateri, Naples, FL
Eric C. Rajala, Shawnee Mission
David M. Rapp, Wichita
Fred W. Rausch Jr., Topeka
Brett A. Reber, McPherson
Jay M. Rector, Wichita
Elaine Reddick, Wichita
Sharon M. Reilly, Manhattan
Prof. Sheila M. Reynolds, Topeka
Zackery E. Reynolds, Fort Scott
Thomas M. Rhoads, Wichita
John L. Richeson, Ottawa
Ann T. Rider, Wichita
Calvin D. Rider, Wichita
Michael T. Mills, McPherson
William S. Mills, McPherson
Derenda J. Mitchell, Topeka
Daniel E. Monnat, Wichita
Tim J. Moore, Wichita
Hon. Nancy L. Moritz, Topeka
J. Joseph Morris, Leawood
Oris W. Morrow, Arkansas City
Ronald C. Myers, Eureka
John C. Nettels Jr., Kansas City, MO
Patrik W. Neustrom, Salina
Rodney G. Nitz, Lawrence
Don W. Noah, Beloit
Erick E. Nordling, Hugoton
Christopher W. O’Brien, Wichita
Timothy M. O’Brien, Kansas City
Nancy A. Ogle, Wichita
Gene M. Olander, Topeka
William L. Oliver Jr., Wichita
James R. Orr, Westwood
Sen. Thomas C. “Tim” Owens, Overland Park
W. Dean Owens, Lawrence
Stephen R. Page, Topeka
Arthur E. Palmer, Topeka
Hon. Floyd V. Palmer, Topeka
Jerry R. Palmer, Topeka
Donald Patterson, Topeka
Hon. James A. Patton, Hiawatha
Kenneth E. Peirce, Hutchinson
Kent T. Perry, Overland Park
H. Douglas Pfalzgraf, Wellington
Timothy V. Pickell, Westwood
Hon. G. Joseph Pierron Jr., Topeka
Rachel K. Pirner, Wichita
Hon. David R. Platt, Junction City
Hon. Sally D. Pokorny, Lawrence
Alan R. Post, Chatham, IL
Bradley Post, Wichita
Marc A. Powell, Wichita
Hon. James A. Pusateri, Naples, FL
Eric C. Rajala, Shawnee Mission
David M. Rapp, Wichita
Fred W. Rausch Jr., Topeka
Brett A. Reber, McPherson
Jay M. Rector, Wichita
Elaine Reddick, Wichita
Sharon M. Reilly, Manhattan
Prof. Sheila M. Reynolds, Topeka
Zackery E. Reynolds, Fort Scott
Thomas M. Rhoads, Wichita
John L. Richeson, Ottawa
Ann T. Rider, Wichita
Calvin D. Rider, Wichita
Michael T. Mills, McPherson
William S. Mills, McPherson
Derenda J. Mitchell, Topeka
Daniel E. Monnat, Wichita
Tim J. Moore, Wichita
Hon. Nancy L. Moritz, Topeka
J. Joseph Morris, Leawood
Oris W. Morrow, Arkansas City
Ronald C. Myers, Eureka
John C. Nettels Jr., Kansas City, MO
Patrik W. Neustrom, Salina
Rodney G. Nitz, Lawrence
Don W. Noah, Beloit
Erick E. Nordling, Hugoton
Christopher W. O’Brien, Wichita
Timothy M. O’Brien, Kansas City
Nancy A. Ogle, Wichita
Gene M. Olander, Topeka
William L. Oliver Jr., Wichita
James R. Orr, Westwood
Sen. Thomas C. “Tim” Owens, Overland Park
W. Dean Owens, Lawrence
Stephen R. Page, Topeka
Arthur E. Palmer, Topeka
Hon. Floyd V. Palmer, Topeka
Jerry R. Palmer, Topeka
Donald Patterson, Topeka
Hon. James A. Patton, Hiawatha
Kenneth E. Peirce, Hutchinson
Kent T. Perry, Overland Park
H. Douglas Pfalzgraf, Wellington
Timothy V. Pickell, Westwood
Hon. G. Joseph Pierron Jr., Topeka
Rachel K. Pirner, Wichita
Hon. David R. Platt, Junction City
Hon. Sally D. Pokorny, Lawrence
Alan R. Post, Chatham, IL
Bradley Post, Wichita
Marc A. Powell, Wichita
Hon. James A. Pusateri, Naples, FL
Eric C. Rajala, Shawnee Mission
David M. Rapp, Wichita
Fred W. Rausch Jr., Topeka
Brett A. Reber, McPherson
Jay M. Rector, Wichita
Elaine Reddick, Wichita
Sharon M. Reilly, Manhattan
Prof. Sheila M. Reynolds, Topeka
Zackery E. Reynolds, Fort Scott
Thomas M. Rhoads, Wichita
John L. Richeson, Ottawa
Ann T. Rider, Wichita
Calvin D. Rider, Wichita
Stephen E. Robison, Wichita
Hon. Richard D. Rogers, Topeka
Eric L. Rosenblad, Pittsburg
Kelly J. Rundell, Wichita
Alan L. Rupe, Wichita
Anthony F. Rupp, Overland Park
Hon. Gerald L. Rushfelt, Kansas City
Larry R. Rute, Topeka
Thomas E. Ruzicka, Olathe
Frank C. Sabatini, Topeka
Susan G. Saidian, Wichita
William R. Sampson, Kansas City, MO
Gerald Sawatzky, Santa Fe, NM
Michael K. Schmitt, Hiawatha
Hon. Kim R. Schroeder, Hugoton
Sheila M. Schultz, Paola
Steve A. Schwarm, Olathe
Hon. K. Gary Sebelius, Topeka
David G. Seely, Wichita
David C. Seitter, Kansas City, MO
Shoko Kato Sevart, Wichita
John H. Shaffer, Hutchinson
Gene H. Sharp, Liberal
Rex A. Sharp, Prairie Village
Sarah B. Shattuck, Ashland
J. Bradley Short, Overland Park
Michael S. Sizemore, Leawood
James W. Sloan, Topeka
Bryan W. Smith, Topeka
E. Dudley Smith, Leawood
Eric B. Smith, Topeka
Stanford J. Smith Jr., Wichita
Lee M. Smithyman, Overland Park
Brock R. Snyder, Topeka
Harvey R. Sorensen, Wichita
William B. Sorensen Jr., Wichita
Jeffrey S. Southard, Lawrence
Steven L. Speth, Wichita
Frank G. Spurrey Jr., Belleville
Hayden B. St. John, Topeka
Don B. Stahr, Wichita
Hon. Melissa Taylor Standridge, Topeka
Roger D. Stanton, Overland Park
Frederick K. Starrett, Overland Park
S. Philip Stover, Quinter
Wayne T. Stratton, Topeka
Alan Mark Stremel, Manhattan
Gregory J. Stucky, Wichita
Hon. David L. Stutzman, Manhattan
Hon. Ronnie L. Svaty, Ellsworth
Daniel L. Swagerty, Chillicothe, MO
William B. Swearer, Hutchinson
Wayne R. Tate, Hugoton
Connie D. Tatum, Houston, TX
FELLOW SILVER (con’t.)

L. Franklin Taylor, Olathe
Trisha A. Thelen, Wichita
Todd N Thompson, Lawrence
Willard B. Thompson, Wichita
Hon. Nelson E. Toburen, Pittsburg
M. Moran Tomson, Johnson
William L. Townsley III, Wichita
William P. Trenkle Jr., Overland Park
Hon. Linda S. Trigg, Olathe
Thomas C. Tripplett, Wichita
Hon. Nelson E. Toburen, Pittsburg
William P. Trenkle Jr., Overland Park
William L. Townsley III, Wichita
M. Moran Tomson, Johnson
Willard B. Thompson, Wichita
Hon. Nelson E. Toburen, Pittsburg
William L. Townsley III, Wichita
M. Moran Tomson, Johnson

FELLOW

Hon. Adrian J. Allen, Topeka
Daniel N. Allmayer, Kansas City, MO
Craig J. Altenhofen, Junction City
Charles J. Andres, Olathe
Samantha P. Angell, Salina
Stephen B. Angermayer, Pittsburg
Nancy S. Anstett, Overland Park
James M. Armstrong, Wichita
Hon. Karen M. Arnold-Burger, Topeka
Stanley R Ausemus, Emporia
Gary M. Austerman, Wichita
Mary K. Babcock, Wichita
Deena Hyson Bailey, Wichita
Anthony S. Barry, Topeka
Charles Darren Baskins, Troy
Kermit M. Beal, Lawrence
Norman E. Beal, Shawnee
David J. Berkowitz, Lawrence
Susan A. Berson, Overland Park
Terri Savely Bezek, Topeka
Dennis L. Bieker, Hays
John T. Bird, Hays
Brett C. Bogan, Overland Park
Cydney D. Boler, Overland Park
William B. Bolin, Garden City
Hon. Danny D. Boyer, Salina
Charles E. Branson, Lawrence
Hon. Glenn R. Braun, Hays
John T. Bullock, Lawrence
Stacy A. Burrows, Kansas City, MO
Hon. Michael B. Buser, Topeka
Kathryn B. Bussing, Kansas City, MO
Ronald L. Campbell, Wichita
John A. Vetter, Wichita
J. Ronald Vignery, Goodland
Hon. Mark A. Vining, Wichita
Hon. John L. Vrati, Overland Park
John H. Wächter, Lawrence
Darrell L. Warta, Wichita
Kenneth W. Wasserman, Salina
Teresa L. Watson, Topeka
William K. Waugh III, Overland Park
Kevin D. Weakley, Overland Park
Hon. John L. Weingart, Hiawatha
Craig W. West, Wichita
Philip R. White, Wichita
Cindy L. Whitten, Southlake, TX
Clarence R. Wietharn, Overland Park
Calvin K. Williams, Colby
Laurie B. Williams, Wichita
Hon. Evelyn Z. Wilson, Topeka

Hon. Elysee L. Williams, Wichita
Calvin K. Williams, Colby
Clarence R. Wietharn, Overland Park
Cindy L. Whitten, Southlake, TX
Clarence R. Wietharn, Overland Park
Calvin K. Williams, Colby
Laurie B. Williams, Wichita
Hon. Evelyn Z. Wilson, Topeka

Terrence J. Campbell, Lawrence
Don A. Cashman, Hiawatha
Michele Marie Chollet, Kansas City, MO
Shelley Hickman Clark, Lawrence
Amy Fellows Cline, Wichita
Charles E. Cole Jr., Wichita
Michael E. Collins, Garden City
John D. Conderman, Manhattan
Vincent M. Cox, Topeka
Daniel D. Crabtree, Kansas City, MO
Martha Burnett Crow, Leavenworth
Marshall Crowther, Lawrence
Paul T. Davis, Lawrence
Victor A. Davis Jr., Junction City
Thomas M. Dawson, Leavenworth
Richard C. Dearth, Pittsburg
Stanley Lucky DeFries, Topeka
Michael Francis Delaney, Overland Park
Cheryl L. Denton, Lawrence
Stephen G. Dickerson, Olathe
Bradley D. Dillon, Hutchinson
Richard Dean Dinkel, Sharon Springs
Nancy J. Dixon, Topeka
James Curtis Dodge, Liberal
Hon. J. Charles Droge, Olathe
Holly A. Dyer, Wichita
Philip David Egan, Wichita
Yvette L. Ehrlich, Bakersfield, CA
Timothy R. Emer, Independence
Jay Scott Emler, McPherson
Prof. J. Lyn Entringk Goering, Little Rock, AR
Todd D. Epp, Harrisburg, SD

T. Michael Wilson, Wichita
Wendell D. Winkler, Wamego
Larry W. Winn III, Overland Park
Robert W. Wise, McPherson
Warren B. Wood, Burlington
Lee H. Woodard, Wichita
John P. Woolf, Wichita
Hon. William S. Woolley, Wichita
Brian C. Wright, Great Bend
H. Morgan Wright, Larned
James C. Wright, Topeka
Thomas E. Wright, Topeka
Wyatt M. Wright, Overland Park
Angel R. Zimmerman, Topeka
Larry N. Zimmerman, Topeka

Joel R. Euler, Troy
Roger D. Falk, Wichita
Kimberly D. Farha, Wichita
Roger D. Fincher, Topeka
Hon. Thomas E. Foster, Olathe
John E. Foulston, Wichita
Gregory L. Franken, Wichita
Bradley J. Frigon, Englewood, CO
Theron E. Fry, Wichita
Hon. Kathryn A. Gardner, Topeka
Thomas P. Garretson, Wichita
Roth A. Gatewood, Topeka
John P. Gerstle II, Olathe
Jeffrey W. Geller, Independence
A. James Gillmore III, Newton
W. Thomas Gilman, Wichita
Gregory P. Goheen, Kansas City
Nancy Morales Gonzalez, Kansas City, MO
Steven D. Gough, Wichita
Gerald L. Green, Hutchinson
Scott C. Gyllenborg, Olathe
Hellen L. Haag, Wichita
Natalie G. Haag, Topeka
Marilyn M. Harp, Topeka
Kurt A. Harper, Wichita
Hon. Charles M. Hart, El Dorado
Jennifer R. Hays, Topeka
Kimberly W. Helvey, Alexandria, VA
Michael D. Herd, Wichita
David L. Hiebert, Wichita
Jennifer M. Hill, Wichita
Kevin M. Hill, Hiawatha
Scott M. Hill, Wichita
Mark D. Hinderks, Kansas City, MO
Martha J. Hodgesmith, Topeka
Donald F. Hoffman, Hays
Edward F. Horne, Manhattan
Harold A. Houck, Topeka
James R. Howell, Wichita
Roger D. Huhey, Wichita
Paul H. Hulse, Charleston, SC
Evan H. Ice, Lawrence *
Hon. Fred S. Jackson, Topeka
Linda P. Jeffrey, Topeka
Scott D. Jensen, Wichita
Alan V. Johnson, Topeka
Peter S. Johnston, Salina
Robert S. Jones, Salina
Jeffery A. Jordan, Wichita
Melissa E. Kasprzyk, Topeka
Hon. David J. Kaufman, Wichita
Prof. Mike Kautsch, Lawrence
Timothy E. Keck, Topeka
Matthew D. Keenan, Kansas City, MO
Wendell W. Kellogg, Salina
J. Michael Kennalley, Wichita
Jeff Kennedy, Wichita
Anne M. Kindling, Dodge City
Ruben J. Krisztal, Leawood
James A. Kuharic, Hugoton
Christine M.T. Ladner, Topeka
Brad J. LaForge, Wichita
Chelsey G. Langland, Topeka
Karen L. Langston, Wichita
Nathan D. Leadstrom, Topeka
Luanne C. Leeds, Topeka
Jeffrey D. Leonard, Wichita
Brett D. Leopold, Fairway
Lori A. Leu, Plano, TX
Robert A. Levy, Garden City
Jennifer L. Magana, Wichita
Hon. Thomas E. Malone, Topeka
Norman G. Manley, El Dorado
Scott M. Mann, Shawnee
Terry L. Mann, Wichita
Norbert C. Marek Jr., Westmoreland
David K. Markham, Parsons
Hon. J. Thomas Marten, Wichita
James E. Martin, Overland Park
Jack C. Marvin, Wichita
Michelle M. Masoner, Kansas City
Timothy A. McNearney, Overland Park
Lisa Adrian McPherson, Wichita
Shirla R. McQueen, Liberal
Mira Mdivani, Overland Park
Kent A. Meyerhoff, Wichita
Matthew Crane Miller, Kansas City,
MO
Hon. Paul E. Miller, Manhattan
Jim D. Mills, Garden City
Charles E. Millsap, Wichita
Alexander B. Mitchell, Wichita
Derenda J. Mitchell, Topeka
John W. Mize, Salina
Joseph N. Molina III, Topeka
Lisa D. Montgomery, Independence
John Terry Moore, Wichita
James H. Morain, Haven
Amy E. Morgan, Overland Park
David H. Moses, Wichita
Catherine Veach Moyer, Ulysses
Thomas M. Mullinix, Shawnee
William E. Muret, Winfield
John J. Murphy, Plano, TX
Gregory L. Musil, Overland Park
Scott C. Nehrbass, Overland Park
Jon E. Newman, Wichita
Hoa Alec Nguyen, Wichita
Brian J. Niceswanger, Overland Park
Andrew J. Nolan, Wichita
Cynthia A. Norton, Kansas City, MO
Michael J. Norton, Wichita
Ammon Martin Nunley III, Midland, TX
Katherine L. O’Connor, Leawood
Charles A. O’Hara, Wichita
Hon. Maurice P. O’Keefe Jr., Olathe
Timothy P. O’Sullivan, Wichita
Evan J. Olson, Houston, TX
Timothy P. Orrick, Overland Park
Randall J. Pankratz, Newton
Hon. John K. Pearson, Lawrence
Prof. John C. Peck, Lake Quivira
Terri J. Pemberton, Topeka
Patrice Petersen-Klein, Topeka
Roger K. Peterson, Ellsworth
Brandon T. Pittenger, Overland Park
James P. Rankin, Topeka
Forrest T. Rhodes Jr., Wichita
R. Chris Robe, Wichita
Hon. Julie A. Robinson, Topeka
Nancy Schmidt Roush, Kansas City, MO
Hon. Rebecca A. Sanders, Topeka
Scott R. Schillings, Wichita
Gregory A. Schwartz, Hays
Richard H. Seaton Sr., Manhattan
Susan P. Selvidge, Santa Cruz, CA
Constance L. Shidler, Overland Park
David G. Shriver, Topeka
Melissa D. Skelton, Richmond, WA
William J. Speke, Lawrence
Duston J. Slinkard, Topeka
Branden L. Smith, Lawrence
Charles F. Speer, Kansas City, MO
Douglas C. Spencer, Oakley
Fred J. Spigarrella, Pittsburg
Keith W. Sprouse, Marysville
Stephen M. Stark, Wichita
Mary Stephenson, Louisville
Alan R. Stetson, Overland Park
Bradley A. Stout, Wichita
Paul B. Swartz, Andover
Benoit M.J. Swinnen, Topeka
Todd N. Tedesco, Wichita
Thomas L. Theis, Topeka
Gabrielle M. Thompson, Manhattan
Gaye B. Tibbets, Wichita
Clyde W. Tolan, Iola
David M. Traster, Wichita
Cheryl L. Trenholm, Lawrence
Randy J. Troutt, Wichita
Richard G. Tucker, Parsons
Craig Lee Uhrich, Boston, MA
John L. Utz, Overland Park
Jennifer K. Vath, Kansas City, MO
Hon. Kathryn H. Vratil, Kansas City
Hon. A. J. Wachter, Pittsburg
James A. Walker, Wichita
Larry W. Wall, Wichita
Roger W. Warren, Overland Park
Sarah E. Warner, Lenexa
David E. Waters, Overland Park
Kimberly W. Wiggins, Washington, D.C.
James T. Wiglesworth, Shawnee Mission
Philip B. Wolfe, Topeka
Teresa A. Woody, Kansas City, MO
Gregory S. Young, Wichita
* Deceased
Mike Crow is a senior partner in the law firm of Crow and Associates in Leavenworth. He graduated from Baker University in 1967. He then entered the Army as a Private and graduated from Officer Candidate School and was commissioned a Lieutenant in the Infantry. In 1969, he served as a Platoon Leader in Vietnam with the 1st Battalion/7th Cavalry (Custer’s old unit), which used helicopters extensively. He was severely disabled in a helicopter crash in Vietnam. After eight months in Army and VA hospitals, he was medically retired. Mike graduated from Washburn University School of Law in 1973. While attending law school, he continued to receive medical treatment at VA hospitals. He practiced law in Topeka for a short time before moving to Leavenworth.

Shortly after establishing a solo practice in Leavenworth, Mike became acquainted with Hon. Arthur J. Stanley, Jr., Senior Judge, United States District Court for the District of Kansas. Judge Stanley had served with the 7th Cavalry in 1918. Once Judge Stanley learned Mike had served with the 7th Calvary in Vietnam, he offered Mike the opportunity to serve as his part-time law clerk. Mike served as Judge Stanley’s part-time law clerk from 1974-1976, while he established his law practice. The firm now has seven attorneys. Mike served in the Kansas House of Representatives for the 41st District from 1978-1982.

In 1968, Mike married Marti Burnett Crow. Marti also graduated from Baker University. When their children got older, Marti went to law school at Washburn. Marti served in the Kansas House of Representatives for the 41st District and retired in 2010. She is a KBF Fellow. The Crows have three children. Their daughter, Jennifer, is a graduate of Washburn University School of Law, their daughter Emily, is a veterinarian and their son, Bryan, has a degree in film production.

Mike is a past president of the Leavenworth County Bar Association. He served as a Secretary/Treasurer and Vice President and in 2004-05 as President of the Kansas Bar Association. He also served as a trustee of the Kansas Bar Foundation and is a Fellow Diamond.

Mike has been listed in the Best Lawyers in America since 2006. He received the Kansas Association of Justice Distinguished Service Award in 2007. He is licensed to practice in Kansas and Missouri; the Tenth Circuit, U.S. Court of Appeals; and the U.S. Supreme Court. He serves as chairperson of the Saint Luke’s Cushing Hospital Board of Directors in Leavenworth.
One (L) Year in Hell or: How I Learned to Stop Worrying and Love the Law

I was nervous to start law school. Really nervous. Every time I told an attorney that I was going to law school, I heard how unbelievably hard it would be. I received the book “One L” for my birthday but had to stop reading it not even half-way through because it terrified me. I refused to watch “The Paper Chase.” The law felt like a calling to me, but I was a knot of anxiety and anticipation for months.

Finally, on a hot day in the last week of August 2014, I woke up and got ready for my first day. Before I left, my husband took my picture, like on your first day of kindergarten. It felt appropriate.

I didn’t live far from campus, but I chose to drive. I got in my car and set out for whatever was going to be the next three years of my life. Naturally, my thoughts were about what that day was going to be like. As I was turning onto Bob Billings Parkway, I realized something: I was about to get hit by an SUV, and not metaphorically. It slammed into the passenger side door of my 20-year-old Mazda. My car did a 180 and landed on a median.

I was pretty shaken. My husband tried – adamantly – to get me to wait to calm down before I went to class, or at least stop at a pharmacy to get some ibuprofen for whatever parts of me were going to be sore once the shock wore off. I refused, and made him take me to school. At the end of the day, I misjudged how long it would take me to walk home, and spent the next two hours in a smothering heat, getting sunburned on my face, and huge blisters on my feet. By the time I made it home, I was almost sick to my stomach. I felt like the day had been a bad sign, and for the better part of my first year, it seemed like it.

At first, I was completely overwhelmed. When I wasn’t at school, I would sit bleary-eyed and vacant. Never in my life have I been so convinced I had made a terrible mistake. I felt like such an imposter, like I was sneaking around Green Hall, about to be called out for the fraud I was.

About six weeks in, I was walking to class and was suddenly overtaken by fear. The reality of the responsibilities I would take on as an attorney hit me like a truck – or an SUV. I got dizzy and my mind started to swim. I felt like I had suddenly been thrust into being a pilot, and the lives of hundreds of people depended on me. But rather than succumbing to panic, I caught myself. I acknowledged that everyone starts somewhere, and pilots too have to learn to fly. Presumably, by the time they are responsible for other people, the landscape of the cockpit has lost its mystery, and skills it takes to fly safely are familiar. Maybe that was what it would be like in school and as an attorney. I continued to struggle with the demands of school, but I had made a space in my mind for the possibility that I could, in fact, do this. I took the anxiety, the lack of confidence, and the workload in stride.

That year was hard. Like most law students, I was used to school coming easily – naturally – to me. And it was apparent that while law school was coming easily to some students, I was not one of them.

Strange, it never occurred to me to give up. I knew I wanted to be an attorney – and really nothing else – that no matter how inadequate I felt, I was going to continue to show up until I was made to leave. And, although school was hard, it started to feel natural. I didn’t despair, but there were moments of demoralization. After the first semester, finals were no longer a mystery, and even if I didn’t have much confidence, I had certainly gained perspective. I read a quote attributed to Winston Churchill: “if you’re going through Hell, keep going.” I said that to myself a lot, but imperceptibly, I said it less and less. I was finding my place.

There were also moments of excitement. To reach this level

---

**View your professional listing at [www.LegalDirectories.com](http://www.LegalDirectories.com)**

**“The Legal Search Engine”**

Marketing Solutions that boost your online visibility and attract clients

- Link to your website from LegalDirectories.com
- Professional Profile listings available
- Advertise your business

Legal Directories Publishing Co • PO Box 189000 • Dallas, TX 75218-9000 • 800.447.5375
of education sometimes doesn’t seem like a big deal. If you’re surrounded by similarly situated individuals, it seems normal. But from a global perspective, I was getting an education that the majority of people, living or dead, did not receive.

In the middle of my second year, I became interested in criminal defense. It was the one thing I never thought I would do as an attorney. But the vulnerability of people facing the power of government spoke to me. In criminal procedure, I saw the critical role criminal defense attorneys play in maintaining the integrity of the Constitution. Without zealous advocates enforcing accountability, it’s easy for a government to violate the rights of its citizens. All the more so when those citizens are the most unpopular and unsympathetic – those accused of crimes.

At some point, I started really feeling like a lawyer. Poorly constructed arguments offended me the way ideas used to. Now, no matter how foolish or offensive an idea, I will probably wait to at least hear the argument. Confrontation intimidates me less, even though I experience less of it – if, as “a matter of law,” it didn’t matter whether someone said the movie started at 5 or 6 p.m., I am not going to waste time hashing it out. And, most significantly, where once the idea of having my own clients mostly terrified me, now, not only do I find it thrilling, but I’ve already caught a glimpse:

This summer, I was an intern at Douglas County Legal Aid. It might be KU’s best-kept secret. I have interviewed clients, negotiated with prosecutors, and spoken in court. It has been the defining moment in school for me. Legal Aid was a great experience. There is no hiding behind the phoniness of a four-hour exam or the paper that every student likes to brag about “BS-ing” their way through. You’re eye to eye with a client, a prosecutor, or a judge, and you can’t fake whether you know the facts or not (you can fake confidence, though, and I highly recommend it). I’m going to graduate in December. My degree will feel like a privilege because I know I’m fortunate to have had the opportunity to earn it, but I know I earned it. Now, my suit feels like a uniform, not a costume.

Portia Riggins is a 3L graduating in December. She received her two undergrad degrees in linguistics and Spanish at Iowa State. Although she grew up in Northern Virginia, she was born in Lawrence and considers herself a Kansan and Jayhawk by birth. She plans to build a practice defending Constitutional rights through the practice of criminal defense. When she is not studying foreign languages, neuropsychology or learning piano, she enjoys playing with her dog, worshiping cats, sewing, and making and wearing disguises.

About the Author

Bankruptcy & Insolvency CLE
2017 CLE

APRIL 7, 2017
DoubleTree by Hilton, Lawrence

For more information visit:
http://www.ksbar.org/event/2017BankruptcyCLE
TWO OF THE REGION’S FASTEST-GROWING FIRMS ARE NOW ONE

Joseph Hollander & Craft
Lawyers and Counselors

Proudly Welcomes The Attorneys and Staff of Erickson Scherff, LLC

Dionne M. Scherff
Lindsey P. Erickson

Civil Litigation • Complex Criminal Defense • DUI Defense • Family Law
Employment Law • Commercial Law • Professional and Disciplinary Defense

When you find attorneys with significant courtroom success who are highly regarded by both their clients and the legal community, you don’t just congratulate them. You ask them to join you.

The merger of Joseph, Hollander & Craft and Erickson Scherff combines two extraordinary firms reputed for excellent client service, depth of legal expertise, and their achievements both in and outside of the courtroom.

With 18 attorneys and 4 offices throughout Kansas and the Kansas City metro, we can provide even greater depth in services and practice areas while creating opportunities for growth in Kansas City and throughout the Midwest.

JosephHollander.com

KANSAS CITY
10990 QUIVIRA, #200
OVERLAND PARK, KS 66210
913.948.9490

LAWRENCE
5200 BOB BILLINGS PKWY., #201
LAWRENCE, KS 66049
785.856.0143

TOPEKA
1508 SW TOPEKA BLVD.
TOPEKA, KS 66612
785.234.3272

WICHITA
500 N. MARKET
WICHITA, KS 67214
316.262.9393
Hispanic Bar Association of Greater Kansas City Leads the Way

Hispanic Bar Association of Greater Kansas City’s annual scholarship reception serves to lift and inspire. It reminds me that dedicated passionate leaders can make a huge difference in the world. After attending this year’s reception in October, I asked one of these leaders, HBAGKC’s board member and incoming President Janell Avila, to tell us about the association, its projects and plans. The Kansas Bar Association was proud to be a sponsor of this annual event.

Janell Avila: I have been involved with HBAGKC since 2004. I was previously a member of Hispanic Lawyers Association of Illinois in Chicago and found the organization to be very supportive and helpful to me both personally and professionally. Upon my return, I approached Ramón Murgua about the local Hispanic Bar Association, and he enthusiastically indicated when and where the next meeting was. Since then, I have held various board positions and am currently the Hispanic National Bar Association Board Representative and the incoming 2017 president. I have made many lasting friendships through the organization and have met some wonderful colleagues. I continue to be a part of it and put in long hours on behalf of HBAGKC to make it even more viable and a better organization for future Latino lawyers. It is an excellent outlet for a young lawyer to gain valuable leadership experience while at the same time serving our community.

The 2016 scholarship reception featured keynote speaker Pedro Jaime Torres-Diaz, 2016 Hispanic National Bar Association President. We had approximately 100 attendees listen to Mr. Torres-Diaz speak on issues of diversity and inclusion and the importance of pipeline programming and continued support of Hispanic Law Student Association members. This is the ninth year that we have held a formal scholarship reception which we first began in 2007 as a formal fund at the Greater Kansas City Community Foundation. This year, we awarded our largest monetary cumulative award and the greatest number of recipients. Over the years, we have been fortunate to have the support of the Kansas City legal community and overall community; we have been fortunate to be able to place 100% of donations made into our scholarship fund thanks to the support of local vendors. We hope to continue to grow the scholarship fund and award scholarships at even higher amounts and to more students in the future.

Next year, 2017, will be our organization’s 25th anniversary. We are very excited that 2017 coincides with HBAGKC being the host organization and city for the HNBA 2017 Annual Convention. It will be held Sept. 6-9 at the Marriott Downtown Kansas City. In 2013, Janell Avila and Mike Barrera traveled to an HNBA board meeting to make a bid presentation, and Kansas City was selected over several other larger cities, including Orlando and New York City. It is vital the national HNBA be held in cities such as Kansas City as the Latino population continues to grow not just in major metropolitan cities, but throughout the U.S. The legal profession needs to recognize that we have a voice in all areas of the U.S. On a personal level, I am genuinely excited for our area HLSA students to experience the excitement, passion and camaraderie that takes place at an annual convention of hundreds of Latino lawyers. I attended my first HNBA Annual Convention as a HLSA student while attending DePaul College of Law when Chicago was a host city, and I came away completely inspired by everyone and the organization. I want our Kansas City area HLSA students to come away with the same level of excitement about pursuing the legal profession, to be inspired by other lawyers who look like them being the general counsels of large companies, judges at all levels, and partners of large firms and know they can do the same or even better.

Every year, traditionally HBAGKC has partnered with a community-based organization for a community service project. This year, we will once again partner with Mattie Rhodes Center on Dec. 10 for their annual holiday breakfast. As a Latino organization, it is important that the community see us not only as professionals, but as Latinos who care and are actively involved and a part of their community so they feel comfortable seeking legal advice if and when needed. It is also important that young people see us as a part of their community and not only in potentially negative situations for themselves, friends or family. Every year, this activity yields a great response from our members and brings us together for good in our community.

Janell N. Avila was interviewed by Mira Mdivani, KBA Secretary-Treasurer and Member of the KBA Diversity Committee.

About the Author

Mira Mdivani is a member of the KBA Diversity Committee. She practices business immigration law at Mdivani Corporate Immigration Law Firm in Overland Park.

mmdivani@uslegalimmigration.com
Members in the News

Changing Positions

Blake A. Bittel has been selected as the 23rd Judicial District Judge, Hays.

Ben K. A. Carmichael has joined Depew Gillen Rathbun & McInteer L.C., Wichita.

William P. Coates, Jr., Leo L. Logan, and Charles "Trey" Windham have joined Wallace Saunders, Overland Park.

Lindsey P. Erickson and Dionne M. Scherff have joined Joseph, Hollander and Craft, Overland Park.

Harry E. Frock has been selected as the 25th Judicial District judge, Garden City.

Joseph, Hollander & Craft LLC has merged with Erickson Scherff LLC with offices located in Overland Park, Lawrence, Topeka & Wichita.

Christopher W. Lyon has been selected to serve as the Hays Municipal Court prosecutor, Hays.

Cynthia A. Wiens has been promoted to senior associate and Kelly J. Schodorf has joined as an associate attorney at Adrian & Pankratz, Newton.

Changing Locations

Aronda Strutt has opened a new office at 616 Main Street, Stockton, KS 67669.

Miscellaneous

Sharon L. Dickgrafe, Chief Deputy City Attorney for the city of Wichita, Kan., was recognized as a Local Government Fellow by the International Municipal Lawyers Association at its annual conference in San Diego.

Samuel R. Foreman, YPW Past Chair, and Zachery K. Wiggins, Chair-elect, will serve as board members of the Young Professionals of Wichita.

William J. Kelly & Joslyn M. Kusiak, Independence, are pleased to announce their one year anniversary as Kelly & Kusiak Law Office LLC.

Gaye B. Tibbets, Wichita, has been elected 2016-17 Kansas Women Attorney Association president.

Obituaries

John V. Black

John V. "Jack" Black, age 79, passed away Aug. 20, 2016. He was born Jan. 8, 1937 in Pratt, Kan. to Dr. Cyril V. "Doc" and Margaret J. (Koppers) Black. He graduated from Pratt High School in 1955, University of Kansas in 1959, Washburn Law School in 1963, and U.S. Army Judge Advocate General School at the University of Virginia. He served four years as a JAG officer in the U.S. Army, the last two years as the Post Judge Advocate in Vicenza, Italy.

He married Janet McKinney in 1961 in Wichita, and was the best father one could ask for to three sons and a daughter. In 1968, the family returned to Pratt, and Jack established Black’s Law Office, and served as Pratt County Attorney from 1969-1977. He took cases to the Kansas Supreme Court that established strict liability and comparative negligence tort law and established precedents in oil and gas trespass in the state of Kansas.

He was an active member in the Kansas Bar Association, Board of Directors and past president of the Southwest Kansas Bar Association and Pratt Bar Association. He was also a member of the Kansas Trial Lawyers Association and past president of the Pratt Rotary Club where he was a multiple Paul Harris Fellow.

He is preceded in death by his parents.

Survivors include his wife, Janet; three sons, Thomas V. "Tom" and wife Melanie of Pratt, John P. of Howard, and Dr. Robert D. "Bob" and wife Shirley of Howard; one daughter, Rebecca "Becky" Snell and husband Keith of Wichita; seven grandchildren; two brothers, Dr. James F. Black and wife Katy of Marshalltown, Iowa, and Dr. William L. Black and wife Diane of Colorado Springs, Colo.; one sister, Margaret Ellen and husband Ron Howell of Sacramento, Calif., and sister-in-law, Margaret McKinney of Wichita.

Edward W. "Ed" Dosh

Edward W. “Ed” Dosh, 67, a longtime Parsons attorney, passed away Tuesday, Sept. 27, 2016, at Freeman Health Systems in Joplin, Mo.

He was born on Oct. 25, 1948, in Red Wing, Minn., to Lloyd and Luella (Richter) Dosh. Ed grew up in Minnesota and graduated from Frank B. Kellogg High School located in Little Canada, Minn. in 1966. He graduated from Luther College in Decorah, Iowa, with a bachelor of arts degree and attended graduate school at the University of Kansas, studying Latin American history. In 1977 he earned a juris doctorate degree from K.U.

Ed came to Parsons to work in the Labette County Attorney’s Office as assistant county attorney from 1977 to 1979. He established the Law Office of Edward W. Dosh in 1979 and continued working there until his death. He served as the Chetopa city attorney since 1985. In earlier years he had worked in Mickey’s Diners Inc. from 1965 to 1970 and Kansas Industries for the Blind in Topeka as a door-to-door salesman from 1971 to 1978.

His legal associations include the Kansas Bar Association, Southeast Kansas Bar Association, Labette County Bar Association and American Bar Association, National Association of Criminal Defense Lawyers, American Trial Lawyers Association, Kansas Trial Lawyers Association, American Judiciary Society; and he was a founding member of the Kansas Association of Criminal Defense Lawyers.

Ed enjoyed his cats, driving Cadillacs, taking cruises, gardening, playing golf and attending horse races. In his younger years he was an avid coin and butterfly collector and enjoyed playing the violin. He was a member of the Luther College and University of Kansas alumni associations. Several years ago he established the Robert Davis Scholarship Fund at Lu-
ther College in memory of a favorite professor and friend. He was always the "life of the party" and was a great storyteller.

Survivors include his significant other and companion for more than 30 years, Helen Rice of Kansas City, Kan. Other survivors are two brothers, Curtis Dosh of Roseville, Minn., and Jeffrey Dosh and his wife, Rebecca, of Eagan, Minn.; a nephew, Brian Dosh; and a niece, Jaimie “Ruby Sue” Kirkpatrick; a great-niece and great-nephew, Michalela and Riley. His longtime business associate and great friend Shane Adamson also survives.

He was preceded in death by his parents; a brother, Lloyd Dosh; and Clint “Clinto” Jones, whose obituary named Ed as a brother, and Ed felt the same about him.

Lauren Ginestra Helmstetter

Lauren Ginestra Helmstetter died Sept. 19, 2016, at age 66 after a defiant two-year struggle against the ravages of stage IV peritoneal cancer.

Lauren was born in New York City and raised in Atlanta, graduating from Dykes High School. She attended Vanderbilt University, where she pledged Chi Omega. She interrupted her college education to devote herself to her first marriage and the birth of her son Steve. She moved to Florida in 1969 and continued her education at Florida State University, earning a B.S. in Education in 1972, and Nova University, earning an M.S. in Counseling & Guidance in 1979. In 1980 she and her son moved to Kansas City. She worked as a probation officer and paralegal. In 1991, at age 41, she entered the University of Kansas School of Law as a full-time student. She excelled in law school and was an articles editor for the Law Review. After graduation from law school in 1994, Lauren became a research attorney for the judges of the Johnson County, Kansas District Court. She also worked as city prosecutor, contract attorney, mediator and private practitioner.

She was a member of the Missouri, Kansas and American Bar Associations. Lauren married Carl Helmstetter on May 11, 1995. In 1999 she went on sabbatical from legal work for family and health reasons. She was passionate about issues of justice and equality. She was a member of The Mainstream Coalition. In 2002 she founded Hundreds of Attorneys Watching Kline (H.A.W.K.) with the purpose of alerting the press and public to the devious and unethical legal maneuverings of Kansas Attorney General Phill Kline. In 2008 she was inspired by the candidacy of Barack Obama and worked long hours as a volunteer at the Kansas City campaign headquarters. She was active in community organizations, particularly those dedicated to support of the arts. She was a past treasurer and member of the board of directors of the Writers Place, and with John Mark Eberhart of the Kansas City Star organized and chaired the annual William Rockhill Nelson Literary Awards for many years. She was a past member of the board of directors of Kansas City Volunteer Lawyers and Accountants for the Arts (KCVLAA). Lauren had multiple talents and interests. She was a skilled, dedicated, and perfectionist knitter, creating complexly patterned clothing as well as dolls and fanciful creatures. She took lessons to learn to play the marimba and the drums. She won the New Yorker magazine’s cartoon caption contest at a time when it was an annual event that drew over 14,000 entries (her winning entry was published in the Jan. 29, 2001 issue). She enjoyed gardening and was a past officer and member of the board of directors of the Kansas City Rose Society. She belonged to the same book club for 30 years.

The following paragraphs were written by Lauren herself in the months before her death: Lauren Ginestra Helmstetter lived and loved from Dec. 13, 1949 until Sept. 19, 2016. She was preceded in death by her beloved grandmother, the amazing Alma Rand, and her crazy cats, Katharine Hepburn, Q, and most recently Pilgrim, a foundling kitten who lived to be 17 years old and sang a mighty aria. Lauren is survived by the best husband ever, Carl Helmstetter; son and daughter-in-law Steve and Leeanne Ginestra; grandchildren Dan and Courtney Ginestra; father Harry von Gutman; mother Lynne Morrell; stepchildren Houston, John, Rob and Annesley Helmstetter; siblings Lisa Dusselier (Mike), Vicki Gutman, Jason Gutman (Elena Bukanova), and Cynthia Morrell; nieces and nephews Sean Dusselier, Alexa Dusselier, Amanda Zingale, Brandon Burnam (Christina) and Samantha Daly; Aunt Norma and Uncle Maurice Fischberg, cousins Steve, Bruce, Irene and their spouses and offspring; and cousins Ginny, Paul and Amelia Mohr. Also preceding Lauren in death are her stepfather Tom Morrell and step-sister Genalee Burnam. Lauren leaves behind many cherished friends, including Doni Moberry Slough (Jim), Elizabeth Seale Cateforis (David), Martha Kenley (Steve), “agate sister” Mark K Holdgraf (Mike), Maria Donigan (Mark Thornhill), Laura Ziegler (Gard Davis), Louise Meyers (Pat), Bill Bruning, Richard Fox, Dick Woods, Christopher Leitch, Alejandro Lopez, Eddie Michael Sanbridge, David Pendergrass, Alfredo and Nadia Lopez; longtime buddies from the thirty-year book club, Marilyn Rymer, Susan Everson, Carolyn Elman, JoEllen Wurth, Beth Hall, and Linda Gill Taylor; music teacher and soul mate Matt Ronan and family (Jamie, Drake, Anna); another soul mate, the extremely talented artist John Ferry and family (Amy, Katherine, Paige); and many more friends and colleagues too numerous to name who have lent amazing support. Carl and Lauren particularly want to thank extraordinary caregivers Paralee Parris, Louise Davis, Pearlie Jackson, Tiffany Maimer, Jane Okabayashi, and Jenny Peterman; Roger and Liz Coleman; Steven Briggs, Ph.D., Pastor Rickey Rambo and Lauren’s “Sunlight Family”; Dr. Mazin Al-Kasspoules, nurse Lori Poteet, Dr. Joaquina Baranda, nurse practitioner Erin Carroll, Dr. Dawood Sayed, Dr. Raed Al-Rajabi, nurse practitioner Molly Gitren, and all the KU medical team for their competent and compassionate care. Finally, Lauren wants to express love and gratitude to Rob Nilsson for restoring her Emersonian intuition in 2004, making the last decade of her life as filled with childlike wonder and discovery as the first.
Denise Henning

Raychel Denise Henning, 50, of Kansas City North, passed away Sept. 11, 2016, at St. Luke’s Hospice House. Denise was born Feb. 7, 1966, in Prague, Okla., the only daughter of Raychel (Honeycutt) Youngblood and Kenneth Youngblood. Denise grew up and graduated from high school in Crete, Neb. She was united in marriage to her high school sweetheart, Timothy Arnold Henning, on June 7, 1986. Denise graduated magna cum laude from the University of Illinois School of Law (J.D., 1992) and summa cum laude from Doane College (B.A., 1988). After clerking at the Missouri Court of Appeals, Western District, for the Honorable Patricia Breckenridge, she entered private practice and devoted her practice exclusively to trials of civil cases. Denise practiced at The Henning Law Firm, PC, in Kansas City, Mo., with her paralegal and best friend Nancy Cline.

Denise was a tenacious, empathetic, and compassionate person who always believed in helping others. She was honored with numerous prestigious legal and civic awards during her professional career, most recently the Thomas G. Strong Trial Attorney Award, the American Red Cross "Hero Award," and the Missourian Award.

Denise and her boys formed The Henning Family Foundation in memory of Tim, who passed away after suffering a heart attack at their son’s baseball game on May 15, 2012, at the age of 47. The goal of The Henning Family Foundation is to prevent this type of tragedy from happening to other families by raising funds to purchase and distribute AEDs to kids’ sports venues and other public places in the Kansas City metropolitan area.

Preceding Denise in death are husband, Tim; mother-in-law LeAnn Henning; and brother, Ray Youngblood. Survivors include sons Bryan Henning (16) and Matthew Henning (13); mother Raychel Youngblood; father, Kenneth Youngblood; brother, Todd Youngblood and wife Laurie; sister-in-law, Kendra Youngblood; uncle, Hal Honeycutt and wife Maryann; father-in-law, Arnold Henning and wife Gloria; sister-in-law, Jodi Henning; brother-in-law, Dan Henning and wife Sharry.

Gordon Lowry

Gordon Kemmery Lowry died Monday, Sept. 5, 2016, in Valley Falls, Kan. Gordon was born July 25, 1918, in Meade, Kan., the son of James C. and Ruby E. Kemmery Lowry. He lived in Meade until moving to Topeka in 1934 where he graduated from Topeka High School in 1936. Gordon graduated from Washburn College where he played basketball. His law studies were interrupted by service in the United States Navy in World War II. After graduation from the Midshipman program, he completed amphibious training and led boat groups during invasions in the Marshall Islands, Saipan, Palau, and Layte Gulf in the Philippines. He rose to the rank of First Lieutenant and received the bronze star for actions in the Saipan invasion and the Purple Heart for wounds suffered at Palau.

Gordon graduated from Washburn Law School following the war and served as law clerk to the Hon. Walter A. Huxman of the U.S. Tenth Circuit Court of Appeals. In 1947 he opened a law office in Valley Falls and practiced until 2005. He was a member of the Jefferson County, Kansas, and American Bar Associations and served as President of the City Attorneys Association of Kansas.

He was also active in organizing watershed districts in northeast Kansas and providing counsel to electric cooperatives.

He was a member of the Valley Falls Rotary Club from 1947 until his death, was honored as a Paul Harris Fellow and held the office of Rotary District Governor in 1956-1957. He sat on boards for the Jayhawk Area Council of Boy Scouts, the Washburn University Alumni Association, the Valley Falls Chamber of Commerce, the American Red Cross, and the Salvation Army. He was a member of the Valley Falls United Methodist Church and held offices including Sunday School Superintendent for many years.

He married Margaret Huffman June 21, 1941. They enjoyed 73 years of marriage until her death August 31, 2014. He is survived by two daughters, Susan Lowry (Richard Armin), Toronto, Canada, and Lynne Lowry (Donna Sanker), Long Beach Calif.; three sons, Gordon Kemmery Lowry, Jr. (Junko), Honolulu, Hawaii, James Corwin Lowry (Cathy), Lenexa, and Stuart Scott Lowry (Lauren), Hays; eight grandchildren and two great-grandchildren.
Help is needed...

... to provide pro bono legal services to low-income Kansans; ALL areas of practice are needed.

No potential clients will be given your name without approval and all will be screened for financial eligibility through Kansas Legal Services.

KLS may be able to help with extraordinary litigation expenses when the interest of justice requires it.

Visit http://www.ksbar.org/probono for more information.

BECAUSE BAD THINGS CAN HAPPEN TO GOOD LAWYERS.

You’ve worked hard to build your firm and you want to know your hard work is protected. ALPS has you covered. With ALPS, you’re not buying a policy. You’re buying a promise.

Ready to get a quote? Visit www.alpsnet.com/get-a-quote

(800) 367-2577  ●  www.alpsnet.com  ●  learnmore@alpsnet.com
Be Thinking of the BEST & BRIGHTEST for the 2017 KBA Awards
Spotlight fellow attorneys with a nomination.

- Phil Lewis Medal of Distinction
- Distinguished Service
- Professionalism
- Pillars of the Community
- Distinguished Government Service
- Courageous Attorney
- Outstanding Young Lawyer
- Diversity
- Outstanding Service
- Pro Bono

Learn more about the awards online at http://www.ksbar.org/awards.
2017 KBA Awards

The KBA Awards Committee is seeking nominations for award recipients for the 2017 KBA Awards. These awards will be presented in June at the KBA Annual Meeting in Manhattan. Below is an explanation of each award and a nomination form for completion. The Awards Committee, chaired by Sara Beezley, of Girard, appreciates your help in bringing worthy nominees from throughout the state of Kansas to the committee’s attention! *Deadline for nominations is Friday, March 3.*

**Phil Lewis Medal of Distinction**

The KBA’s Phil Lewis Medal of Distinction is reserved for individuals or organizations in Kansas who have performed outstanding and conspicuous service at the state, national, or international level in administration of justice, science, the arts, government, philosophy, law, or any other field offering relief or enrichment to others.

- A recipient need not be a member of the legal profession or related to it, but the recipient’s service may include responsibility and honor within the legal profession;
- This award is only given in those years when it is determined that there is a worthy recipient.

**Distinguished Service Award**

This award recognizes an individual for continuous long-standing service on behalf of the legal profession or the public, rather than the successful accomplishment of a single task or service.

- The recipient must be a lawyer and must have made a significant contribution to the altruistic goals of the legal profession or the public;
- Only one Distinguished Service Award may be given in any one year. However, the award is given only in those years when it is determined that there is a worthy recipient.

**Professionalism Award**

This award recognizes an individual who has practiced law for 10 or more years who, by his or her conduct, honesty, integrity, and courtesy, best exemplifies, represents, and encourages other lawyers to follow the highest standards of the legal profession.

**Pillars of the Community Award (CBA)**

This award is available to a Kansas lawyer and KBA member with a minimum of 10 years active non-specialized, general legal practice in a predominately low-density population area of Kansas. Recipients will have had substantial practice in small or solo law firms or local government service. Requirements are flexible but consideration will be given to the following factors, including how such factors apply to the lawyer’s community:

- Variety/diversity of law practiced
- Impact/high profile law work
- General contributions to the law and legal profession
- Specific contributions to the legal profession
- Mentoring and support for legal education
- Contributions to the state/community
- Notable civic activities
- Periods of elected or appointed public/government service
- Military service
- Examples of volunteerism and charitable activity
- Reputation in the organized bar, state and community

This award may be but need not be given every year. More than one recipient can receive the award in one year.
**Distinguished Government Service Award**

This award recognizes a Kansas lawyer who has demonstrated an extraordinary commitment to government service. The recipient shall be a Kansas lawyer, preferably a member of the KBA, who has demonstrated accomplishments above and beyond those expected from persons engaged in similar government service. The award shall be given only in those years when it is determined that there is a recipient worthy of such award.

**Courageous Attorney Award**

The KBA created a new award in 2000 to recognize a lawyer who has displayed exceptional courage in the face of adversity, thus bringing credit to the legal profession. Examples of recipients of this type of award in other jurisdictions include a small town lawyer who defended a politically unpopular defendant and lost most of his livelihood for the next 20 years, an African-American criminal defense attorney who defended two members of the white supremacist movement, and a small town judge who lost his position because he refused the town council’s request to meet monetary quotas on traffic offenses. This award will be given only in those years when it is determined that there is a worthy recipient.

**Outstanding Young Lawyer**

This award recognizes the efforts of a KBA Young Lawyers Section member who has rendered meritorious service to the legal profession, the community, or the KBA.

**Diversity Award**

This award recognizes an individual who has shown a continued commitment to diversity; or a law firm; corporation; governmental agency, department, or body; law-related organization; or other organization that has significantly advanced diversity by its conduct, as well as by the development and implementation of diversity policies and strategic plans, which include the following criteria:

- A consistent pattern of the recruitment and hiring of diverse attorneys;
- The promotion of diverse attorneys;
- The existence of overall diversity in the workplace;
- Cultivating a friendly climate within a law firm or organization toward diverse attorneys and others;
- Involvement of diverse members in the planning and setting of policy for diversity;
- Commitment to mentoring diverse attorneys, and;
- Consideration and adoption of plans to continue to improve diversity within the law firm or organization, whereas;
- Diversity shall be defined as differences of gender, skin color, religion, human perspective, as well as disablement.

The award will be given only in those years when it is determined there is a worthy recipient.

**Outstanding Service Award(s)**

These awards are given for the purpose of recognizing lawyers and judges for service to the legal profession and/or the KBA and for recognizing nonlawyers for especially meritorious deeds or service that significantly advance the administration of justice or the goals of the legal profession and/or the KBA.

- No more than six Outstanding Service Awards may be given in any one year.
- Recipients may be lawyers, law firms, judges, nonlawyers, groups of individuals, or organizations.
Outstanding Service Awards may recognize:

- Law-related projects involving significant contributions of time;
- Committee or section work for the KBA substantially exceeding that normally expected of a committee or section member;
- Work by a public official that significantly advances the goals of the legal profession or the KBA; and/or
- Service to the legal profession and the KBA over an extended period of time.

Pro Bono Award(s)

This award recognizes a lawyer or law firm for the delivery of direct legal services, free of charge, to the poor or, in appropriate instances, to charitable organizations whose primary purpose is to provide other services to the poor.

- No more than three Pro Bono Awards may be given in any one year.

In addition to the Pro Bono Award, the KBA awards a number of Pro Bono Certificates of Appreciation to lawyers who meet the following criteria:

- Lawyers who are not employed full time by an organization that has as its primary purpose the provision of free legal services to the poor;
- Lawyers who, with no expectation of receiving a fee, have provided direct delivery of legal services in civil or criminal matters to a client or client group lacking the resources to employ compensated counsel;
- Lawyers who have made a voluntary contribution of a significant portion of time to providing legal services to the poor without charge; and/or
- Lawyers whose voluntary contributions have resulted in increased access to legal services for low and moderate income persons.

Become a KBA YLS Mock Trial Competition Donor or Sponsor

The KBA YLS Mock Trial Competition provides Kansas high school students with an operational understanding of substantive and procedural legal issues and the judicial process. It is designed to offer interaction between actual lawyers and students who might not otherwise have the opportunity to meaningfully understand the role of lawyers in the pursuit of justice.

Over the years, the cost to provide this opportunity has increased and the funding has decreased.

A generous endowed gift from Shook Hardy & Bacon provides $1,000 each year. The 2017 program has an IOLTA grant of $5,600. Please consider donating individually or as a firm to help with expenses:

- to administer the competition, and
- to send a team to the national competition in Hartford, Conn.

Our goal? Raise an additional $3,500! Your donation is greatly appreciated. Learn more: kansasmocktrial@gmail.com
KBA Awards Nomination Form

Nominee’s Name ________________________________________________________________

*Please provide a detailed explanation below of why you have nominated this individual for a KBA Award. Attach additional information as needed.*

☐ Phil Lewis Medal of Distinction
☐ Distinguished Service Award
☐ Professionalism Award
☐ Pillars of the Community Award (NEW)
☐ Distinguished Government Service Award
☐ Courageous Attorney Award
☐ Outstanding Young Lawyer
☐ Diversity Award
☐ Outstanding Service Award
☐ Pro Bono Award/Certificates

_____________________________________________________________________________
_____________________________________________________________________________
_____________________________________________________________________________
_____________________________________________________________________________
_____________________________________________________________________________
_____________________________________________________________________________

Nominator’s Name _______________________________________________________________
Address _________________________________________________________________________
Phone ___________________________ E-mail _______________________________________

Return Nomination Form by Friday, March 3, 2017, to:

KBA Awards Committee
Attn: Deana Mead
1200 SW Harrison St.
Topeka, KS 66612-1806
Kansas Employment Law
3rd Edition Handbook

Topics:
- Title VII of the Civil Rights Act of 1964
- Age Discrimination in Employment Act
- Discrimination on the Basis of Disability
- Civil Rights Act of 1871
- The Equal Pay Act of 1963
- Kansas Statutory Fair Employment Laws
- Wage-Hour Regulation
- Family & Medical Leave Act
- Litigation Under the Employee Retirement Income Security Act
- Immigration Reform & Control Act
- Occupational Safety & Health Act
- The Worker Adjustment & Retraining Notification Act
- National Labor Relations Act
- Union’s Duty of Fair Representation
- Common Law Restrictions On the Right to Discharge
- Testing & Searches In the Private Sector
- Agreements
- Kansas Unemployment Law: A Statutory, Administrative & Case Law Review

Kansas Employment Law provides practical advice on representing both employers and employees. The publication includes basic information concerning laws, regulations, office policies and statutes affecting employment in Kansas. It provides practitioners with an overview of the law and a comprehensive discussion of employment issues and relevant case law.

For more information or to order visit: www.ksbar.org/bookstore or 785-234-5696 or akohlman@ksbar.org
Like the proverbial fool, the defendant Boston Corbett represented himself in a Topeka courtroom in 1887. That fact in itself may have helped prove the charge that he was insane. It was an easy case to prove for Shawnee County’s young prosecuting attorney, Charles Curtis. Curtis had read law in the office of “Pioneer Lawyer” H. I. B. Case and only passed the bar three years before. His campaign platform had been one of enforcing prohibition laws and shutting down the capital city’s saloons. He probably won the election because his own father was a frequent customer in those establishments, and no one believed that Captain Jack’s son would close the bars. Curtis made headlines when he made good on his promise, but it was the Corbett case curious folks asked him about for decades.

Corbett had become a household name throughout America more than twenty years earlier for slaying the assassin, John Wilkes Booth. As a soldier in the detail tracking Booth into Maryland, Corbett knew the men were under strict orders not to kill Booth. The American public, at least those in the North, were clamoring for a public trial and a more public execution. Plus, the extent of the conspiracy was uncertain. Had Confederate President Jefferson Davis, also on the run at the time, been behind it all? Secretary of War Edwin Staunton wanted answers that only Booth could give. But Corbett heard the voice of God, and God told him to take the shot.

While Secretary Staunton was livid and would have court-martialed Corbett, cooler heads prevailed, and he was discharged from service instead. But as a fellow soldier once told a newspaper reporter, “From the moment Corbett killed Booth he was a doomed man. One disaster followed another.” True enough. But it was also a certainty that Corbett’s life before the killing of Booth had been filled with misfortune as well.

Born in London, Thomas Corbett came as a child with his family and settled in New York. Corbett worked as a hatter, and the term “mad as a hatter,” has a foundation in fact due to the exposure to mercury vapors. Perhaps it was this exposure that profoundly affected the mental health of our ill-fated hero. Understandably devastated when his young wife died in childbirth, Corbett’s reaction was nonetheless shocking. Experiencing a religious conversion at a revival in the town of Boston, he took that name to mark the impact of this spiritual transformation. He became disturbed when propositioned by a prostitute and castrated himself with a pair of scissors. While the devotion to his faith and loyalty to his wife’s memory are laudable, this is the first incident in his life story that leads one to question his sanity.

It would not be the last.

Corbett enlisted in the Union Army and was court-martialed for chastising his commanding officer for his use of profanity. He rejoined the Union army, enlisting in the 16th New York Cavalry. He was captured by the “Grey Ghost of the Confederacy,” John Singleton Mosby (an attorney, by the way) and was confined to the Andersonville Prisoner of War Camp. Later, when asked about the experience, he only recalled how many souls he had brought to the Lord during that terrible time. Likewise, he could have made a fortune on the lecture circuit describing the killing of Booth, but Corbett chose to preach instead and found most people were not interested in his brand of religion.

Like many Civil War veterans, Corbett moved to Kansas. He went to Cloud County and homesteaded a few miles south of Concordia. It is unfair to refer to him as paranoid since the threats on his life were numerous, and some were likely serious. He would lie on his back taking target practice at crows. He paced and heard voices, accounts said. But at least one man found it unthinkable for a national hero to be living nearly penniless in a hovel. Thus, the legislator from Cloud County lobbied to secure Corbett a position in the Kansas statehouse as doorkeeper. The Troy newspaper, the Kansas Chief, reported:

“He is reputed to be a crank, but seems to be a quiet, inoffensive person,” the paper proclaimed. But the reporter added, “He is eccentric, there is no doubt.”

This same correspondent observed a conversation between the new employee and a member of the House:

"From what we could gather from a word now and then, the gentleman was advising him to pay no attention to certain things, and to have nothing to say about them. Corbett made a reply in which we heard the words, ‘It follers me all the time,’ and then began weeping copiously, the tears streaming down his cheeks.”

He had been at work only weeks when he snapped at a perceived slight, drew a knife and a revolver, and effectively controlled the House chamber. Police eventually subdued him; he reportedly destroyed the furnishings in his cell that night.
“There is an abundance of evidence to prove that Corbett is crazy,” said one newspaper.

One sympathetic paper declared:

"Poor Boston Corbett. He had run under McDowell, fortified under McClellan, charged under Hooker, fought under Grant, hunted Wilkes Booth to death, headed a salvation army in the east and braved the terrors of a western frontier, but when compelled to listen to the ravings of the late Kansas legislature, his reason took a tumble and he is now hopelessly crazed."

The jury found Corbett insane and ordered him committed to the state asylum. He escaped months later, and he disappeared into the Indian Territory, present-day Oklahoma. Boston Corbett remains one of history’s greatest mysteries.

Charles Curtis, who could have used this trial to get national attention, did not. Accounts from the time would indicate that the attorney was respectful in his prosecution, perhaps owing to the fact that his saloon-frequenting father was a veteran himself, and the Grand Army of the Republic was sympathetic to Corbett’s plight. Since that group of veterans was perhaps the most powerful lobby in the nation at the time, it was in Curtis’ best political interest not to be too harsh on poor Boston Corbett. After all, many of those veterans would support Curtis in subsequent elections to Congress, U. S. Senate, and ultimately, the vice-presidency.

And maybe, just maybe, Curtis felt sorry for the man whose life had been filled with one disaster after another.

About the Author

Deb Goodrich is the co-host of Around Kansas TV Show and author of The Civil War in Kansas. She has appeared in numerous documentaries and is chairing the committee for the Great Fort Wallace and Western Kansas 1867 Exposition in July 2017. She and Dr. Jake Bauer, DVM, make their home in Oakley with numerous cats, several horses, and a pair of amazing mules.

Heart of America Stand Down for Veterans a Success

The Nov. 4 Stand Down at Memorial Hall in Kansas City, Kan., was a resounding success. Eight private attorneys participated and served 16 veterans.

The Stand Down for Veterans began 23 years ago as a one-day, one-stop shop to provide marginalized and homeless veterans in the metro area access to short- and long-term resources needed to help rebuild their lives. It is held twice a year, once in the Fall and once in the Spring.

In addition to the advice and continued services, many other veterans were simply personally acknowledged and spoken with by the volunteering attorneys; treating our vets with compassion and dignity is sometimes the greatest service we can provide.

The issues were mainly smaller matters that can be overwhelming if one is poor, disabled, sick and/or homeless and doesn’t know where to turn for help. One veteran needed to replace a birth certificate. Another needed a contact with the city to take appropriate steps to prevent the sale of property for tax deficiency. Matt Keenan summed up the evening, saying, "If you want to change your perspective forever, give three hours of your time for the next Stand Down," tentatively scheduled for the first week of June.

Private attorneys who participated are:
Matt Keenan – Shook, Hardy & Bacon LLP
Teresa Kidd – Teresa M. Kidd Law Offices
Doug Greenwald – McAnany, VanCleave & Phillips, PA.
Dale Bennett – Dale E. Bennett Law Offices
Tim Pickell – Timothy V. Pickell Law Offices
Mike Whitsitt – Whitsett & Whitsett; also a Kansas City local board member
Lindsey Collins, JD, MPA – KU School of Law Medical-Legal Partnership – KU Medical Center
Tamara Hatheway - Bernstein, Rodarte & Hatheway, P.C.

KLS KC attorneys Casey Johnson and Angela Fitle (a veteran herself) also attended and spoke often with veterans.

Brothers Raymond and James (second and third from left) both served in Vietnam. Raymond’s disability resulted from exposure to Agent Orange. Neither received any recognition for their service and were treated badly upon their return. Both men were recognized at the event.

Kim Sharitz of Kansas Legal Services in Kansas City, Kan., provided information and photos for this story, additional details from Matt Keenan of Shook, Hardy & Bacon LLP.
The Kansas Bar Association is collaborating with the Kansas Supreme Court Access to Justice Committee and Kansas Legal Services to conduct a statewide survey of all Kansas attorneys. The purpose of the survey is to quantify and recognize the pro bono work done by attorneys, as well as to understand the factors that encourage or discourage pro bono service. Please be on the lookout for the survey link, which will be sent electronically in January. Full participation is encouraged!

Every week, one or two attorneys volunteer to help domestic violence victims at the Sedgwick County Courthouse. Three times a week, a retired attorney advises people with legal problems at the Johnson County Help Center. This year, nearly 100 attorneys have completed work on a case referred to them by Kansas Legal Services. Lawyers provide legal help when asked, through a religious, civic or community organization with which they are affiliated. The desire to help was a part of the motivation that drew many of us to law school. But when we think about helping through pro bono legal service to low income people it is often - So many options! So little time!

We believe that the available pro bono programs could be improved for both lawyer volunteers and program participants. This survey is designed to better understand what types of improvements would motivate more lawyers to participate. Hopefully, the survey will attract participants who have found a way to connect with a pro bono program and those who have not. This isn't a recruitment vehicle. Once the results are obtained, the steering committee is determined to modify current programs to better suit interested volunteers. The results will also be shared in ways that allow the public to learn about the good that lawyers are currently doing in their communities.

About the Author

Marilyn Harp has been the Executive Director of Kansas Legal Services since Sept. 2006. Prior to becoming Executive Director, she worked in a variety of attorney and management roles with Kansas Legal Services since Sept. 1979. She is a graduate of the University of Kansas School of Law (May 1979) and has a BSW from the University of Kansas School of Social Welfare. She has been continuously licensed to practice law in Kansas since 1979.

harpm@klsinc.org

Working for Kansas

Kansas workers grow, build, teach, innovate and more. From the soil ... to the sky, our efforts help create better lives. For ourselves, our families and our communities.

Blue Cross and Blue Shield of Kansas works for Kansas workers and their families.

We make getting health care as easy and care-free as possible. With freedom to choose more doctors and hospitals. Coverage options for your needs and budget. And nearly 75 years of service Kansans trust.

N.1605 An independent licensee of the Blue Cross Blue Shield Association

bcbsks.com
A Very Good Year

This has been a very good year for the Kansas Bar Association. Much of what we’ve accomplished with you, our members, has appeared here in the Journal — contributions to substantive knowledge about the law, new law office management resources, announcements about the publication of new works on Kansas law, successes in our legislative efforts, access to excellent CLE programming, appellate court decision synopses, and information about your benefits as a KBA member. But three quiet efforts have been underway behind the scenes for more than a year, and they have all recently come to fruition.

Beginning in June of 2015, a task force appointed by then KBA President Natalie Haag undertook a comprehensive review of the KBA’s existing bylaws. The task force compared our current bylaws to the KBA’s articles of incorporation, Kansas corporate code, the bylaws of similar state bar associations, and best practices among governing boards. Over the course of the year the task force presented a series of discussion points to the Board of Governors (BOG) for consideration. Using all this information the task force then prepared and presented proposed revisions to the bylaws to the BOG for review and comment. Finally, at its meeting on September 30th, 2016 the BOG adopted in whole a comprehensive rewrite of the bylaws. The new Kansas Bar Association bylaws are printed here in the Journal beginning on page 39.

Please join me in thanking the following KBA members for their substantial efforts in crafting our new bylaws:

- Bill Quick, Bylaws Task Force chair, BOG Representative from District 12
- Steve Six, current KBA President
- Mira Mdivani, KBA Secretary/Treasurer
- Linda Parks, Kansas Delegate to the ABA House of Delegates
- Toby Crouse, BOG Representative from District 1
- Laura Ice, past president of the Kansas Bar Foundation
- Hon. Evelyn Wilson, President-elect of the Kansas Bar Foundation
- Deana Mead, KBA Associate Executive Director

I want to express an extra dose of gratitude to Bill Quick for his Herculean efforts in navigating the winding, hilly, bumpy road along the way to our new bylaws. Bill’s expertise, even hand, and dedication to the KBA made our work easier to bear and richer in result. Thank you, Bill.

While all that was happening, a committee formed in February 2015 by then KBA President Jerry Green was hard at work crafting a new strategic plan for the KBA. Over the course of the last year and a half, the KBA Strategic Planning Committee has reviewed the KBA’s operations from top to bottom, surveyed the Kansas bar — both KBA members and non-members, reviewed the strategic plans of other state bar associations, and engaged the services of a planning consultant. The consultant then took the data gathered by the committee and conducted in depth interviews with those knowledgeable about the KBA, the profession in Kansas, and our courts; met with the BOG; and, working with the committee, helped us craft a two-year strategic plan. That plan was presented to the BOG for review and comment in June of this year and, like our new bylaws, was adopted at the September 30 board meeting (big meeting!).

The strategic plan, the KBA’s first in more than 15 years, will guide changes to our organization. These changes will influence the way we gather and deliver law-related information to you, rebalance the kinds and channels of CLE programming we produce for you, expand LOMAP services and other member benefits for you, enhance networking opportunities with you, and assure the continued sound administration of your association. You’ll see those changes unfold soon — we’re already hard at work implementing them. We’ll be conducting member surveys, too, so don’t hesitate to give us feedback if you like what you see -- or not. Once again, please join me in thanking the dedicated members of the strategic planning committee for their hard work (none of it billable!):

- Greg Goheen, Strategic Planning Committee Chair, KBA President-elect
- Mark Dupree, BOG Representative from District 1
- Justin Ferrell, Young Lawyers Section Past President
- Bruce Kent, KBA Vice President
- Jocelyn Kusiak, Young Lawyers Delegate to the ABA House
- Margaret Mahoney, KBA member at large
- Hon. Christel Marquardt, KBA Delegate to the ABA House
- Jeffery Mason, BOG Representative from District 10
- Mira Mdivani, KBA Secretary/Treasurer
- Jacob Peterson, KBA member at large
- Rachael Pirner, KBA Delegate to the ABA House
- Bill Quick, BOG Representative from District 12
- Eric Rosenblad, BOG Representative from District 3
- John Swearer, BOG Representative from District 8
- Sarah Warner, BOG Representative from District 2
- Deana Mead, KBA Associate Executive Director
- The entire KBA staff for its cheerful assistance always and especially across the entire strategic planning effort

The KBA Annual Meeting is the association’s most expensive event. It is not, however, always the KBA’s most well attended event. This isn’t unusual; bar associations in other states like Kansas that don’t have natural tourist destinations have had similar annual meeting attendance challenges. The BOG, recognizing the difficulty of sustaining the annual meeting under these circumstances, convened a task force to analyze the structure and content of the annual meeting and provide guidance for future meetings. The Annual Meeting task force began its work in February 2015 and just over a year later, in April of 2016, presented its recommendations to the BOG.
Through the year the group reviewed all the data we had – attendance rates, attendee evaluations, revenues and expenses, keynote speakers, golf tournaments, CLE programming, locations, etc. The committee also looked at the meeting models of other states and attended the KBA’s 2015 and 2016 annual meetings to see what worked and what didn’t. The first recommendation – to hold next year’s meeting in Manhattan, Kan. – is already being implemented. The rest of the committee’s recommendations will be shared with the 2017 planning committee and all planning committees thereafter. The good work of the following people will make the annual meeting a more enjoyable, educational, and productive event for all of us. They also deserve our gratitude:

- Gary Ayers, Annual Meeting Task Force Chair, BOG Representative from District 7
- Christi Bright, BOG Representative from District 1
- Dennis Depew, BOG Representative from District 5
- Nathan Eberline, Young Lawyers Section President
- Jennifer Hill, KBA member at large
- Matt Keenan, KBA member at large
- Clayton Kerbs, Young Lawyers Section President-elect
- Kerry McQueen, KBA member at large
- Greg Musil, KBA member at large, 2015 Annual Meeting Planning Committee Chair
- Linda Parks, Kansas Delegate to the ABA House of Delegates
- Calvin Rider, KBA member at large
- Anne Smith, KBA member at large
- Cheryl Whelan, BOG Representative from District 5
- Cal Williams, KBA member at large
- Amanda Wilwert, KBA member at large
- Tom Wright, KBA member at large
- Deana Mead, KBA Associate Executive Director
- Meg Wickham, KBA Director of Membership and Communications

As I said – it has been a very good year.

Jordan Yochim studied anthropology (B.A.) and business (MBA) at the University of Kansas. He worked as a research administrator for a large state university before joining the KBA. In his spare time he serves as a member of the Douglas County Citizen Review Board and of a local nonprofit children’s organization.

jeyochim@ksbar.org

About the Executive Director

Washburn University School of Law helped celebrate Pro Bono Week and the Kansas Bar Association’s My Ties For Justice. The Pro Bono Society student organization promoted and celebrated pro bono by selling orange ties throughout the week (donated by second year law student James Whitaker). Students, faculty, and staff got together for the photo.
ARTICLE I – NAME, PRINCIPAL OFFICE AND PURPOSES

1.1 Name. The name of this non-profit, non-stock corporation is the Kansas Bar Association (the “Association”).

1.2 Principal Office. The principal office shall be located at 1200 SW Harrison Street, Topeka, Kansas or at such other place as may be determined by the Board (defined below) within the State of Kansas.

1.3 Purposes. The purposes for which the Association is formed are:

   (a) To uphold and defend the Constitution of the United States of America and of the State of Kansas;
   
   (b) To advance the professionalism and legal skills of lawyers;
   
   (c) To promote the interests of the legal profession;
   
   (d) To provide services to its members;
   
   (e) To advocate positions on law-related issues;
   
   (f) To encourage public understanding of the law; and
   
   (g) To promote the effective administration of our system of justice.

The Association’s purposes include, but are not limited to, any purposes set forth specifically in its Amended and Restated Articles of Incorporation, as may from time to time be amended (the “Articles”).

Further, the Association is a business league (i.e., professional association) within the meaning of Section 501(c)(6) of the Internal Revenue Code of 1986, as amended or the corresponding section of any future United States Internal Revenue Law (the “Code”). As such, no part of the Association’s net earnings may inure to the benefit of or be distributable to its members, Governors, officers or other private persons, except that the Association is authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in the Articles.

To further the Association’s purposes and mission, the Association has and may exercise all of the powers conferred by the provisions of the Kansas General Corporation Code, as may from time to time be amended (the “KGCC”), not outside the scope of the Articles and these Bylaws.
ARTICLE II -- MEMBERSHIP

2.1 Regular Members.

a. Any person of good moral character in good standing as a member of the bar of a state, territory or possession of the United States is eligible to be a regular member ("Regular Member") of the Association, under such conditions and with such rights, privileges and limitations as the Board may provide. Regular Members shall have full voting rights with respect to the Association.

b. The Board may establish certain sub-categories of Regular Members from time to time. The current sub-categories of Regular Members include:

   (i) Judicial Members. Any district court or appellate judge geographically seated within the State of Kansas is eligible to become a judicial member ("Judicial Member") of the Association under such conditions and with such rights, privileges, and limitations as the Board may provide.

   (ii) Life Members. Any person who has been a Regular Member of the Association for fifty (50) years or more is eligible to become a life member ("Life Member") of the Association under such conditions and with such rights, privileges, and limitations as the Board may provide.

   (iii) Inactive Members. Any person who has registered as retired, or has registered as disabled due to mental or physical disabilities, or has been transferred to disability inactive status with or by the Kansas Supreme Court is eligible to become an inactive member ("Inactive Member") of the Association under such conditions and with such rights, privileges, and limitations as the Board may provide.

2.2 Associate Members.

a. Any person of good moral character who fits within criteria established by the Board is eligible to be an associate member ("Associate Member") of the Association, under such conditions and with such rights, privileges and limitations as the Board may provide. Associate Members shall have no voting rights with respect to the Association.

b. The Board may establish certain sub-categories of Associate Members from time to time. The current sub-categories of Associate Members include:

   (i) Non-Lawyer Magistrate Judge Members. Any non-lawyer magistrate judge geographically seated within the State of Kansas is eligible to become a non-lawyer magistrate judge member ("Non-Lawyer Magistrate Judge Member") of the Association under such conditions and with such rights, privileges, and limitations as the Board may provide.

   (ii) Law Student Members. Any currently enrolled law student is eligible to be a law student member ("Law Student Member") of the Association under such conditions and with such rights, privileges, and limitations as the Board may provide.

   (iii) Paralegal Members. Any paralegal practicing within the State of Kansas is eligible to become a paralegal member ("Paralegal Member") of the Association under such conditions and with such rights, privileges, and limitations as the Board may provide.

2.3 Termination of Membership. Any member may resign his or her membership at any time upon notice given in writing or by electronic transmission to the Association. If a member is in default in payment of dues or any other monetary obligation to the Association, membership may be terminated by the Board. If a member is disbarred or suspended from the practice of law in any state, territory, or possession of the United States by a final order or judgment, or if a member ceases because of
misconduct to be a member of the state or federal bar of such a jurisdiction, his or her membership in the Association will automatically cease upon issuance of such final order or judgment or cessation of membership. No dues shall be refunded to any member whose membership terminates or is terminated for any reason.

2.4 **Dues.** Dues will be established based on membership classification (including sub-categories), and may be increased or decreased from time to time, to reflect the needs of the Association as determined by the Board.

2.5 **Eligibility to Hold Office.** Any Regular Member in good standing shall be eligible for nomination and election to any elective office of the Association. Associate Members shall be ineligible to hold any elective office of the Association.

2.6 **Member Classification Exclusive.** No person may concurrently hold more than one classification of member status with the Association.

**ARTICLE III -- MEETINGS AND VOTING**

3.1 **Meetings of the Board.** The Board shall meet at least two times per year, at such times and places as the Board shall determine. The Board shall hold other meetings at such times and places as the President or the Executive Committee shall determine. Any member of the Association shall be entitled to attend any meetings of the Board.

3.2 **Special Meetings of the Board.** Special meetings of the Board may be called by the President, the Executive Committee or by any three (3) Governors. The person or persons calling a special meeting of the Board may fix any place in the United States, either within or without the State of Kansas, as the place for holding the special meeting of the Board called by them. Only those matters that are within the purpose or purposes described in the meeting notice required by these Bylaws may be conducted at a special meeting of the Board.

3.3 **Board of Governor Meeting Notice; Waiver of Notice.** Notice of any Board of Governor meeting, stating the place, day and hour of the meeting, the means of remote communication, if any, and, in the case of a special meeting, the purpose(s) for which the meeting is called, will be delivered or given to each Governor entitled to vote at such meeting in writing or by electronic transmission not less than three (3) business days before the date of the meeting. Notice of a meeting may be delivered personally or mailed, sent by facsimile transmission or e-mail, to the address, facsimile number or e-mail address for the Governor as it appears on the records of the Association. A Governor may waive any notice required by these Bylaws, before, at or after the date and time stated in the notice. The waiver must be in writing or by electronic transmission, signed by the Governor entitled to the notice, and delivered to the Association for inclusion in the minutes or filing with the Association’s records. A Governor attendance at a meeting waives objection to lack of notice or defective notice of the meeting, unless such member at the beginning of the meeting objects to holding the meeting or transacting business at the meeting. A Governor waives objection to consideration of a particular matter at a meeting that is not within the purpose or purposes described in the meeting notice, unless such Governor objects to considering the matter when it is presented at such meeting.

3.4 **Consent to Board of Governor Action Without Meeting.** Any action that may be taken at a meeting of the Board may be taken without a meeting, without prior notice and without a vote, if a consent or consents in writing or by electronic transmission, setting forth the action so taken, are signed by Governors having not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all Governors having a right to vote were present and voted and
shall be delivered to the Association by delivery to its registered office in this state, its principal place of business or an officer or agent of the Association having custody of the books in which proceedings of meetings of the Board are recorded. Prompt notice of the taking of any action without a meeting by less than unanimous written consent shall be given to those Governors who have not consented in writing or by electronic transmission and who, if the action had been taken at a meeting, would have been entitled to notice of the meeting if the record date for notice of such meeting had been the date that a written consent or consents signed by a sufficient number of Governors to take the action were delivered to the Board as provided above.

3.5 Board Quorum, Voting. A quorum at any meeting of the Board, shall consist of one-third (1/3) of the Governors. Each Governor shall be entitled to one (1) vote on all questions coming before a meeting. Unless otherwise specifically provided by these Bylaws, the vote of a majority of the Governors present at a meeting at which a quorum is present shall constitute the act of the Board. Voting rights of a Governor may not be delegated to another individual nor exercised by proxy.

3.6 Board of Governor Meetings by Conference Telephone or Similar Communications Equipment. A Governor entitled to vote at a meeting may participate in any meeting of the Board by means of a conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting in this manner will constitute presence in person at such meeting.

3.7 Removal; Vacancies. A vacancy on the Board occasioned by the death, incapacity, or removal of a Governor may be filled at any meeting of the Board. Any Governor elected to fill a vacancy on the Board will serve a term expiring as of the scheduled expiration date of the term of his or her predecessor. A vacancy on the Board occasioned by a resolution of the Board or an amendment to these Bylaws, the effect of which is to increase the number of Governors, may be filled at a regular meeting of the Board, or a special meeting of the Board called for such purpose. Any Governor elected to fill a vacancy created by an increase in the number of Governors shall serve until the next annual election of Governors or until his or her successor is elected and qualified. Any occurrence that results in a reduction of Board seats will not affect the remaining, unexpired term of any then seated Governor.

3.8 Resignation. Any Governor may resign at any time upon notice given in writing or by electronic transmission to the Association. Such resignation will be effective upon receipt unless it is specified to be effective at some other time or upon the happening of some other event.

3.9 Rules of Order. The current edition of ‘Robert’s Rules of Order Newly Revised’ for parliamentary procedure shall be instructive in conducting meetings and proceedings of this Association, and the same may be invoked by the chair of any such meeting or proceeding in such chair’s discretion.

ARTICLE IV -- BOARD

4.1 Powers. The governing body of the Association is the Board of Governors (the “Board”). The business and affairs of the Association shall be managed by the Board. The Board shall have and is vested with the power and authority to supervise, control, direct, and manage the assets, business and affairs of the Association.

4.2 Composition and Qualifications. The membership of the Board shall be comprised of “Governors.” Only Regular Members of the Association in good standing may serve as a Governor. The Governors shall be comprised of the following persons:

(a) District Governors. One or more Governors (as provided below) shall be elected from among the Regular Members of the Association who reside or have their primary office in each
geographic district ("District"), as established below, by the Regular Members residing or having their primary office in such District by vote of a plurality of such Regular Members casting votes in such election.

District No. 1: The county of Johnson.
District No. 2: The counties of Atchison, Brown, Doniphan, Douglas, Franklin, Jackson, Jefferson, Leavenworth, Miami, Nemaha, Osage, Pottawatomie, and Wabaunsee.
District No. 3: The counties of Allen, Anderson, Bourbon, Cherokee, Crawford, Labette, Linn, Montgomery, Neosho, Wilson, and Woodson.
District No. 4: The counties of Butler, Chase, Chautauqua, Coffey, Cowley, Elk, Greenwood, Lyon, and Sumner.
District No. 5: The county of Shawnee.
District No. 6: The counties of Clay, Cloud, Dickinson, Ellsworth, Geary, Lincoln, Marion, Marshall, McPherson, Morris, Ottawa, Republic, Riley, Saline, and Washington.
District No. 7: The county of Sedgwick.
District No. 8: The counties of Barber, Barton, Harper, Harvey, Kingman, Pratt, Reno, Rice, and Stafford.
District No. 9: The counties of Clark, Comanche, Edwards, Finney, Ford, Grant, Gray, Greeley, Hamilton, Haskell, Hodgeman, Kearny, Kiowa, Lane, Meade, Morton, Ness, Pawnee, Rush, Scott, Seward, Stanton, Stevens, and Wichita.
District No. 11: The county of Wyandotte.
District No. 12: All geographic areas outside of the State of Kansas.

Each District shall have at least one (1) Governor. To the extent that any District has more than 400 Regular Members who reside or have their primary office in such District, then such District shall have the number of additional Governors determined by dividing the total number of Regular Members who reside or have their primary office in such District by 400, with any fractional portion thereof being disregarded. Should a District’s Regular Member membership decrease to the point where an additional position on the Board is no longer numerically supported under such formula, such reduction in the number of Governor positions eligible for election from such District shall take effect at the next election following such decrease, provided that no then empaneled Governor’s current term of office shall be reduced as a result of any such reduction. In no event will any District have more than three Governors.

(b) Officers. The following elected officers of the Association shall each serve as a Governor concurrent with the term of their office: President, President-Elect, Vice President, Secretary-Treasurer. The Immediate Past President and the President of the Young Lawyers Section shall each serve as a Governor concurrent with the term of their office.
(c) **American Bar Association Delegates.** Those American Bar Association (“ABA”) Delegates who are Regular Members of the Association, including the ABA State Delegate, State Bar Delegates, the Young Lawyer Delegate, or any Delegate at Large to the ABA House of Delegates, and any Regular Member who is a member of the ABA Board of Governors, shall each serve as a Governor concurrent with the term of their office.

(d) **Diversity Seat.** Every three years, or in the event of a vacancy, the President, subject to the approval of the Board, may appoint one (1) person who is a Regular Member to a three-year term as a Governor. The purpose of this appointment is to promote diversity on the Board so that it better represents the membership and to encourage diverse viewpoints which may not otherwise be represented on the Board. The Executive Committee should encourage such appointed Governor to seek an elected position on the Board following the conclusion of their appointed term. An appointed Governor may not be re-appointed for a subsequent term, but may seek election to the Board at any time. Only one person may serve as a Governor pursuant to this paragraph at any given time. The right of the President to make an appointment pursuant to this paragraph will expire following the 2021 Board election cycle.

4.3 **No Compensation.** Governors and officers shall not receive any compensation for their services.

4.4 **Vacancies.** The Board shall fill all vacancies on the Board, except those of an Organizational Representative, occurring by death, removal or resignation, and such appointee shall serve until the completion of the unexpired term of his or her predecessor.

4.5 **Organizational Representatives.** The following persons, or their respective designee, shall serve as ex-officio, non-voting Board participants concurrent with the term of his or her office: (1) President or Vice President of the Kansas District Judges Association; and (2) President of the Kansas Bar Foundation or his or her designee.

**ARTICLE V -- ELECTIONS AND TERMS OF OFFICE**

5.1 **District Governors.** Each District shall elect representatives to the Board (Governors) as follows:

(a) Governor candidates from a District shall be nominated by petition signed by at least twenty-five (25) Regular Members of the Association who reside or have their primary office in the District. The nominating petition shall be filed with the Executive Director on or before February 1 in the year in which the election is to occur.

(b) Election of Governors shall be by confidential electronic or mail ballots cast by Regular Members of the Association who reside or have their primary office within the District in which the open Governor seat to be elected is held.

The Executive Director shall cause ballots to be prepared and disseminated to each member eligible to vote on or before May 15 in the year in which the election is to occur. The ballot shall contain instructions that it must be returned to the Association by a day certain, which date shall not be less than 15 days from the date of notice. The candidate(s) receiving a plurality of the votes cast in the election for Governor seats for a particular District shall be elected. If there is an uncontested Governor position, the sole nominated candidate shall be deemed elected. The term of office for each Governor shall commence on July 1 of the year of their election.

(c) In the event any District fails to nominate a Governor, then a candidate for such Governor position shall be submitted by the Nominating Committee.
(d) Each Governor elected to represent a District shall serve a three (3) year term. No Governor elected to represent a District may serve more than two (2) complete consecutive terms in succession.

5.2 Officers and Other Board Positions. The Nominating Committee shall make one or more nominations each year for the offices of Vice President and Secretary-Treasurer and for the positions of KBA Delegate to the ABA House and the ABA Young Lawyer Delegate as provided in Bylaw 7.2(g). Nominations may also be made for such offices and positions by nominating petition bearing fifty (50) signatures of Regular Members with at least one signature from each Governor District. All nominations by petition shall be filed with the Executive Director of the Association on or before February 1 in the year in which the election is to occur.

After the close of nominations and in the event of a contested election, the Executive Director shall conduct an election for such contested officer position(s) by ballot in conjunction with and in the manner provided for the election of District Governors. If there is an uncontested officer position, the sole nominated candidate shall be deemed elected. The term of office of all officers shall be for one (1) year beginning July 1 and ending June 30 of the following year. No person may hold more than one office or Board position simultaneously.

5.3 KBA Delegate(s) to the ABA House. There shall be elected delegates from the Association to the House of Delegates of the American Bar Association (ABA) who meet the qualifications established by the ABA. Each Delegate shall serve for a two-year term. If there is more than one delegate, the expiration of the terms shall be alternated so that the terms are staggered. Delegates may serve for no more than three complete consecutive terms. Candidates for Delegate shall be nominated by the Nominating Committee and/or by petition as the terms expire. KBA Delegates to the ABA House shall be elected in the same manner as Association officers.

ARTICLE VI -- SECTIONS

6.1 Establishing or Combining Sections. The Board shall consider the establishment of new Sections and the combination or discontinuance or change of names of existing Sections on its own motion or on a petition and report subscribed and endorsed by at least twenty five (25) members of the Association.

The report shall show substantial compliance with the following requirements:

(a) At least six (6) weeks prior to the meeting at which action upon proposal is contemplated the proponents thereof shall have filed with the Executive Director a statement setting forth:

(i) The contemplated jurisdiction of the Section, which shall be within the legal objectives of the Association and not in substantial conflict with the jurisdiction of any existing Section, standing committee or special committee, the continuance of which is contemplated after the Section is established;

(ii) The proposed charter of the Section, which shall contain a definition of its jurisdiction;

(iii) The proposed activities of the Section for the first two (2) years of its operation;

(iv) A petition signed by no less than twenty five (25) members of the Association who assert their intention to apply for membership in the Section;

(v) A statement of the need for the proposed Section.

(b) In the case of a combination of Sections, a statement of any jurisdiction that will not be carried into the combination shall also be filed.
6.2 **Bylaws.** Each Section shall have a charter not inconsistent with the Articles and Bylaws of the Association. Section charters or amendments thereto shall become effective when approved by the Board.

6.3 **Discontinuance and Change of Name of Sections.** The Board by a two-thirds (2/3) vote of the members in attendance at a meeting where a quorum is present may discontinue or change the name of any Section. No Section may be discontinued or its name changed until the officers of the Section have received at least 30 day prior written notice. Such officers shall be given the opportunity to present whatever oral or written comments they may wish to the Board to consider before voting upon such discontinuance or change of name.

6.4 **General Membership.** Members of the Section must be members of the Association and must meet the charter requirements of the respective Section.

6.5 **Officers.** A Section shall have a President and such other officers as its charter provides. The officers shall be the governing body of the Section unless the Section’s charter otherwise provides.

6.6 **Dues.** Dues shall be collected and disbursed by the Association to a Section in accord with the duly approved annual budget of the Section, which shall be a component of the Association’s budget, and whatever policies and procedures the Board may establish in this regard. The Board maintains the authority to establish a minimum dues amount to cover the costs of Section administration.

6.7 **Meetings.** A Section shall hold at least one annual meeting of its membership. Failure to so meet may, in the discretion of the Board, result in an elimination of such Section.

6.8 **Existing Sections.** All existing Sections shall remain in existence unless discontinued pursuant to Section 6.3 of these Bylaws.

---

**ARTICLE VII -- COMMITTEES**

7.1 **Executive Committee.** The Executive Committee of the Board shall be comprised of the President, President-Elect, Vice President, Secretary-Treasurer, President of the Young Lawyers Section, and two (2) At-Large members elected annually by the Board from the membership of the Board.

(a) Subject to such prohibitions, limitations and conditions as the Board may prescribe from time to time, the Executive Committee will possess and may exercise any and all of the powers and duties of the Board in the interim between meetings of the Board as may be permitted by law, provided that all actions of the Executive Committee will be subject to the paramount power of the Board and will not conflict with any expressed policies of the Board. Notwithstanding the foregoing, the Executive Committee will not have the power or authority of the Board to engage in the following acts:

(i) Authorize distributions to members, Governors, officers, agents or employees except in exchange for value received;

(ii) Approve or recommend to members the dissolution or merger of the Association, or the sale, pledge or transfer of all or substantially all of the Association’s assets; or

(iii) Adopt, amend or repeal the Articles or these Bylaws.

(b) The Executive Committee will keep a complete record of its activities and regularly report them to the Board at every meeting thereof. All action taken by the Executive Committee will be subject to revision, alteration or change by the Board, provided that rights of third persons will not be affected thereby.
(c) The Executive Committee is charged with the preparation and supervision of the annual budget and supervision of the financial administration of the Association, and of its internal and staff operation. Specific responsibilities of the Executive Committee shall include, without limitation:

(i) Propose an annual budget for adoption by the Board.

(ii) Review and make recommendations regarding Association income and expenditures, investments and other asset management.

(iii) Review the Employee Retirement Plan and its administration.

(iv) Advise the Board on financial policies and procedures as they relate to proposed projects and activities.

(v) Conduct an annual performance evaluation of the Executive Director and make recommendation to the Board regarding the Executive Director’s performance, compensation and benefits as part of the budgeting process.

(vi) Periodically review and make recommendations regarding the Association personnel policies and internal operations.

(vii) Perform such other duties as may be prescribed by the Board.

7.2 Nominating Committee. The Nominating Committee of the Board shall be comprised of members appointed by the President with the consent of the Board subject to the following requirements:

(a) Existing or past officers of the Association shall be a minority of the Nominating Committee.

(b) The immediate past President (or a past President if the immediate Past President is not available), shall be a member of the Nominating Committee and shall serve as its Chair.

(c) There shall be at least one (1) member of the Nominating Committee from (i) each District, (ii) the Diversity Committee and (iii) the Young Lawyers Section.

(d) The Nominating Committee shall give published notice of the date or dates of its meetings and shall solicit nominations from members of the Association at large and local bar associations.

(e) Without establishing quotas, an effort shall be made to make the Nominating Committee reflective of the general composition of the Association as to age, gender, race and area of legal practice.

(f) The Nominating Committee Chair from the immediately preceding year shall serve as an ex-officio member of the Committee.

(g) The Nominating Committee shall have the authority to designate one or more candidates for the statewide election of Secretary-Treasurer, Vice President, KBA Delegate to the ABA House and the ABA Young Lawyer Delegate. Such nominations shall be filed with the Executive Director on or before February 1 of each year. The Nominating Committee shall also have the authority to nominate one or more candidates for any District Governor position in the event no nominating petition is filed for any vacancy. Such nominations must be filed with the Executive Director on or before February 15 of each year.

7.3 Other Committees. In addition to the Executive Committee and the Nominating Committee there shall be such other standing, special and ad hoc committees as the Board may create and designate. The Board may designate, by resolution passed by a majority of the whole Board, one or more committees, each committee to consist of one or more of the Governors of the Association. Each such committee:
(a) Shall have such purpose as may be determined from time-to-time by resolution approved by the Board;

(b) Shall have and exercise such powers and authority as the Board may from time-to-time designate and confer.

The delegation of authority to any committee will not operate to relieve the Board or any Governor from any responsibility imposed by law.

7.4 Recordkeeping. All committees will, unless otherwise directed by the Board, keep regular minutes of the transactions at their meetings and will cause them to be recorded in books kept for that purpose in the office of the Association and will report the same to the Board.

7.5 Quorum. Unless otherwise provided in the resolution of the Board designating a committee, one-third of the whole committee will constitute a quorum and the act of a majority of the members present at a meeting at which a quorum is present will be the act of the committee.

ARTICLE VIII -- OFFICERS

8.1 Officers. The Association shall have a President, a President-Elect, a Vice President and a Secretary-Treasurer.

8.2 Resignation and Vacancies. Any officer may resign at any time upon notice given in writing or by electronic transmission to the Association. Acceptance of such resignation shall not be necessary to make it effective. Election or appointment of an officer does not in itself create contract rights. Vacancies occurring in any of the offices of the Association shall be filled for their unexpired term by the Board.

8.3 President. The President shall serve as Chair of both the Board and the Executive Committee. The President shall make all required appointments of standing and special committees with the approval of the Board. The President may execute all contracts and other instruments for and on behalf of the Association and will do and perform all other things for and on behalf of the Association as the Board may authorize and direct.

8.4 President-Elect. The President-Elect shall automatically succeed to the office of President on 1 July of the year following ascension to office. Duties of the President-Elect shall be delegated by the Board. The President-Elect shall perform the duties of the President in the event of the President’s unavailability or inability to serve.

8.5 Vice President. The Vice President shall automatically succeed to the office of President-Elect on 1 July of the year following ascension to office. Duties of the Vice President shall be delegated by the President or the Board. The Vice President shall perform the duties of the President-Elect in the event of the President-Elect’s unavailability or inability to serve.

8.6 Secretary-Treasurer. The Secretary-Treasurer shall be in charge of the Association’s funds and records. He or she shall collect all member dues and/or assessments; shall have established proper accounting procedures for the handling of the Association’s funds and shall be responsible for the keeping of the funds in such banks, trust companies and/or investments as are approved by the Executive Committee. He or she shall report on the financial condition of the Association to the Board and at other times when called upon by the President. At the end of each fiscal year, he or she shall prepare an annual report that shall include an audit or review (as applicable) by a certified public accountant. At the expiration of his or her term of office, he or she shall deliver over to his or her successor all books, accounts, and other property in his or her charge, or in the absence of a successor,
shall deliver such properties to the President. He or she will cause to be issued notices of all meetings in accordance with these Bylaws or as required by law; the proper recording of proceedings of meetings of the Association, the Board and all committees (including, without limitation, the Executive Committee); carry into effect all orders, votes and resolutions of the Association, the Board and all committees, not otherwise committed; and the maintenance of membership records. Such duties of the Secretary-Treasurer may be delegated to the Executive Director.

8.7 Executive Director. The Board shall employ a salaried Executive Director. The terms and conditions of employment of the Executive Director shall be specified by the Board. The Executive Director shall be responsible for oversight and direction of all management functions of the Association. The Executive Director shall manage and direct all activities of the Association as prescribed by the Board and shall be responsible to the Board. The Executive Director shall employ, fix the compensation of and may terminate the employment of such staff of the Association as is necessary to carry on the work of the Association, within the economic parameters of the Association budget approved for each fiscal period. The Executive Director shall define the duties of the staff, supervise their performance, establish their titles and delegate their responsibilities as shall, in his or her judgment, be in the best interest of the Association.

ARTICLE IX -- FINANCE

9.1 Fiscal Period. The fiscal period of the Association shall be as prescribed by the Board.

9.2 Bonding. Fidelity bonds shall be furnished by such officers or employees of the Association as the Board may direct. The amount of such bonds, if any, shall be determined by the Board.

9.3 Budget. With recommendation of the Executive Committee, the Board shall adopt in advance of each fiscal period an annual operating budget covering all activities of the Association for such prospective period.

9.4 Audit. The accounts of the Association shall be audited not less frequently than every three fiscal periods, and shall be reviewed in each intervening fiscal period, by a Certified Public Accountant retained for such purpose by the Executive Committee on behalf of the Association. Such Certified Public Accountant shall report to the Board.

ARTICLE X -- SEAL

The Association shall have no seal. The Association may utilize its historic seal for decorative purposes.

ARTICLE XI -- ELECTRONIC COMMUNICATIONS AND SIGNATURES

Electronic communications, records and signatures may be used in connection with all matters contemplated by these Bylaws except to the extent prohibited by applicable law. Except as may be specifically set forth herein, the parties may use and rely upon electronic communications, records and signatures for all notices, waivers, consents, undertakings and other documents, communications or information of any type sent or received in connection with the matters contemplated by these Bylaws. An electronically transmitted (but not oral) document will be deemed to satisfy any requirement under these Bylaws or applicable law that such document be “written”, “in writing” or the like. An electronic signature or electronically transmitted signature by any person on any document (properly authenticated) will be deemed to satisfy any requirement under these Bylaws or applicable law that such document be “signed” or “executed” by such person. An electronic transmittal or communication (but not oral) of a document will constitute delivery of such document. None of the Association, any member or any Governor may contest the authorization for, or validity or enforceability of, electronic records and electronic signatures, or the admissibility of copies thereof, under
any applicable law relating to whether certain agreements, files or electronic records are to be in writing or signed by the party to be bound thereby.

**ARTICLE XII -- AMENDMENT OF BYLAWS**

These Bylaws may be amended by a majority vote of the entire Board, provided that a copy of the proposed amendments are provided to each officer and Governor not less than thirty (30) days before the meeting at which they are to be considered. All amendments to the Bylaws shall be published in The Journal of the Kansas Bar Association promptly following adoption.

**ARTICLE XIII -- DATE EFFECTIVE**

All provisions of the Bylaws of the Association heretofore existing are hereby repealed and replaced in their entirety by these Bylaws, and the provisions hereof shall be in full force and effect from and after the date of their adoption by the Board.

FACTS: Carter was convicted of premeditated first-degree murder. On appeal he raised multiple claims of misconduct during closing argument and rebuttal by prosecutor: encouraging jury to disregard district judge's admonition not to prejudge case by telling jury it already knew facts and what Carter had done; misstating law of premeditation; arguing Carter's lack of remorse circumstantially demonstrated the existence of premeditation; stating a codefendant had blamed Carter for the murder; adversely commenting on Carter's decision to testify and suggesting Carter was lying; arguing jury should disregard judge's ruling on a defense argument about jury members; and eliciting sympathy for victim's family. Carter next claimed that the district judge's comments to potential jurors before voir dire included improper statement that jury had “obligation” to find a defendant guilty if convinced beyond a reasonable doubt. Third, Carter complained that the district court failed to instruct jury on the lesser included offense of involuntary manslaughter. Fourth, he claimed the aiding and abetting instruction given should have included additional language that “mere association or presence is insufficient to establish guilt as an aider or abettor.” Fifth, Carter claimed that cumulative error denied him a fair trial.

ISSUES: (1) Prosecutorial misconduct, (2) preliminary statement on reasonable doubt, (3) lesser included offense instructions, (4) aiding and abetting instruction, (5) cumulative error

HELD: New framework set forth in State v. Sherman, 305 Kan. __ (2016), for reviewing claims of prosecutorial misconduct is not applied because Sherman was decided after Carter's case was argued and submitted for decision, but outcome would be the same under the new framework. No merit to Carter's allegations of prosecutor's comments concerning prejudgment of case, law of premeditation, Carter's lack of remorse, Carter's credibility and choice to testify, encouragement to disregard district judge's ruling, and invocation of juror sympathy for victim's family. Prosecutor committed misconduct by arguing a fact not in evidence, i.e., that a codefendant had blamed Carter for fatally stabbing the victim. That statement was gross and flagrant because it violated a well established rule, but the error was harmless where no evidence of ill will and overwhelming evidence against Carter.

Telling a jury it has an obligation to find a defendant guilty is error, but effect of that error before voir dire was tempered and quite likely erased by later correct instructions. Clear error standard for reversal was not met.

Instructions on lesser included offenses of reckless second-degree murder and voluntary manslaughter would have been legally appropriate. An instruction on reckless second-degree murder also would have been factually appropriate in this case, but jury would not have reached a different verdict if that instruction had been given. An instruction on voluntary manslaughter would not have been factually appropriate.

It is better practice to include the additional language in the aiding and abetting instruction, but the additional language would not have been factually appropriate in this case.

The three identified errors in this case, even when considered together, did not deny Carter a fair trial.

fect self-defense voluntary manslaughter; (d) and incorrectly instructed jury that voluntary intoxication is not a defense to voluntary manslaughter and attempted voluntary manslaughter. Seba further claimed that the district court erred by admitting gruesome autopsy photos, and claimed that cumulative error denied him a fair trial.

ISSUES: (1) Transferred intent doctrine, (2) jury instruction - reckless second-degree murder and reckless involuntary manslaughter, (3) jury instruction - defining “intentionally,” (4) jury instruction - imperfect self-defense voluntary manslaughter, (5) jury instruction - voluntary intoxication defense, (6) gruesome autopsy photographs, (7) cumulative error

HELD: Transferred intent doctrine does not offend, change, or conflict with Kansas first-degree murder statute, K.S.A. 2015 Supp. 21-5402. The doctrine merely clarifies that evidence of a defendant’s intent to kill a particular person can be sufficient to prove the mental state element of first-degree premeditated murder even if a person other than the intended victim is murdered at the defendant’s hands. Under facts in this case, district court properly instructed jury on transferred intent doctrine, and sufficient evidence supported Seba’s convictions for deaths of the pregnant unintended victim and her “unborn child.”

Instructions on lesser included offenses of reckless second-degree murder and reckless involuntary manslaughter would have been legally appropriate, but even if assumed appropriate under facts in this case, the error was harmless.

Taken as a whole, district court’s definitional instruction of “intentionally” did not misstate the law.

Instruction on lesser included offense of imperfect self-defense voluntary manslaughter would have been legally appropriate, but not factually appropriate because evidence did not support finding Seba subjectively believed he needed to shoot his victims.

Legislature has made voluntary manslaughter a general intent crime, thus voluntary intoxication is not legally available as a defense. Although State concedes district court erred in not including attempted voluntary manslaughter in listing of lesser included crimes to which voluntary intoxication defense might apply, the error was harmless in this case.

No abuse of district court’s discretion in admitting autopsy photographs as relevant to demonstrating fact and manner of death. Accurate photographs of this gruesome crime were not unduly prejudicial.

None of the conceded or assumed errors would have affected outcome of Seba’s trial.

STATUTES: K.S.A. 2015 Supp. 21-5202(i), -5202(j), -5222, -5222(b), -5226(c), -5402, -5402(a), -5402(a)(1), -5403(a)(2), -5404(a), -5404(a)(1), -5404(a)(2), -5405(a)(1), -5419, -5419(a)(2), -5419(c), 22-3414(3), -3601(b)(3); K.S.A. 60-401(b)

CRIMES AND PUNISHMENT - PROSECUTORS STATE V. NETHERLAND
SHAWNEE DISTRICT COURT - AFFIRMED NO. 112806 - SEPTEMBER 30, 2016

FACTS: Netherland was convicted of first-degree felony murder, attempted aggravated robbery, aggravated robbery, conspiracy to commit aggravated robbery, aggravated battery, and attempted burglary of a motor vehicle. Charges arose from the murder of attorney Gibson, who was passenger in the car in her home driveway, and the battery and robbery of the car’s driver. On appeal, Netherland challenged the sufficiency of the evidence supporting his convictions. Netherland also claimed prosecutor’s closing argument wrongfully expressed his personal belief that Netherland authored jail mail evidence, and that Netherland was guilty of charged crimes.

ISSUES: (1) Sufficiency of the evidence, (2) prosecutorial misconduct

HELD: Sufficiency of evidence claim on appeal was focused on crimes associated with Gibson’s murder. Sufficient evidence, including accomplice testimony describing Netherland’s involvement, supported the felony murder conviction. Totality of the evidence was legally sufficient to support Netherland’s remaining convictions. Challenge to evidence supporting attempted burglary conviction was abandoned by Netherland’s failure to address it on appeal.

New framework set forth in State v. Sherman, 305 Kan. __ (2016), for reviewing claims of prosecutorial misconduct was not applied because Sherman was decided after Netherland’s case was argued and submitted for decision, but outcome would be the same under the new framework. Prosecutor’s statement did not amount to improper vouching, and Netherland’s claim that prosecutor’s sarcasm rendered the comment improper conflicted with district court judge’s statement at the time that prosecutor’s tone was not inappropriate.


CONSTITUTION–CRIMINAL PROCEDURE–CRIMES AND PUNISHMENT–STATUTES STATE V. DICKY
SALINE DISTRICT COURT – VACATED IN PART AND REMANDED


FACTS: Dickey committed felony theft while on probation in previous cases. A 2013 hearing was held for sentencing on the felony offense and for revocation sentences in the earlier cases. Multiple appeals followed, including Dickey’s claim that his criminal history score improperly classified his 1992 juvenile adjudication as a person offense. In State v. Dickey, 301 Kan. 1018 (2015)(Dickey I), Kansas Supreme Court held that when there has been a misclassification of a prior conviction, the resulting sentence is illegal and can be corrected at any time pursuant to K.S.A. 22-3504. This consolidated appeal presented that same illegal sentence claim
regarding his underlying sentences. The State cited procedural difference between Dickey’s direct sentencing appeal and appeals from sentences imposed after probation revocations. Citing State v. Moncla, 301 Kan. 549 (2015), State also argued Dickey could not use motion to correct illegal sentence to resolve a constitutional claim.

ISSUE: Correction of an illegal sentence

HELD: Substantive holding of Dickey I was clarified as not repudiating rule stated in Moncla, which was reaffirmed. As demonstrated in Dickey I, the proper classification of a prior crime is exclusively a matter of state statutory law. Claim in this consolidated appeal was identical to, and controlled by, Dickey I. State’s attempt to impose a procedural bar was unavailing. Dickey’s sentences were vacated and matter was remanded to district court for recalculation of Dickey’s criminal history and resentencing.

CONCURRENCE (JOHNSON, J.): Concured in the result, but questioned majority’s express reaffirmation of Moncla rule. Read majority opinion as holding Dickey’s sentences were illegal as matter of statutory law, thus majority’s reaffirmation of Moncla rule would be dicta. Also believed broad statement in Moncla should be refined or clarified to differentiate between a permissible constitutional challenge to the sentence imposed, and an impermissible constitutional challenge to the statute under which it was imposed.

STATUTES: K.S.A. 2012 Supp. 21-6809; K.S.A. 22-3504, -3504(1)

---

other benefits. After making that election, the Plaintiffs are not entitled to severance pay.

STATUTE: K.S.A. 44-315

---

CRIMINAL

CRIMINAL HISTORY; INVITED ERROR; SENTENCING

STATE V. THOMAS

SHAWNEE DISTRICT COURT – SENTENCE VACATED, REMANDED FOR RESENTENCING

NO. 114,433 – SEPTEMBER 30, 2016

FACTS: Thomas was convicted of second-degree murder in 2002. He was assigned a criminal history score of B, in part because of a 1990 juvenile adjudication for "Burglary (Building Used As A Dwelling)” and classified as a person felony. In 2015, Thomas filed a motion to correct illegal sentence in which he argued that the sentencing court misclassified his 1990 burglary adjudication as a person offense. In denying his motion, the district court found that the Kansas Supreme Court’s decision in State v. Dickey did not allow Thomas to raise a constitutional challenge in a post-direct appeal motion to correct an illegal sentence. Thomas appeals.

ISSUE: May a district court correct an illegal sentence in a post-direct appeal motion?

HELD: Even though Thomas did not challenge his criminal history score at sentencing, Thomas’ appeal here is not barred by the doctrines of either waiver or invited error. There was no indication from the record on appeal that Thomas personally knew he was waiving any rights, such as the right to have a jury make factual findings regarding the classification of an offense. Likewise, Thomas’ claim is not barred by res judicata. And because Dickey was not a change in the law but rather an application of a constitutional rule, it may be applied retroactively. The 1990 statute under which Thomas was adjudicated did not have a dwelling element, so to classify the adjudication as a person crime, the district court necessarily had to find that the prior adjudication involved a dwelling. Under Apprendi and its progeny,
only a jury can make that finding. Thomas’ 1990 adjudication should have been classified as a nonperson offense. Because it was not, Thomas’ current sentence is illegal. Thomas must be resentenced.

DISSENT: (Gardner, J.) Thomas had an obligation to challenge his criminal history score at sentencing. And Dickey bars a post-sentencing challenge to any convictions listed in the presentence investigation report. In this case, the nature of Thomas’ adjudication meant that the district court did not have to engage in factfinding to find that Thomas committed a person crime.

STATUTE: K.S.A. 21-4711(d), -4715(a), 22-3504(1)

FORFEITURE
STATE V. ONE 1995 CHEVROLET CAPRICE CLASSIC/IMPALA SS
ELLSWORTH DISTRICT COURT – VACATED AND REMANDED
NO. 114,952 – SEPTEMBER 30, 2016

FACTS: McPherson was spotted by law enforcement driving nearly 100 miles per hour. After he was stopped, the State seized his vehicle as property involved in the felony of fleeing or attempting to elude a police officer. The State initiated forfeiture proceedings by filing a notice of pending forfeiture under the Kansas Standard Asset Seizure and Forfeiture Act. The State served the notice on McPherson, who was told that if he wanted to claim ownership of the vehicle he had to file a verified claim with the district court within 30 days. McPherson received the notice but failed to either file a claim or ask for an extension of time in which to do so. After 30 days, the district court held a default judgment hearing. McPherson appeared and presented title and registration paperwork which proved that he owned the vehicle. The State objected, noting that McPherson failed to follow the provisions in the Forfeiture Act. The district court noted the objection but ordered the return of the vehicle. The State appealed.

ISSUE: Are the return provisions of K.S.A. 2015 Supp. 60-4111 mandatory?

HELD: The forfeiture statute has provisions which serve important purposes. Not requiring strict compliance undermines the purposes of the forfeiture statute. The provisions of K.S.A. 2015 Supp. 60-4111 are mandatory, not directory. In this case, it is clear that McPherson failed to comply with the statutory requirements. Given that fact, the district court erred when it ordered the property returned to McPherson. The majority ordered that the rehearing occur before a new judge.

CONCURRENCE: (McAnany, J.) Judge McAnany concurred with the majority decision except that he would have the matter heard by the same judge on remand.

STATUTE: K.S.A. 2015 Supp. 8-1568, 60-4104(z), -4106, -4109(a)(4), -4111, -4111(a), -4114

JUVENILE JUSTICE – SENTENCING
STATE V. MEDINA
WYANDOTTE DISTRICT COURT – VACATED IN PART, REMANDED WITH DIRECTIONS
NO. 114,523 – FRIDAY, OCTOBER 14, 2016

FACTS: Medina was convicted of aggravated criminal sodomy while he was under the age of 18. Part of his sentence included a lifetime term of post-release supervision. Medina appealed.

ISSUE: Whether the U.S. Constitution allows a juvenile to receive lifetime postrelease supervision regardless of the crime of conviction

HELD: Although the defendant in State v. Dull, 302 Kan. 32 (2015), was convicted of aggravated indecent liberties, the same constitutional analysis applies to Medina’s argument. The language of Dull indicates there is a categorical prohibition on lifetime post-release sentences for all juveniles convicted of a sex offense.


CONSTITUTION–JURY INSTRUCTIONS–PROSECUTORS–STATUTES
STATE V. WHITE
CHEYENNE DISTRICT COURT – AFFIRMED
NO. 113,963 – FRIDAY, OCTOBER 7, 2016

FACTS: White proceeded pro se during a contentious divorce, making angry statements and threats about wife’s attorney and county sheriff. Statements White made by phone and email, and in person to county law enforcement, led to evacuation of Cheyenne County Courthouse and attorney’s office. Notwithstanding defense that White was making political statements aimed at perceived corruption in Cheyenne County, jury convicted White of aggravated criminal threat, telephone harassment, and stalking. On appeal White claimed: (1) error during closing argument denied White a fair trial when prosecutor called White’s theory of defense “ridiculous;” (2) PIK Crim. 4th 51.010 improperly told jury that it “should” find defendant guilty if no reasonable doubt as to claims to be proved by State; (3) K.S.A. 2015 Supp. 21-5415(a)(1) is unconstitutionally vague because use of word “fear” makes statute unclear and may encompass unreasonable fears or fears unconnected to threat of violence; and (4) K.S.A. 2015 Supp. 21-5415(a)(1) is unconstitutionally overbroad, both facially and as applied.

ISSUES: (1) Prosecutorial misconduct, (2) jury instruction, (3) constitutional vagueness challenge to K.S.A. 2015 supp. 21-5415(a)(1), (4) constitutional overbreadth challenge to K.S.A. 2015 supp. 21-5415(a)(1)

HELD: Citing State v. Douglas, 274 Kan. 96 (2002), court assumes for purposes of this appeal that use of “ridiculous” was outside wide latitude allowed prosecutors during closing argument, but no clear error in this case, or prejudice denying White a fair trial. Prosecutors are cautioned against using strident words when trying to attack a defendant’s theory of defense.

Use of “should” in PIK Crim. 4th 51.010 was legally accurate and did not direct jury to a verdict in favor of State.
Similar holding by previous appellate panels were cited. Constitutional vagueness challenge was considered for first time on appeal. K.S.A. 2015 Supp. 21-5415(a)(1) is not unconstitutionally vague because it uses the word “fear” to describe criminal conduct. The word “fear” is understood by persons of common intelligence to mean an unpleasant emotion caused by a belief that someone or something is dangerous, likely to cause pain, or a threat. A victim’s emotional state or response to a defendant’s threat, whether reasonable or not, is not a standard for enforcement and is therefore irrelevant. A defendant’s decision to make the threat of violence triggers criminal liability. K.S.A. 2015 Supp. 21-5415(a)(1) is not overbroad.

Statute, on its face, is clearly designed to prohibit a limited class of impermissible speech – threats to commit violence, i.e., true threats. Statute does not require State to prove the defendant actually intended to commit violence. Once threat of violence is conveyed, that is sufficient. Challenge to statute as applied, which essentially challenged sufficiency of the evidence, was deemed waived and abandoned.


Appellate Practice Reminders . . .

From the Appellate Court Clerk’s Office

Proofread Appellate Filings

Profread, Proofreed, Prufread. Many motions arrive in the appellate clerk’s office with the wrong court or the wrong case number designated. Some attorneys even try to docket cases in the wrong court. The clerk will make some corrections in the interest of moving the filing along, but that kind of error creates a poor first impression as judges begin to read the document. Proofread carefully.

The Extent of Appellate Counsel’s Responsibility

When an attorney undertakes appellate representation, whether retained or appointed, the attorney’s responsibility to the client does not end when the opinion is filed. The attorney must determine whether rehearing or modification should be sought and whether the client desires to file a petition for review of a Court of Appeals opinion. Rehearing or modification must be sought in the Court of Appeals not later than fourteen days after the opinion is filed and in the Supreme Court not later than twenty-one days after the opinion is filed. Supreme Court Rules 7.05, 7.06 (2015 Kan. Ct. R. Annot. 70-71.) A petition for review must be filed not later than thirty days after the Court of Appeals opinion is filed. Supreme Court Rule 8.03 (2015 Kan. Ct. R. Annot. 78-88.) The attorney must be prepared to continue briefing and present oral argument in the Supreme Court if the petition for review is granted.

When an attorney has been appointed to represent a client, withdrawal ordinarily requires approval of the appointing authority. See KRPC 1.16 (2015 Kan. Ct. R. Annot. 572-83.) If the client desires to file a petition for review – even if he or she has moved the court to replace counsel or has attempted to file a pro se petition – the appointed attorney still must file the petition, absent a court order allowing withdrawal.

For questions about these or other appellate procedures and practices, call the Office of the Clerk of the Appellate Courts, (785) 296-3229, Douglas T. Shima, Clerk.
KANSAS BAR ASSOCIATION

ANNUAL MEETING

2017

MANHATTAN

JUNE 7-9

HILTON GARDEN INN
410 S 3RD ST.
Experiencing the Briggs Advantage

Where you are part of our family

Offering the largest selection of new and quality pre-owned inventory in Northeast Kansas

Lawrence | Manhattan | Topeka | Junction City
Need clients? Need increased VISIBLEY? Join The Kansas Bar Association’s

Lawyer Referral Service

“...[LRS] is a good source for a steady flow of persons seeking assistance with the kinds of cases I handle. The benefits of working with LRS far exceed the costs of enrollment. It is the most effective use of advertising budget I can imagine.”

~ Joseph Seiwert, Snider & Seiwert LLC, Wichita

For more information about the KBA Lawyer Referral Service program, visit us online at www.ksbar.org/LRS or call 785-234-5696

Your trusted legal source.
Positions Available

Associate Position Available. AV-rated downtown Topeka law firm seeks associate. At least two years’ experience in civil litigation preferred, and must be admitted to Kansas Bar. Equal opportunity employer. Competitive benefits, including health and dental insurance. Apply in confidence and mail introductory letter, resume, writing samples and salary requirements to: Managing Partner, Henson, Hutton, Mudrick & Gragson, 100 S.E. 9th St., Suite 200, Topeka, KS 66612-1213.

Lateral Attorney. McDowell Rice Smith & Buchanan P.C. is seeking lateral mid-senior level candidates with established practices to provide both the highest quality services to the candidate’s existing clients and depth and experience to the firm in the areas of commercial, business, dispute resolution, tort and professional liability litigation and/or transactional work. Must be licensed in both Missouri and Kansas. If interested, please forward introductory letter and resume for consideration to gp@mcbowlaw.com.

Wichita Law Office is seeking an associate attorney to assist in family law practice. Three to five years of legal experience in family law is preferred, but not required. Qualified candidates will have excellent brief writing skills, litigation, courtroom and some trial experience. Please forward resume and salary requirements to Reddick Law Office at elaine@reddicklegal.com. All responses will be kept strictly confidential.

Attorney Services


Contract Brief Writing. Experienced brief writer is willing to take in appellate proceedings for any civil matter. Attorney has briefed approximately 40 cases before the Kansas Court of Appeals and 15 briefs before the Tenth Circuit, both with excellent results. If you simply don’t have the time to help your clients after the final judgment comes down, call or email to learn more. Jennifer Hill, (316) 263-5851 or email jhill@mcdonaldtinker.com.

Contract Brief Writing. Former federal law clerk and Court of Appeals staff attorney available to handle appeals and motions. Attorney has briefed numerous appeals in both the Kansas and federal appellate courts. Contact me if you need a quality brief. Michael Jilka, (785) 218-2999 or email mjilka@jilkalaw.com.

Contract Brief Writing. Former research attorney for Kansas Court of Appeals judge, former appellate division assistant district attorney in Sedgwick County. Writing background includes journalism degree, Kansas City Times intern, U.D.K. beat reporter and grant writer. I have written more than 50 appeals and had approximately 30 oral arguments in the Kansas Court of Appeals and Kansas Supreme Court. I have criminal and civil litigation experience, in addition to civil and criminal appellate experience. I welcome both civil and criminal appeals. Rachelle Worrall, (913) 397-6333, rwlaw310@outlook.com.


QDRO Drafting. I am a Kansas attorney and former pension plan administrator with years of experience in employee benefit law. My services are available to draft your QDROs, communicate with the retirement plans, and assist with qualification of your DROs or other retirement plan matters. Let me help you and your client through this technically difficult process. For more information call Curtis G. Barnhill at (785) 856-1628 or email cgb@barnhillatlaw.com.

Veterans Services. Do you want to better serve your veteran clients without going to the trouble of dealing with the VA? I am a VA-accredited attorney with extensive experience applying for various VA benefits, including Improved Pension. I regularly consult with attorneys (and their clients) about the various services attorneys can offer their clients to help qualify veterans and their families for various VA programs. As soon as a client is in position to qualify, I can further assist by handling the entire application to the VA for you. For more information about my various consultation and application services, please contact the Law Office of Scott W. Sexton P.A. at (785) 409-5228.
OUR EXPERIENCE PAYS

We have a long history of success inside and outside the courtroom. For over 40 years, we have maximized the value of cases referred to our firm and we will continue to do so into the future. If you have a client with a serious injury or death, we will welcome a referral or opportunity to form a co-counsel relationship.