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2018–19
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KBA Annual Meeting
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Topeka

Hotel Reservation Information
The KBA has secured a room block with the Capitol Plaza Hotel from June 18 to June 22. Pricing for single/double occupancy is $107.

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OR call the hotel directly at 785-431-7200
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I recently read a story about the Soundtrack of My Life, a writing project for teens that challenges them to choose eight songs that represent them at various stages of their life. As a lover of music and what makes people tick, I was immediately fascinated by the project. After spending the next three hours online, completely engrossed in random strangers’ soundtracks, I felt compelled to complete my own soundtrack. I present to you the Soundtrack of My Life, Professional Edition. I hope you'll indulge me.

Dear Listener,

Thank you for “buying” And So It Begins.

This soundtrack is a compilation of songs to accompany some of the most important events in my professional life. Music is an integral part of our existence. It has the power to inspire us and calm us, and at times, move us. These are the songs that move me—the ones that make me pause when they come on the radio because they smack me down in the middle of that memory and the ones that literally move me to dance.

1. THE BEGINNING
Sugar, Sugar – The Archies

One of the most popular songs on the day I was born and it’s just a “sweet” little ditty. The Archies were the group that performed on the Saturday morning cartoon, “Archie.” The song was originally written for their preschool audience, hence the reference to candy. I challenge you to NOT sing along.

2. FIRST JOB
Everybody Wants to Rule the World – Tears for Fears

The year was 1985. I had my first car (a baby blue Datsun B210 wagon that my brother appropriately dubbed “the blue dog”), my first job (a checker at Food 4 Less) and my first boyfriend (Jim). Man, I thought I ruled the world. I had so much to learn…
3. COLLEGE YEARS
Roam - B-52's
My friends and I would turn the radio up and belt it at the top of our lungs. Such a catchy tune. "Roam, if you want to..." I took this as a personal invitation to go anywhere, do anything and be anyone I wanted to be.

4. AMERICORPS VISTA YEAR OF SERVICE
You Gotta Be - Des'ree
This is my 90’s anthem. When I left my chosen profession of Chiropractic to spend a year serving others, I could not have imagined the difficult choices that would unfold before me.

*Listen as your day unfolds/Challenge what the future holds/Try and keep your head up to the sky*

*You gotta be bad, you gotta be bold, you gotta be wiser/You gotta be hard, you gotta be tough, you gotta be stronger*

5. LEADERSHIP
Brave – Sara Bareilles
Leadership isn’t exactly an event. I didn’t become a leader the instant I was given the title “Director.” But I include “leadership” as an important part of my professional life because it has been a constant evolution and transformation. My favorite line, “Honestly, I wanna see you be brave” reminds us that brave leaders inspire greatness in others.

6. EXECUTIVE DIRECTOR OF KANSAS BAR ASSOCIATION AND KANSAS BAR FOUNDATION
Come Together – The Beatles
It’s amazing what can happen when we all come together to create change and make our professional communities stronger. I’m excited to come together for the KBA’s annual meeting in June. It’s an exceptional opportunity to connect with our members, network with one another and find solutions to our challenges. Join me!

BONUS TRACK: MUSIC TO START YOUR WORK DAY
An Awesome Wave – Alt J
I took some liberties here as I’m including an entire album. Alt J is arguably my favorite band, and this album must be listened to in its entirety, in the exact order the band intended it to be heard. I begin every single day with this album; it has the unique ability to both invigorate and calm at the same time.

And there you have it. Eight(ish) songs that define my professional life. Follow my “Soundtrack of My Life” playlist at https://open.spotify.com/user/shelbylopez-us

What’s on your soundtrack? Shoot me an email with your list; I’m always looking for new music.

Interested in writing for The Journal of the Kansas Bar Association?
The Journal is on the lookout for authors and ideas for substantive articles! **Send us an outline!!!**

Love to write, but don’t have the time to do a heavily researched issue article? How about writing a feature for us?

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–A humorous piece?
–A biography/interview with a mentor or someone in the law you admire?

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Pick up some pieces of April

Sign up for a CLE!

LIVE PROGRAMS:

April
Wednesday, April 17, 2019 - 2019 Brown Bag Ethics Series: Ethics Theater
Friday, April 19, 2019 – 2019 KBA Family Law CLE
DoubleTree by Hilton, Lawrence

May
Wednesday, May 1, 2019 – 2019 Brown Bag Ethics Series: #METOO & Our Judiciary: Enhancing Confidence in the System
Friday, May 3, 2019 – 2019 Intellectual Property Institute
Saturday, May 18, 2019 – Young Lawyers Sporting KC
Friday, May 24, 2019 – Solo and Small Firm CLE

September
Thurs & Fri, Sept. 26 & 27 – Elder & REPT Conference, Four Points by Sheraton, Manhattan

November
November 8, 2019- Alternative Dispute Resolution CLE

WEBINARS:

April
Tuesday, April 16, 2019 – May It Displease the Court?: Keeping Your Head (and Your Law License) in Court
Tuesday, April 23, 2019 – Technical Fouls: Even Minor Ethics Violations Can Have Major Consequences
Friday, April 26, 2019 – Healthcare Transactions Law: Relationships between Surgery Centers and Anesthesia Providers
Saturday, April 27, 2019 – The 2019 Ethy Awards
Tuesday, April 30, 2019 – Retain Your Clients: A Roadmap to Effective, Ethical Client Service

May
Tuesday, May 7, 2019 – The Truth, The Whole Truth and Nothing But the Truth: The Ethical Imperative for Honesty in Law Practice
Tuesday, May 14, 2019 – Show Me The Ethics!: The Ethical Way to Bill for Legal Services
Friday, May 17, 2019 – Webinar Practice Management Tips for the New and Not so New Attorney
Saturday, May 18, 2019 – The 2019 Ethy Awards
Tuesday, May 21, 2019 – It’s Not the Fruit, It’s the Root: Getting to the Bottom of Our Ethical Ills
Wednesday, May 29, 2019 – The Ethics of Delegation
Wednesday, May 29, 2019 – Nice Lawyers Finish First
Friday, May 31, 2019 – Ethical Issues and Implications on Lawyers’ Use of LinkedIn

June
Saturday, June 8, 2019 – Legislative and Case Law Institute Debut
Tuesday, June 4, 2019 – Brown Bag Ethics AM & PM
Tuesday, June 11, 2019 – Brown Bag Ethics AM & PM

To Register: www.ksbar.org/CLE
Dump the Alphabet Soup

by Joyce Rosenberg

One of the most irritating types of pedantry in modern writing is the overuse of abbreviations, especially abbreviated names. In your writing, “[a]void initialese. ‘Initialese’ refers to the overuse of words formed from initials. Initialese can make your sentences look like chemistry formulas. Example: MLPF&S was an ERISA fiduciary of the PSP. Use words instead of initials wherever possible . . . . [Y]our reader should be able to follow a quotation using only the parties’ names.”

Sound advice.

But here’s the opening paragraph of a key argument section in an appellants’ brief:

“Although DOE has not disclaimed its obligation to dispose of SNF, it is undisputed that DOE currently has no active waste disposal program. DOE has requested no funding for the waste disposal program in FY 2012, and DOE admittedly has terminated the Yucca Mountain program. The BRC certainly is not a replacement for DOE’s Yucca Mountain waste disposal program. The BRC is undertaking none of the waste disposal program activities identified in NWPA § 302(d). Its existence therefore cannot justify continued NWF fee collection.”

Reads like poetry, doesn’t it (RLPDI)? The initialisms in that paragraph make it hard to read and harder to understand. The reader has to work not only to absorb the substance of the paragraph, but to decode party names and other apparently important information.

As a result, judges and other readers don’t like initialisms (and other obscure abbreviations). A court might even reject a filing because of them; recently, the Clerk of Court for the U.S. Court of Appeals for the D.C. Circuit admonished the lawyers in one case that they would need to review their briefs for excessive abbreviations and would likely need to revise and resubmit them.

In the D.C. Circuit, attorneys are required to avoid almost all initialisms. That’s probably understandable for a court that routinely hears cases involving the alphabet soup of federal statutes and the agencies that administer them. Tenth Circuit local rules don’t disfavor such abbreviations, although “[a]ll briefs containing acronyms or abbreviations not in common use . . . must include a Glossary. . . .” Whether or not the rules specifically forbid them, however, it’s fair to say overuse of initialisms (and similar abbreviations) makes legal writing less effective.

Not only do initialisms hurt readability, but they’re a missed opportunity for persuasion. When writing on behalf of a corporation or some other entity, a lawyer needs to humanize the organization a little. Some of that humanization can come from what the organization is called throughout the papers.

All that said, sometimes initials are best. For example, if a federal agency is popularly known by its initials, it makes sense to refer to it by that popular name. It’s probably better to call the Commodity Futures Trading Commission “CFTC” instead of trying to come up with some other name.
known initials are convenient shorthand. So how do you decide when initials are best, and when to pick a different word? Some suggestions:

1. Look at the visual appeal of each sentence and paragraph. Is there more than one set of initials in a sentence? Does the paragraph appear packed with all-caps initialisms? That visual impact is a red flag to reduce the initials in the passage.

2. How common are the abbreviations you’re using—not to other lawyers in your field, but in general use? It’s reasonable to expect that most people know what the NCAA is, for example. But even if you see the abbreviation NGA every day in your environmental practice, don’t expect your judge to recognize the initials.

3. What’s the best name under the circumstances? Sometimes even obscure initials are the best choice, particularly when the actual name is long and unwieldy. But sometimes, even if the initials are clear, you would get persuasive value from calling the person or thing something else.

For example, consider the best way to refer to the University of Kansas Health System St. Francis Campus in a brief. The argument could call it “KUHS-SF,” and the judge would probably understand it. But the initialism has no emotional resonance. Instead, calling the entity “KU Health” or “St. Francis” advocates for it a little bit every time it’s mentioned. The name reminds the reader of the organization’s mission and humanity.

Finally, when using initialisms, be technically correct with their presentation. When using uncommon initials, inform the reader by giving the full name first and putting the abbreviated form in parentheses immediately after:

University of Kansas Law School (KULS). No quotation marks are necessary in that instance. And if the abbreviated form is obvious, you can omit the parenthetical explanation.

Periods between the letters are optional; the modern preference is to omit them.

BYDHTTMWF.19

About the Author

Joyce R. Rosenberg is a clinical associate professor at KU Law School, where she teaches Lawyering Skills. She is a 1996 graduate of KU Law. She served as editor in chief of the Kansas Law Review.

jrosenberg@ku.edu

References

4. An initialism is an abbreviated word form made up of initials that cannot be pronounced as a word. In contrast, an acronym is an abbreviation formed by initials that are pronounceable as a new word. Thus, FBI is an initialism; NASA is an acronym. Mignon Fogarty, Grammar Girl’s Quick and Dirty Tips for Better Writing 86 (2008). Popularity, both tend to be known as acronyms, as reflected in several federal appellate courts’ local rules.
7. D.C. Cir. Handbook of Practice & Internal Procedures 8(d) & 8 generally (“P”)arities are strongly urged to limit the use of acronyms. While acronyms may be used for entities and statutes with widely recognized initials, such as FERC and FOIA, parties should avoid using acronyms that are not widely known.
8. 10th Cir. R. 28.2(C)(4).
10. Steed, supra note 5.
11. Id.
12. “The Commission” could also work—but only if there are no other commissions in the case, so that the short name reference is completely unambiguous.
14. See, e.g., Garner, supra note 1, at 3 (“When naming something new, one sometimes finds the task hopeless: consider the ALI-ABA CLÉ Review[].”).
15. Steed, supra note 5.
16. Id.
17. Fogarty, supra note 4.
In Support of Community

by Sarah Morse

Many attorneys are busy people. With often demanding job expectations, deadlines that are not always self-determined, social activities, and time with family and friends, it can be hard to set aside any time that could be called “free time.” On top of all of those activities, many of us also add involvement in professional associations, such as the Kansas Bar Association, to the list of activities. With all of these competing obligations on time, it’s not uncommon for attorneys to be asked, “Why do you spend time on bar activities?”

It’s a question for which every attorney has a different answer. Each time I consider the question, I reach the same verdict: What motivates me is the sense of community in the bar—a community I want to foster and sustain.

When I was a first-year attorney starting practice in Topeka, I did not know lawyers my age or with my years of experience because I did not go to law school in Kansas. When I sought out the Topeka Bar Association young lawyers and shortly thereafter became involved in the Kansas Bar Association Young Lawyer Section, I did not understand the enormous value of connecting with other young, practicing Kansas attorneys. I soon found out.

I found it encouraging that others faced the same insecurities and newbie-attorney experiences. Also, I found support from those with whom I could talk, commiserate and celebrate, and—maybe above all—share information. I learned so much through those lunch meetings and conference calls—the preferences of local judges and differences in local rules, e-filing and practical practice tips, and how various law firms and other organizations operated.

At the same time, I became involved in the Women Attorneys Association of Topeka and the Kansas Women Attorneys Association. Joining these professional affinity groups added another dimension to the legal community of which I was becoming a part. Learning the histories of the women who joined the profession before me, and being welcomed into the communities those women had established, introduced me to new professional perspectives and conversations. Those
associations gave me confidence to continue to develop my career while encouraging me to be as welcoming to others as I could be.

When I reflect on my involvement in each association, I realize the overarching experience of my involvement is participation in a community. At this moment in time, I cannot imagine a better or more important way to spend one’s time. In a recent study, lawyers outranked other professionals on the “loneliness scale.”¹ Numerous scholarly and news articles have covered social isolation, and you cannot turn on the radio, TV, or read the news without hearing about the decline of civility and polite debate in modern life. Some have argued this decline in decorum has infiltrated the legal profession.²

I understand why. It’s easier to fire off a sharply worded email than it is to say the same thing to someone’s face. And we, as attorneys, do not often see each other face-to-face. Emails and conference calls dominate, and in-court appearances are rare. It is for these reasons, I suggest, that the professional community found in a bar association is vitally important. In these organizations, life-long plaintiff attorneys can work side-by-side with life-long defense counsel. Attorneys can meet and have the opportunity to work with the judge who issued an unfavorable opinion. Young lawyers can witness professional disagreements discussed in a courteous manner. We can get to know each other and learn how to work together even if our clients’ interests diverge.

We, as Kansas Bar Association members, have a duty to do what we can to ensure our association can fulfill this important mission and do so for years to come. Fulfilling this duty is not an easy task; nearly every association is struggling to increase membership and engagement. Although I do not have the answers to those problems, I know we must try. We must try to broaden our community, and ensure it includes all of the diverse viewpoints in our profession so that it provides a community for all attorneys.

If you are reading this, I imagine you have also experienced the benefit of community from the Kansas Bar Association. If so, I encourage you to contribute by actively recruiting at least one new member to the Kansas Bar Association or the Young Lawyers Section. Tell them about the community of support and information that is available. Consider recruiting someone with a perspective that may not currently be represented or is underrepresented in our bar association community. I hope they will benefit, and I am confident you, too, will benefit as you help make our community stronger, sustainable and more diverse.

About the Author

Sarah Morse serves as the Kansas Bar Association’s Young Lawyer Section President. She is Corporate Counsel at FHL Bank Topeka. Sarah received her bachelor’s degree in American History and Literature from Emory University and her law degree from Emory University School of Law in Atlanta, Georgia. Shortly after joining private practice in Topeka, Sarah became involved with the KBA YLS, and she looks forward to working with the engaged and enthusiastic YLS board members this year. In her free time, Sarah enjoys spending time with her family and pursuing more hobbies than is probably advisable.

Sarah.Morse@fhlbtopeka.com


CALLING ALL COFFEE LOVERS

KBA YLS
MENTORING BREAKFAST

LOCATIONS:

Lawrence | April 19
8:00 a.m. - 9:00 a.m.
THE ROOST | No. 920 Massachusetts Street

Wichita | April 30
7:30 a.m. - 8:30 a.m.
LYCEUM AT REVERIE | 2206 E. Douglas

Topeka | May 7
7:30 a.m. - 8:30 a.m.
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RSVP encouraged but not required.
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Won’t You Be My Fellow?

by Amy Fellows Cline

This month, I write to thank our current Fellows of the Kansas Bar Foundation for their continued support, and to encourage those of you who have not joined our ranks to consider doing so. The amount of Fellows pledges collected by the KBF took a dip in 2018, and we need to right the ship. The Fellows program is the primary source of funding for the Kansas Bar Foundation. For over 60 years, the KBF has funded opportunities for the citizens of Kansas through charitable and educational projects that foster the welfare, honor and integrity of the legal system by improving its accessibility, equality and uniformity, and by enhancing the public opinion of the role of lawyers in our society. Since 1984, with funding from Interest on Lawyers Trust Accounts, the KBF has awarded more than $4 million in grants to provide legal services to those who cannot afford them and for law-related educational programs. In 2019 alone, the KBF is awarding $400,000 to Kansas organizations and law students. We simply could not provide these opportunities without your Fellows pledges.

The funds provided by Fellows of the KBF are put to good use in a variety of ways, including:

Ourkansascourts.org

KBF Fellows pledges pay for the hosting costs and provide other financial support for the educational website, ourkansascourts.org, whose content was created by Trustees of the Kansas Bar Foundation. Thanks to your Fellows pledges, and the countless hours donated by Scott Hill, Rich Hayse, Todd Thompson, and several others, this website helps educate Kansas citizens about our legal system and, in particular, the role and structure of the court system in Kansas. This website not only explains the history and authority of our state court system, but it also describes the judicial selection processes used in Kansas and provides links to judicial evaluations and other civic educational resources.

Kansas Interest on Lawyer Trust Accounts (IOLTA) Program.

While the IOLTA grants themselves, which are awarded each year by the KBF, are funded by the interest collected from participating legal trust accounts, your Fellows pledges help defray the behind-the-scenes costs of this program. For
example, your pledges help support the KBF’s newly-created “Partners in Justice” program, in which participating financial institutions commit to paying higher interest rates and waiving routine fees on Kansas IOLTA accounts. Your Fellows pledges pay for marketing materials for this program, as well as KBF staff’s travel across Kansas to increase participation by financial institutions. Your Fellows pledges also help pay for the costs associated with collection and management of IOLTA funds, as well as administration of the IOLTA grant program. Thanks to these marketing efforts, the amount and number of IOLTA grants awarded increased in 2018, and we are hoping to keep that trend going in future years.

KBF’s Community Redevelopment & Homeowners Assistance Grant Program

In 2015, the KBF received $3,273,938.50 from proceeds out of a national settlement between Bank of America and the Department of Justice, to be used for the sole purpose of providing funding to legal aid organizations in the State of Kansas to be used for foreclosure prevention legal assistance and community redevelopment legal assistance. The KBF developed an annual grant program for awarding up to $200,000 each year to not-for-profit organizations that regularly make civil legal assistance available to low-income individuals or groups without charge or at greatly reduced cost. These grants are used to revitalize or stabilize low and moderate income communities with programs such as support to nonprofits or small businesses on projects that generate affordable housing or job creation, as well as provide foreclosure prevention and mitigation assistance. While the grants themselves are funded by the settlement proceeds, your Fellows pledges help defray the costs associated with the marketing and administration of the grant program, including the creation and review of grant applications, management of the funds, and oversight of the grants.

KBF Law School Scholarships

The KBF offers several endowed scholarships, memorial scholarships, and special purpose scholarships annually to Kansas law students, with annual awards varying from $500 to as much as $6,000. Since 2007, the KBF has awarded 68 scholarships. While the funds for these scholarships are provided by various individual and law firm donors, your Fellows pledges help defray the costs of this program. In fact, none of the donated funds are used for the expenses associated with these scholarships – thanks to your Fellows pledges, those funds are preserved for scholarship awards. Your Fellows pledges fund the KBF staff’s time and the expense to administer the scholarships, including marketing the program (to increase the number of law student applicants and the number of scholarships created), managing the funds, and administering the scholarships themselves. Your pledges also help fund the annual dinner where the scholarship recipients are recognized for their achievements.

Gernon Law Center

The KBF owns the Gernon Law Center building, which it rents to the Kansas Bar Association. The facility is also available for use by KBA members, as well as other law-related and non-profit organizations. In 2017, the KBF’s “Burn the Mortgage” campaign allowed for the retiring of the building’s mortgage, and the building was renamed the Gernon Law Center. Your Fellows donations assist with upkeep and maintenance of the building.

These are just some of the programs supported by your Fellows pledges, and whose success is jeopardized if those pledges fall off. You can become a Fellow by committing to pay as little as $1,000, which can be paid in ten annual installments of $100. We offer several tiers of membership, including a Fellow Silver Membership for $2,500, a Fellow Gold Membership for $5,000, a Fellow Platinum Membership for $7,500, and a Fellow Diamond Membership for $10,000. You can be recognized as a Pillar of the Foundation for $15,000 and a Pillar of the Profession for $50,000. The KBF is a 501(c)(3) corporation, so your donations are tax deductible as a charitable contribution. Donations can be made online at https://www.ksbar.org/donations or by contacting Anne Woods at awoods@ksbar.org. If you have not joined our Fellows ranks, I encourage you to please consider it. And, if you are already a Fellow, I thank you for your continued support.

About the Author

Amy Fellows Cline is a partner of the Wichita law firm of Triplett Woolf Garretson, LLC. She handles a wide variety of commercial litigation matters, including employment, oil and gas, construction and consumer protection disputes. Ms. Cline has significant experience appearing before courts across Kansas, as well as the Kansas Corporation Commission, Kansas Human Rights Commission, Kansas Department of Labor and U.S. Equal Employment Opportunity Commission.

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Presenter: Danielle Hall, Office of Disciplinary Administration, Topeka

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Indifference, to me, is the epitome of evil. The opposite of love is not hate, it’s indifference. The opposite of faith is not heresy, it’s indifference. And the opposite of life is not death, it’s indifference. Because of indifference, one dies before one actually dies. To be in the window and watch people being sent to concentration camps or being attacked in the street and do nothing, that’s being dead.

—Elie Weisel

I was approached a couple different times about being the chair of the KBA Diversity Committee before I said yes. At the time, I kind of felt like I was drowning with work and other activities. I just didn’t want to take on one more thing, but at the same time, diversity is so important. I was torn. Then, I watched in horror as Nazis marched with apparent impunity down the streets of Charlottesville. I was angry and sad and so many other emotions. I wanted to know how the hell in 2017 could anyone think that was acceptable? I decided in that moment that I was not willing to pass up a chance to work on an issue as crucial as diversity. I was not willing to be indifferent. Over the last year and half, I have had the privilege to be involved in several amazing events. In collaboration with other organizations, we hosted a Poverty Simulation for about 70 Kansas attorneys and Judges, have written countless Diversity Corner Articles, given and participated in CLEs on important diversity topics, hosted a trivia night for law students, participated as a sponsor at the KU Law Diversity Banquet, and have tried to provide opportunities for diverse attorneys to have a seat at the table. At each event, I have heard a new perspective and some common themes. I want to share some of the things I learned at the most recent event.

At this year’s KU Diversity Banquet, Chief Judge Julie Robinson, class of 1981, was the keynote speaker. Chief Judge
Robinson is the Chief Judge of the United States District Court for the District of Kansas. According to her biography on the court’s website, Judge Robinson is a fourth generation Kansan and the first African American named to the U.S. District Court for the District of Kansas. Watching Judge Robinson speak, I was struck by how impressive she appears. She is calm, articulate, and brilliant. One would never guess watching her that she suffers from “Imposter Syndrome”, but yet, that was the theme of her speech. She talked about how, in the past, she has been quick to place too much credit on luck and not enough on her own ability. When she was in law school, she did not even turn in her law review application because she did not think it was perfect. Over her career, as she has learned about impostor syndrome, she has also learned to manage it. She has learned to be comfortable being uncomfortable, because as a judge, she cannot trust external validation. She must be able to validate herself, even if that means pulling out her resume from time to time to reassure herself that she is qualified and accomplished. One quote that stuck with me was she has learned that she has just as much right as the next person to be wrong, to have a bad day, or to ask for assistance. Smart is a relative term. In life, and in the law, you will encounter people who are smart, but they are not infallible. Trust yourself.

I was struck by profound gratefulness listening to Judge Robinson talk about her own insecurities and weakness. As a female attorney, I feel as though I am constantly striving to be the best and to hide my own insecurities from the world. Having the courage to speak about one’s struggles in order to help others who might be facing the same insecurities, takes guts. Basically, she is a total badass and the Kansas legal profession is very lucky to have her.

I have a t-shirt I like to wear with a quote from Justice Ruth Bader Ginsburg, “Fight for the things you care about.” Diversity in our legal profession is something we all need to care about. The American Bar Association Commission on Women in the Profession and the Minority Corporate Counsel has worked tirelessly for decades to combat gender and racial bias in the legal profession and yet the most recent report shows that the statistics on women’s advancement have not appreciably changed over the years. I highly recommend that you read about the work the Commission on Women in the Profession is doing at https://www.americanbar.org/groups/diversity/women/.

I am very proud to be part of such an active and dedicated committee as the KBA Diversity Committee, but I still maintain we can do more and be better; that requires each of you to make a commitment to get involved. I understand being busy; however, if we each commit to doing a little, it adds up to a lot. If you are interested in learning more about how to serve on the Diversity Committee, please send me an email at astanley@lkm.org. This is too important of an issue to sit it out. Now is not the time to be indifferent.

**About the Author**

Amanda Stanley

Amanda Stanley is a member of the KBA Diversity Committee. Stanley received her juris doctorate from the University of Kansas School of Law in 2014 and her Bachelor of Science in Biology from Newman University in 2008. After law school Stanley clerked for Judge Kim Schroeder of the Kansas Court of Appeals. She currently serves as Legal Counsel for the League of Kansas Municipalities.

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**LITIGATION - BUSINESS - ESTATES**
Most of us likely have a friend, acquaintance, former classmate, colleague, relative or immediate family member who has taken his or her life. Suicide was the 10th leading cause of death in the U.S. in 2016.¹ Suicide was responsible for nearly 45,000 deaths in the U.S. in 2015.² Suicide rates in Kansas increased 45 percent from 1999 to 2016, a rate among the highest in the nation.³ There were 512 Kansas suicide deaths in 2015.⁴

Depression is the psychiatric diagnosis most commonly associated with suicide.⁵ In severe cases, depression can be life threatening, with suicide as a possible outcome.⁶ Depressed individuals may experience:

- Loss of pleasure in virtually all activities
- Feelings of fatigue or lack of energy
- Frequent tearfulness
- Difficulty with concentration or memory
- A change in sleep pattern - too much or too little sleep
- Change in appetite and corresponding change in weight
- Feelings of worthlessness and self-blame or exaggerated feelings of guilt
- Unrealistic ideas and worries
- Hopelessness about the future
- Thoughts of suicide⁷

Lawyers, like others in the helping professions, daily cope with personal and/or vicarious stress, anxiety, depression, physical and/or emotional loss and conflicting relationships. Attorneys in certain areas of practice (e.g. criminal law, child in need of care cases, family law, medical malpractice and personal injury cases) are most likely to be affected by such stressors.
Lawyers are 3.6 times more likely to suffer from depression than non-lawyers. Depression and anxiety are cited by 26 percent of all lawyers who seek counseling. Lawyers rank 5th in incidence of suicide by occupation. The Kansas legal community lost five to suicide in 2018 and two already in January 2019.

The most common causes of suicidal thoughts include:

- Grief
- Financial problems
- Remorse
- Rejection
- Relationship breakup
- Unemployment

The warning signs of suicidal ideation include:

- Declining performance and interest in work
- Loss of interest in social activities, hobbies, relationships
- Feelings of hopelessness, shame, guilt, and inadequacy
- Isolation
- Changes in personality, routine, or sleeping patterns
- Substance abuse
- Getting affairs in order and giving away possessions

What can you do?

- Reach out – have the courage to ask, listen intently, and be ready to act.
- Ask open ended questions:
  - “I’m concerned. You don’t appear to be yourself. What’s going on?”
  - “How would you like things to be different?”
  - “What is likely to happen if this situation doesn’t change?”
  - “How helpful would it to talk with someone confidentially?”
- Then ask directly: “Are you thinking about suicide?”
- If so, determine if they have a plan and means to commit suicide.
- If they don’t have a plan – encourage them to seek professional help.
- If they have a plan – get a commitment from them not to act on that plan.
- Encourage them to seek professional help and reach out to family, close friends, and/or a spiritual advisor.
- If they are threatening immediate action, do not leave them alone. Call 911 and/or get them to an emergency room.
- Call the National Suicide Prevention Lifeline 24/7 at 1-800-273-TALK (8255).
- Refer them to the Kansas Lawyers Assistance Program, KALAP.

You should NOT:

- argue about the “right or wrong” of suicide
- be judgmental
- offer platitudes like: “You have so much to live for” or “It will be better tomorrow”
- minimize their problems
- agree to keep the situation a secret.

KALAP helps attorneys suffering with depression and thoughts of suicide. Self-referral to KALAP is a courageous act. Calling KALAP to refer another attorney is a compassionate act. We have three staff members and over 150 attorney volunteers available to assist. We promise strict confidentiality to those who contact us.

You may save a life – you may save a career. Call KALAP 24/7 at (785)368-8275.

About the Author

Lou Clothier was appointed the Kansas Lawyers Assistance Program Executive Director in July 2018. He graduated from the Washburn University School of Law in 1981. He practiced law in Leavenworth, Kansas for 37 years prior to his appointment, focusing on school law and domestic relations law. Lou is a member of the ABA, KBA and Leavenworth Bar Associations.

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3. Id.
4. www.kansas-suicideprevention.org
6. UC Santa Cruz Counseling & Psychological Services “Suicide and Depression” https://caps.ucsc.edu/resources/depression.html#help
7. Id.
10. See generally, id.
11. When a Colleague Needs Help—Recognizing, Understanding & Referring Mental Health and Addictive Disorders, a PowerPoint by Toney Pacione, LCSW, Clinical Director, Illinois Lawyers Assistance Program, Illinoislap.org; 800.LAP.123
12. Id.
2018: A Stellar Year for KBA Outreach

Talking to Students and Teachers about Law, Civics and the U.S. Constitution

Last year was a stellar year for KBA outreach! A renewed interest by the public for programs emphasizing civics, rights and responsibilities, and justice resulted in opportunities for KBA members to share their knowledge and passion with people throughout Kansas.

As a KBA member benefit, resources are available for speaking engagements for Law Day, Constitution Day or any time a request is made to present law-related information. The following resources are available to KBA members at no charge.

Presentations made by Attorneys and Judges

During Celebrate Freedom Week in 2013, several judges and attorneys presented to students in the USD 345, Seaman School District. The presentations were recorded and are available for KBA members to view online. The videos are intended to serve as training resources for KBA members and not for public distribution. A detailed description of each presentation and the topics covered is available. For example, in the “You be the Judge” presentation by the Hon. G. Joseph Pierron, Jr. to high school students, he covered the three branches of government, the 4th Amendment, Writ of Certiorari, reasonable suspicion, probable cause and drug testing.

In another presentation for elementary students, the Hon. Cheryl R. Kingfisher included: What is the Constitution?, The Declaration of Independence, What do Judges Do?, The Boston Tea Party, Freedom of Speech, Checks and Balances, King George/George Washington, the three branches of government, a student mini trial, and courtroom protocol. Contact Anne Woods at awoods@ksbar.org for access to these videos.

Especially for Middle School and High School Students

Be sure to request copies of “For the Record” and “On Your Own” if you are presenting to ages 12-18. Multiple copies are available for KBA members and teachers to order at no charge. They are also available online. Both booklets are available in English and in Spanish.

Justice Lee Johnson spoke to a group of 400 students in grades 7 through 12 at Rock Creek High School.
For the Record

Written primarily for middle school students, the information in this 15-page booklet addresses issues about: divorce and child custody, marriage, emancipation, drugs and drug treatment, juvenile offenders, CINC, your rights if you get arrested, curfews, drinking and driving, vehicle and vehicle safety laws, texting and driving, working/child labor laws, medical treatment without parental consent, tattoos and body piercing, owning a gun, social media, bullying, rights at school, free speech and student publications, laws about attending school, dress codes, discipline at school, drug searches at school and praying at school.

On Your Own

Written primarily for high school students, the information in this 40-page booklet addresses issues about: drinking, drinking and driving, buying a vehicle, maintaining a vehicle, vehicle accidents, vehicle insurance, speeding, seat belts, finding work, marriage, domestic violence, divorce, child custody and support, annulment, medical treatment, birth control, abortion, landlord-tenant issues, purchasing power, credit rights, credit cards, shopping/comparing products/warranties, online purchasing, telephone sales, identity theft, health and exercise clubs, consumer complaints, when to see a lawyer, voting, and breaking the law.

Manuals/Scripts/Tips

Over 100 pages of scripts and teaching materials are available on the KBA website. The information is organized by grade level and includes scripts from Judge Pierron on cases involving the Fourth Amendment, the First Amendment and several special topics. For example, Whren v. United States, and a Kansas case titled Board of County Commissioners of Wabaunsee County v. Umbehr are included.

In addition, the Hon. Karen Arnold-Burger provided scripts for U.S. Constitution presentations to grades 3-4 and 6-8. Tips on presenting to elementary students and several handouts including the Bill of Rights, a word find puzzle, and symbols of America coloring sheets are also included.

You be the Judge Interactive Program

Judge Pierron served for many years as chair of the Law Related Education Committee. He also established “You be the Judge,” an interactive program designed to teach a basic understanding of how the U.S. Constitution and the United States Supreme Court work. Two somewhat amusing court cases are used to demonstrate how our constitution protections are applied. Participants enjoy their parts in the program. The program has been recognized with numerous local, state and national awards for its educational and entertaining values. In this last twenty years, this 50-minute program has reached over 50,000 students throughout Kansas.

While schools are the usual locations for the programs, a growing number of adult groups are requesting the free presentation. The program is very flexible and can be presented to K-12 classes, university students and adult learning programs. Anyone interested in scheduling a “You be the Judge” program should contact Judge Pierron at pierron@kscourts.org or 785-296-5408.

Law Wise

If you have not signed up for this free electronic newsletter, you can do so at www.ksbar.org/lawwise.

Law Wise is a fun and informative resource for teachers and students. This resource is especially helpful for teachers looking for information on current issues in law and education. In 2018, topics included: Judicial Review and the Supreme Court, The U.S. Census, The Enduring Importance of Free Speech, Mock Trial, the Kansas Governor and the Executive Branch, and Separation of Powers. It is published six times during the school year and includes lesson plans. Past issues and the topics covered can be found on the archive page. Just go to Group Pages and select Archive. Law Wise is funded by a grant from the Kansas Bar Foundation.

Educational DVDs

The following DVDs are available for check out from the KBA. Each DVD has a teacher manual.
Brown v Board of Education – a reenactment of the court case. Additional resources about Brown v. Board of Education can be found at https://www.ksbar.org/brownvboard.

- The Fourth Amendment Rights of Students in Public Schools
- Miranda v Arizona
- New York Times v Sullivan

KBA Members Make the Difference

The KBA Law Related Education Committee appreciate the time and commitment from KBA members who have assisted in providing materials and those who have volunteered their time to engage with the public. The questions asked by students are fun and sometimes surprising. One grade school student asked a judge how much he earns and what kind of car he drives. The younger students especially enjoy playing the parts of judge, lawyers, and litigants. They love that they can put on a robe and hold a gavel. Another popular prop is Spike the wonder dog used by Judge Pierron. The wigs are also popular props. The older students enjoy the intellectual challenge of analyzing issues.

We want to hear from you. Are you interested in presenting about a certain topic or to a certain audience? How can we assist you? Please contact Anne Woods to share your thoughts and ideas for new resources. awoods@ksbar.org

The KBA Law Related Education Committee is responsible for overseeing resources and encouraging KBA members to provide outreach and resources for the public.

2018-19 LRE Committee Members
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Hon. G. Joseph Pierron, Jr.
Sarah L. Shipman
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Lua K. Yuille
Anne Woods—KBA Staff Liaison

Thank you to over 200 attorneys and judges who provided outreach in 2018.

(Below is just a sample of the locations and audiences reached through the “You be the Judge” program and individual and group presenters.)

- North Fairview - 300 Students
- Johnson County Courthouse—300 students
- Roosville Elementary—105 students
- Department of Administration—195 attorneys
- Fort Riley Middle School—170 students
- Westridge Middle School—170 students
- Northeast Magnet—80 students
- Robinson Middle School—85 students
- Washburn Rural Middle School—450 students
- Blue Valley West History Club—45 students
- Seaman High School—12 students
- Wyandotte County 20—20
- Capitol Building—50 students
- Kansas City AAUW—22 adults
- Kansas Girls State—390 students
- Kansas Boys State—37 students
- Dole Institute—20 teachers
- Johnson County Courthouse—40 students
Supreme Court Traveling Docket  In 2018, Kansas Supreme Court Justices took their hearings on the road to Manhattan and Colby. While there, they visited colleges and high schools. Attendees were provided copies of On Your Own and or For the Record.
From The Independent School in Wichita. Pictured front row, left to right are: Julia Douglas, Malar Muthukumar, Brandon Cope. Back row, left to right are Peter Daood, Edward Sturm, Chase Farha, Alexander Cline, John Steere (coach).

Congratulations to these outstanding competitors! Your families, your community and the KBA/KBF are very proud of your success!
Budgeting, Saving, and Investing Apps

by Larry Zimmerman

Questionable financial decisions by lawyers in their practices continue to pop up as a regular theme in ethics cases. While the misuse of client money is the violation that leads to discipline, a deeper dive into most of the cases indicates that financial problems for a firm often began as financial problems in the lawyer’s personal life. Learning how to budget, save and invest wisely in our personal lives is a skill set that very often translates directly into our professional lives.

Additionally, almost every lawyer has an experience with a client, a colleague or a close friend where conversation on budgeting can be crucial. For example, I observed expungement hearings in 2018, and the petitioner in every hearing had sought relief from the filing fees for financial hardship. Amazingly, not one single petitioner knew their income or expenses on a monthly basis. The lawyers who had helped them with the expungement pleadings had apparently overlooked the budget component of the petitions they had helped to prepare.

The widespread presence of smart phones has put powerful budgeting, savings and investing tools close at hand, and younger users especially are drawn to tools that can turn everyday acts into opportunities to adapt habits, save money and invest for the future. The following apps are just a few of the options available.

**Albert**

“Albert analyzes all of your financial accounts and builds a unique plan based on your income, spending habits, and goals.” After downloading the app and connecting your financial accounts, the app assists in establishing a budget, savings and investing goals. As the app observes income and spending habits, the artificial intelligence back-end starts to recommend areas to save and can even scrape extra funds into an FDIC-insured, interest-bearing account. The app also provides spending alerts to warn when money is getting tight or flag expenses that are higher than normal. Users note significantly improved odds of maintaining a budget using the app.
and often credit the app to unexpected growth in their savings account. The app is free, but an optional monthly subscription to a financial help line service (Albert Genius) for $4-6 per month supports the product.

**Acorns**

Acorns is, “The only micro-investing account that allows you to invest spare change.” Once the app is connected to a credit card, any payment you make may be automatically rounded up to the nearest dollar. The round-up portion is then scraped into an investment portfolio with five different risk ratings ranging from conservative to aggressive (though all investment portfolios are considered fairly conservative by experts). Acorns also pairs with certain partners like Lyft, Hilton, Expedia, or Airbnb which boost your investment by discounting their service and applying the discount to the round-up amount. The basic service is $1 per month making its fees quite low compared to other investment options.

**Clarity Money**

Clarity bills itself as your financial champion, both to help you see where your money is coming and going (basic budgeting), and to find areas you could cut or scale back. The initial marquee feature of Clarity was a focus on recognizing recurring expenses and streamlining the process to cancel unwanted subscriptions. For example, it could observe your monthly payment to Audible and make canceling a one-click experience if you decide your use does not justify the expense. It has subsequently evolved into a more general budget and micro-savings platform. There is no fee for the basic service and reviews indicate Clarity has a higher-than-average support response for users.

**Spendee**

Spendee is a comprehensive budgeting and personal accounting application. Paying the annual premium subscription price of $22.99 per year provides shared access with other users so everyone can be on the same page. Additionally, special budgets can be set up for one-off events like weddings, a vacation, car purchase, etc. Automatic linking with a bank is an option but, unlike many other apps, so is manual entry if you are the more hands-on, paranoid type.

**Honey**

Honey is a free browser extension that pays attention to your online shopping. As you browse Amazon or Nike and fill your cart, Honey works in the background to find every available promotional code it can apply. If there are multiple promotional codes, it applies the one that provides the biggest savings. Some vendors like Marriott, BestBuy, and Expedia have Honey-specific discounts as well. The extension is free to install and requires no subscription.

**Warnings and Caveats**

1. Neither I nor the KBA are recommending specific apps or services. Those listed above represent some of the most-reviewed and best known, but this is simply one offering among a host of similar products. If micro-savings appeals to you, study up on a variety of options before simply choosing one like Albert.

2. This is your money so be cautious. Do your due diligence on any service or app you decide to connect to your accounts and monitor it regularly. Prepare ahead so you know how to respond if you want to terminate a service or if you have reason to believe an account has been compromised.

3. As with any free service (and many paid services), you are often the product. Your habits and behaviors are often compiled, analyzed, and sold to buyers trying to figure out how to reach out to you and people like you. Understand the terms of service before you agree.

**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.

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Before any consideration of an appeal’s merits, Kansas appellate courts will undoubtedly check for jurisdiction and preservation. The quickest way to lose an appellate issue is for an appellate court to decline to review it by dismissing the appeal for lack of jurisdiction, and well-respected legal minds agree. In their book, Making Your Case, the late U.S. Supreme Court Justice Antonin Scalia and Bryan Gardner each regarded jurisdiction as the initial concern of all appellate attorneys.¹

Immediately behind jurisdiction, appellate attorneys must confirm that the appellate issues they wish to argue were preserved. The bane of all appellate attorneys’ existence is the colorable but unpreserved issue. Although failing to preserve an issue will not necessarily result in dismissal, the appellate court will still refuse to reach the merits of any issue not properly preserved. To make things more difficult, establishing preservation can be especially problematic for appellate attorneys because those issues are generally preserved at the district court level.

This article sets forth the essentials of bringing an appeal in Kansas, but it is not a manual for how to bring all appeals. Attorneys should view this article more as a practical guide, rather than a step-by-step list of how to appeal a case.

First, this article covers jurisdiction because it is most important (exceptions are rare, existing only for some criminal defendants). Second, preservation is addressed (there are some exceptions here). Finally, this article provides some tips on how not to lose an appeal on procedural grounds. One last preliminary note, the contents of this article are confined to Kansas state courts.

Jurisdiction

What does it mean to say a court has “jurisdiction?” It means the court has the power to hear and decide a matter.² As most probably remember from law school, jurisdiction at the district court level usually breaks down into two types: personal jurisdiction and subject matter jurisdiction.³ Personal jurisdiction is the court’s authority over the parties, while subject matter jurisdiction is the court’s authority over the matter, or nature of the case, before it.⁴

Kansas district court jurisdiction

For Kansas district courts, subject matter jurisdiction is usually quite simple.⁵ They have it. The Kansas Constitution, in conjunction with Kansas statutes, grants district courts general original jurisdiction of all civil and criminal matters unless specified otherwise.⁶ Courts can acquire personal jurisdiction, among other ways, by the defendant’s
getting to the merits: kansas appeals

appearance (actually showing up in court or filing a responsive pleading), by the defendant’s being served, or by the defendant’s waiving personal jurisdiction. As a reminder, courts always have personal jurisdiction over the party initiating the case, and subject matter jurisdiction cannot be achieved by waiver or consent. Most important for appellate purposes, if a district court lacks jurisdiction for any reason when ruling on a matter, an appellate court cannot procure jurisdiction over that specific ruling. In other words, the appellate court will dismiss the case without reaching the merits.

Appellate court jurisdiction

Unlike the constitutional grant of jurisdiction to Kansas district courts, no similar right exists for appellate jurisdiction. Neither the Kansas Constitution nor the United States Constitution grants the right to an appeal. Instead, the Kansas legislature has furnished all parties the statutory right to an appeal. When an appeal is not taken in accordance with these jurisdictional statutes, Kansas appellate courts lack jurisdiction over a case and must dismiss it. And in contrast to most other aspects of our adversarial system, appellate courts “have a duty to question jurisdiction on [their] own initiative.” So even if opposing counsel misses the fact that appellate jurisdiction does not exist, an appellate court will surely catch it and sua sponte raise the issue on appeal.

With that background in mind, civil appeals will be discussed first, then criminal appeals.

Civil appeals

K.S.A. 60-2102(a) lists several instances in which a party may bring an appeal. Most commonly, an appellant may bring an appeal as a matter of right from a “final decision.” The problem with appealing a “final decision” is discerning what constitutes a final decision. The legislature did not define “final decision,” but the Kansas Supreme Court has construed a “final decision” to mean “one which finally decides and disposes of the entire merits of the controversy, and reserves no further questions or directions for the future or further action of the court.” The purpose behind this rule is that piecemeal appeals are discouraged. To help determine whether a final decision was issued, one asks whether the decision terminated the issue left for the district court to resolve are attorney fees and costs, regardless of whether the court eventually grants them, the district court has issued a final decision. A district court, however, can transform an interlocutory decision into an appealable decision with seven magic words: “[T]here is no just reason for delay,” or something along those lines.

When both requirements are present, the party on the “wrong side” of the judgment may instantaneously appeal the rulings that were 254(b) certified. Notably, a 254(b) certification starts the running of the appellate time clock. Following a 254(b) certification, the appellant has thirty days to file a notice of appeal for the issues the court ruled on (appellate deadlines will be discussed in more detail below). When a final decision is issued, the countdown to appeal begins to run when the district court files the journal entry of judgment. In particular, a district court’s judgment becomes effective when the court signs a written journal entry memorializing the judgment and files the journal entry with the clerk. As a matter of practicality, all that matters is the filed, written journal entry for an appellant to know when a final judgment occurred. In civil cases, the appellant must file the notice of appeal within thirty days of the district court filing the journal entry of judgment. To be clear, the date of filing controls, not the date the court signs the journal entry (these two dates often vary).

Sometimes, though, the district court pronounces its judgment from the bench, which it later memorializes in a written journal entry. In that case, the date of filing still controls. Nonetheless, there are two options as to when to file the notice of appeal. One, the appellant may file a premature notice of appeal (filing after pronouncement from the bench but prior to the filing of the written journal entry), as allowed by Kansas Supreme Court Rule 2.03. Once the district court files the written journal entry, the premature notice of appeal morphs into a valid notice of appeal without any additional work by the appellant. Or two, the appellant may wait to file until the written journal entry is filed with the clerk. In any event, filing a notice of appeal before pronouncement of judgment is too premature to become valid later—that is, the notice of appeal is and will always be invalid.

Post-judgment motions will toll the thirty-day time limit, but those motions must be timely. To be timely, a party must file a post-judgment motion within twenty-eight days of the entry of judgment. K.S.A. 60-2103(a) lists the post-judgment motions that will toll the time to appeal: judgment as a matter of law, amend findings, new trial, and alter/amend judgment. Plus, a motion to reconsider tolls the deadline to appeal because it is equivalent to a motion to alter or amend judgment. If a post-judgment motion is not found in K.S.A. 60-2103, other than a motion to reconsider, the motion will not toll the deadline.
Following the district court's denial of a post-judgment motion, the clock to appeal resets to thirty days. If the time limits are missed, appellate courts are without jurisdiction to hear the appeal. Even if the district court errs by providing trial counsel with the incorrect time frame to appeal, causing trial counsel to file a late appeal, counsel has nevertheless blundered. Kansas appellate courts strictly enforce the jurisdictional deadlines to file an appeal, no matter the circumstances. Returning to premature notices of appeal, a notice of appeal filed after a post-judgment motion was filed, but before the motion is denied, ripens into a valid notice of appeal after the denial (if the motion is granted, of course, the appeal becomes moot).

After a final decision, after filing post-judgment motions, and after determining the last day to appeal, appellants must file the notice of appeal with the district court that issued the judgment. In the notice of appeal, appellants must specify who is taking the appeal, what they are appealing, and where they are taking the appeal. Who is appealing is probably obvious, but it should be expressly stated to avoid any possibility of dismissal. The notice of appeal needs to state the judgments being appealed, and usually a catch-all phrase should be included, such as "appealing the grant of summary judgment and all adverse rulings." A catch-all phrase may help avoid an unintentional limiting of which issues may be properly raised on appeal.

Next, in general, appellate courts in Kansas do not strictly enforce the explicit naming of the appellate court to which the appeal is being taken. Because there is but one Kansas Court of Appeals and one Kansas Supreme Court, the appellant will not be misled if the court to which the appeal is being taken is omitted. The substantive content of the notice of appeal will dictate, and thus put the appellee on notice, in which appellate court the appeal will land.

Finally, the docketing statement is filed with the Clerk of the Appellate Courts. The appellant, and appellee if there is a cross-appeal, should file the docketing statement not later than sixty days after filing the notice of appeal. The content of the docketing statement will be omitted from this article, except to note two points. First, specifically look to Supreme Court Rule 2.041 when completing a docketing statement, and generally look to Supreme Court Rule 2.04 when docketing an appeal. Second, and most important, the district court does not lose jurisdiction over the case being appealed when the notice of appeal is filed. Rather, the district court loses jurisdiction upon the filing of a docketing statement.

Turning to appellees, they cannot just argue anything they like in their response brief. Their arguments typically must pertain to the issues the appellant raised. If the appellee seeks reversal of a ruling the appellant has not appealed, the appellee must file a cross-appeal. Otherwise, the appellate court lacks jurisdiction over any issue never appealed. To perfect a cross-appeal, the appellee files a notice of cross-appeal within twenty-one days after the appellant's notice of appeal was filed and after being served. When the appellant files a premature notice of appeal, the clock starts to run for a cross-appeal when the notice of appeal is validated (i.e., when the district court files the journal entry of judgment).

That completes the review of civil appeals. Civil appellate jurisdiction overlaps greatly with criminal, with one anomaly.

Criminal appeals

Despite the rule that civil appellate jurisdiction is only as broad as granted by statute, criminal defendants enjoy a constitutional exception when the defendant fails to follow the statutory appeal process. But first, as with civil jurisdiction, criminal appeals are entirely statutory. A statute must prescribe the right to an appeal or none can be taken. In Kansas, the statutory basis for criminal appeals is found in K.S.A. 22-3601, K.S.A. 22-3602, and K.S.A. 22-3603.

K.S.A. 22-3601(a) permits defendants to appeal a “final judgment” to the Kansas Court of Appeals. K.S.A. 22-3602 grants defendants the right to appeal from “any judgment” against them, while also prohibiting an appeal from a plea of guilty or no contest (more on the impact of pleas later). Finally, K.S.A. 22-3603 allows the prosecution to appeal the suppression of evidence or a confession or the quashing of a search warrant before trial.

The question of what constitutes a judgment or final judgment applies to criminal appeals as well as to civil appeals. For criminal appeals, a final judgment occurs when the district court pronounces the entire sentence from the bench, and the entire sentence includes restitution. So until restitution is decided and the sentence pronounced, there is no final appealable judgment. Still, relying on Rule 2.03, a premature notice of appeal in a criminal case, filed after a conviction and after the district court pronounces the sentence except restitution, evolves into an effective notice of appeal when the court sets restitution. However, a notice of appeal filed before a conviction is too premature to ever become a valid notice of appeal, because there has been no ruling from which to appeal.

Based on current case law, it is uncertain whether a notice of appeal filed after conviction but before pronouncement of any sentence can ripen into a valid notice of appeal after the sentence is announced. For Rule 2.03 to save a premature appeal, defendants should probably wait to appeal until the district court has pronounced at least a partial sentence.

In criminal cases, defendants must file their notice of appeal within fourteen days of the district court’s judgment, and, as discussed above, the judgment is the pronouncement of the entire sentence. Unlike civil appeals, it is irrelevant when the district court files its journal entry of judgment; all that matters is oral pronouncement of the sentence for deadline
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... purposes. Like civil notices of appeal, the notice of appeal must identify the parties, what is being appealed (with broad catch-all language included), and to which appellate court the appeal is headed.

But what if the defendant misses the fourteen-day deadline? Criminal defendants who are jurisdictionally barred from appealing are entitled to an exception when: “(1) the defendant was not informed of his or her right to appeal; (2) the defendant was not furnished an attorney to pursue the appeal; or (3) the defendant was furnished an attorney who failed to perfect the appeal.”

While an exception is supposed to be utilized under only “truly exceptional circumstances,” an appellate court will typically retain an appeal under the third exception when the attorney knew the convicted defendant wanted to appeal but failed to make the fourteen-day deadline. The Kansas Supreme Court bases the exception on the grounds of constitutional fairness, applying due process to the first situation and the right to counsel to the other two situations.

Not every criminal conviction is appealable, however. Defendants are statutorily proscribed from appealing convictions stemming from guilty or no contest pleas, so in that case, the appellate court lacks jurisdiction to consider any purported error related to the conviction. Pleading out, however, does not prevent an appellate court from reviewing the sentence imposed, but the court is statutorily prohibited, in a felony conviction case, from reviewing a presumptive sentence or any sentence resulting from an agreement between the state and the defendant which the sentencing court approves on the record. And if a presumptive sentence was given in error, say, the sentence was inflated based on an incorrect criminal history score, defendants can still file a motion to correct an illegal sentence at any time.

In any case, a motion to withdraw the plea changes everything. Defendants who pled out may appeal from the denial of a motion to withdraw their plea. When defendants plead guilty or no contest, then file a motion to withdraw that plea, they may appeal the entirety of the criminal proceedings as if they had pled not guilty and were later found guilty (of course, there will be no trial to review on appeal). In this situation, the defendant must file a motion to withdraw the plea within the time constraints of K.S.A. 22-3210, providing that the motion must be filed within one year of:

(A) The final order of the last appellate court in this state to exercise jurisdiction on a direct appeal or the termination of such appellate jurisdiction; or (B) the denial of a petition for a writ of certiorari to the United States supreme court or issuance of such court's final order following the granting of such petition.

Defendants may also receive a time extension upon the district court finding an “affirmative showing of excusable neglect by the defendant.”

Another consideration: not all criminal appeals are taken to the Kansas Court of Appeals. Defendants appeal some cases directly to the Kansas Supreme Court. K.S.A. 22-3601(b) lists those appeals. They may occur when the district court held that a statute was unconstitutional (although not the inverse), when a defendant was convicted of a class A felony, when a life sentence is imposed, or when a defendant was convicted of an off-grid felony unless the off-grid felony is explicitly exempted by statute.

As a final note on criminal appeals, the prosecution may also appeal some rulings. Because of double jeopardy, the prosecution cannot appeal an acquittal in an effort to get another shot at a conviction. The prosecution, however, may take an appeal as a matter of statutory right in four situations: (1) from an order dismissing an information or indictment, (2) from an order arresting judgment, (3) from a question reserved, and (4) from the grant of a new trial in a case involving a class A or B felony or a case involving an off-grid crime. All are self-explanatory other than a question reserved. To be considered a proper question reserved, the issue appealed must be of statewide importance to ensure the law is fair and just, and the question reserved must set much-needed precedent to clarify the law. An appellate court will not entertain a prosecution appeal merely to determine whether the district court erred.

No statute states the time in which the prosecution must file an appeal, and when a criminal statute is silent on a matter, K.S.A. 22-3606 directs appellate courts to utilize civil appellate procedure to fill the gaps. Accordingly, based on the civil appellate statutes establishing thirty days for an appeal, the prosecution must file its notice of appeal for the above situations within thirty days. And no matter the time frame, the prosecution may appeal only from a final judgment. For the above four situations, when the district court announces no sentence, prosecutors should apply the final judgment standards from civil practice to determine whether a final judgment exists from which to appeal.

Regarding interlocutory prosecutorial appeals, the prosecution may initiate an appeal after the district court quashes a warrant or suppresses evidence, including a confession. The prosecution must docket the appeal with the Kansas Court of Appeals and must bring the appeal before the trial commences. This time, the statute provides a deadline. Pursuant to K.S.A. 22-3603, the prosecution must file the notice of appeal within fourteen days from when district court entered its order. Last, all further proceedings in district court are stayed pending the appeal.

In closing on jurisdiction, the take-away is that exceptions are rare. As a general rule, perfect jurisdiction before consider-
ing other aspects of the appeal. Unlike jurisdiction, though, Kansas appellate courts dealing with preservation do recognize some exceptions.

**Preservation**

In essence, preservation means that, for an appellate court to review an issue on appeal, a party needed to raise that issue before the district court. The preservation rule stems from K.S.A. 60-404, which states:

> A verdict or finding shall not be set aside, nor shall the judgment or decision based thereon be reversed, by reason of the erroneous admission of evidence unless there appears of record objection to the evidence timely interposed and so stated as to make clear the specific ground of objection.

In short, this statute requires a contemporaneous objection that notes the exact reason for the objection to preserve the issue for appeal.

In general, no matter whether civil or criminal, a proper objection at trial is a necessity to raise an evidentiary issue on appeal. Simply put, K.S.A. 60-404 prohibits an appellant from arguing that a witness’ testimony violated the rules of evidence when no objection was raised as to that particular testimony at trial. The purpose of the rule is to ward off improper evidence from the start.

This is preferable to an appellate court reversing further down the line when the district court could have conducted a fair trial, given the chance to keep improper evidence out.

Even when the district court rules on an evidentiary issue before trial, the moving party still must object when evidence related to that issue comes up during trial. If not done, the appellate court will decline to consider the merits of the issue. The preservation rule for motions in limine follows the general rule: when the district court denies the motion pretrial, the moving party must object to the evidence when first introduced at trial. This general rule still applies when the court reserves its ruling on the evidentiary issue. The moving party must object, restating the specific grounds for the objection, when the evidence is first presented. These same rules apply to both criminal and civil motions in limine.

For motions to suppress, in somewhat of a paradox, the Kansas Supreme Court has reasoned and so stated as to make clear the specific ground of objection.

related to the motion and should reassert the reasons provided in the motion to suppress while objecting.

Why is another objection needed at trial? The Kansas Supreme Court has reasoned that the purpose of the contemporaneous-objection rule is to afford the district court an opportunity to correct during trial any pretrial errors it made when ruling on the motion. In requiring a trial objection, the district court can thus avoid reversal on appeal by fixing an erroneous pretrial ruling if such a decision is warranted. Along with that reasoning, the Kansas Supreme Court has also reasoned that evidence comes in differently at trial; what the district court deemed valid grounds to deny a suppression motion before trial may change as the evidence unfolds at trial.

In the last few years, the Kansas Supreme Court has loosened the contemporaneous-objection rule for motions to suppress. After the district court denies a motion to suppress and conducts a bench trial on stipulated facts, the defendant need not lodge an objection during the “trial” because there is no opportunity. The suppression issue is preserved for appeal upon filing in that situation. Notably, no objection is required even when a different district judge presides over the bench trial on stipulated facts, even though he or she was not the judge who denied the motion to suppress in the first place.

The Kansas Supreme Court did not stop there. The Court has slightly relaxed the general rule for bench trials not on stipulated facts when presided over by the same judge that denied the motion to suppress. Constant objections throughout trial are not required. In State v. Spagnola, the district judge denied the defendant’s pretrial motions to suppress the drug evidence. The same judge presided over a bench trial, in which two witnesses testified. The defendant failed to object to any of the testimony related to drugs, but the defendant did object to the introduction of the physical drug evidence and the chemical lab report. The Supreme Court held that the defendant preserved the suppression issue. It reasoned that the defendant satisfied the purpose of the contemporaneous-objection rule by objecting to the introduction of physical evidence. In other words, the district judge saw how the evidence came in at trial and still declined to change the prior ruling. The judge, however, was at least given the opportunity to review the evidence and alter the past ruling.

Because it is true that “death is different,” the rules of preservation vary when it comes to death penalty cases. K.S.A. 21-6619(b) reads: “The supreme court of Kansas shall consider the question of sentence as well as any errors asserted in the review and appeal and shall be authorized to notice unassigned errors appearing of record if the ends of justice would be served thereby.” The Kansas Supreme Court interprets this provision as eliminating any evidentiary preservation issues in death penalty cases.
Different rules also pertain to ineffective assistance of counsel claims. In general, an appellate court will not consider an allegation of ineffective assistance of counsel raised for the first time on direct appeal. To support an ineffectiveness claim, the defendant ordinarily must develop the facts and present evidence of trial counsel’s ineffectiveness. As always, the district court is in the best position to assess claims which require a factual determination. For that reason, criminal defendants typically must utilize a K.S.A. 60-1507 motion to raise an ineffectiveness claim. But appellate courts do not foreclose all opportunities to argue ineffective assistance of counsel on direct appeal. Indeed, under the right circumstances, a Kansas appellate court will set aside the general rule and address an ineffectiveness claim on direct appeal.

Kansas appellate courts choose one of three options in handling an ineffectiveness claim raised for the first time on direct appeal. First, the court may decline to address the claim, in line with the general rule. The defendant may then follow the usual path of raising the claim under K.S.A. 60-1507. Second, the appellate court may send the case back down to the district court for a Van Cleave hearing. To warrant a Van Cleave hearing, appellate counsel must conduct at least some investigation into the claim, in an effort to justify with evidence that trial counsel acted ineffectively. Appellate counsel may not argue that the case was ineffectively handled based merely on the record. More specifically, in denying remand for a Van Cleave hearing, the Van Cleave court noted: “The defense [trial] attorney was not contacted nor was the prosecutor, which would seem to be the minimum investigation to lodge a charge of ineffective assistance of counsel.” Third, in extremely rare circumstances, the appellate court will consider the ineffectiveness claim on direct appeal if the record is sufficient without a Van Cleave hearing, but the claim’s merit must be obvious from the record.

Last but not least on preservation, there are exceptions. The Kansas Supreme Court recognizes three special situations which call for an exception to the general rule of preservation: “(1) The newly asserted claim involves only a question of law arising on proved or admitted facts and is determinative of the case; (2) consideration of the claim is necessary to serve the ends of justice or to prevent the denial of fundamental rights; or (3) the district court is right for the wrong reason.”

These three situations are interconnected with Supreme Court Rule 6.02(a)(5), which states, in relevant part: “If the issue was not raised below, there must be an explanation why the issue is properly before the court.” Without a doubt, the Kansas Supreme Court imposes this rule to its full effect. Appellate counsel cannot merely invoke an exception under one of the three situations. Rather, appellate counsel must explain exactly why the appellate court should find that one of the exceptions applies to that particular appeal. Absent a discussion of the underlying reasons for implementing an exception, an appellate court will decline to consider the issue on the merits, refusing to apply an exception and finding the issue unpreserved.

**Appellate practice tips**

Most Fridays, around 9:30 a.m., the Clerk of the Appellate Courts releases the Kansas Supreme Court and Court of Appeals published opinions. Later that same day, the Clerk releases the unpublished opinions. A quick review of those decisions reveals that our appellate courts dismiss many cases on procedural grounds. Below are some ways to prevent those procedural dismissals.

**Adequate appellate record**

The appellant must supply the appellate court with the record from which it will decide the case. When a district court makes rulings in a case, Supreme Court Rule 165 as well as K.S.A. 60-252 place a duty on the district court to make adequate findings of fact and provide sufficient reasoning in the conclusions of law. Even so, the real duty is on the soon-to-be appellants who bear the obligation of ensuring the district court made adequate findings of facts and conclusions of law. The soon-to-be appellant must object, either in writing or by actual objection in court, to the district court if they believe a ruling is inadequate. Otherwise, any issue related to the inadequate findings is not preserved for appellate review.

**Briefing errors**

An appellate court will not consider an issue never raised by either party, except for jurisdiction, as previously discussed. Further, an appellate court will not consider a point that is incidentally raised, deeming it waived or abandoned. For an appellate court to consider an issue, appellate parties must actually argue it; conclusory statements are not sufficient. Parties must lay out their arguments and supply authority in support. If there is no legal support, parties must argue why their position is viable despite a lack of supporting authority.

**Petitioning for review**

When petitioning for review of a Kansas Court of Appeals opinion, additional concerns arise. When an issue is not briefed before the Kansas Court of Appeals, it cannot be raised on review. The same goes for the actual petition for review: failure to raise an issue in a petition for review forecloses the issue from review by the Kansas Supreme Court. These rules apply equally to appellees, who must first cross-appeal the issue to the court of appeals if the appellant did not appeal that issue and then must cross-petition for review if such review is necessary and desired.
Proffer

To proffer evidence is to tell the court what you believe the evidence would be if allowed to present it. When a district court excludes arguably admissible evidence, trial attorneys must do more than object. To preserve an issue concerning the erroneous exclusion of evidence, the “party being limited by the exclusion of evidence must sufficiently proffer the substance of the evidence.” By proffering, the district court can make a fully informed decision about whether to permit the introduction of the proffered evidence. In addition, the appellate court has a record of the proffered evidence to determine whether the evidence was excluded in error. When a party fails to proffer, the lack of a proffer precludes appellate review. Still, the law demands a proffer only when the record would be inadequate without one. If the record is sufficiently developed without a proffer, none needs to be made.

Jury selection

Jury selection issues pose unique problems on appeal. A quick overview of jury selection is helpful in understanding why. “The purpose of voir dire is to enable the parties to select jurors who are competent and without bias, prejudice, or partiality.” Either party may challenge any prospective juror for cause. The district court may remove prospective jurors for cause when they cannot be impartial, among other paths to removal. A peremptory challenge permits a party to strike a prospective juror, without cause, believed to be partial to the other side.

Appellate courts are not concerned with the means used to convene an impartial jury. Instead, appellate courts are concerned only with whether an impartial jury was convened. So establishing error is insufficient to merit reversal. A showing of prejudice is also needed. The mere loss of a peremptory challenge does not constitute prejudice.

To establish prejudice when the district court refuses to strike for cause but the prospective juror was removed by peremptory challenge, defendants must show that they would have used the wasted peremptory challenge to strike an objectionable juror who served on the jury. In addition, to establish prejudice when a prospective juror challenged for cause sits on the jury, defendants must demonstrate that using a peremptory strike on that particular juror would have forced them to accept other objectionable jurors. Under either scenario, defendants must direct the appellate court to an objectionable juror who served on the jury because the district court erroneously forced them to use a peremptory challenge on another objectionable juror. By failing to do so, the appellate court will not find the prejudice required to reverse.

Conclusion

For every appeal, first ensure that jurisdiction exists. For every issue argued on appeal, ensure that the issue was preserved below. For unpreserved issues, argue for an exception, including why the exception applies in that particular case. For unique appellate issues, ensure that the procedures to raise those issues were followed. Only after all of this should the merits be addressed. Otherwise, any winning issue could be worthless. Following these procedures will allow the Kansas appellate courts to get to the merits of the appeal. When an appellate court gets to the merits, at the very least, there is a chance, and in many appeals, a chance is all an appellate attorney can really ask for.

About the Author

James Latta graduated from the Washburn University School of Law in 2017. During law school, he served as the Managing Editor on Volume 56 of the Washburn Law Journal. Immediately following graduation, James worked as a research attorney for the Hon. Thomas E. Malone of the Kansas Court of Appeals. Currently, he works for the Kansas Appellate Defenders. He would like to thank his mom, Debbie, and wife, Jasmine, for their support during this process, specifically for watching the children, Olivia and Hudson, while he worked.

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1. Antonin Scalia & Bryan A. Gardner, Making Your Case 3 (2008). My Appellate Practice professor at Washburn University School of Law, Sarah Warner, also instilled the necessity to first ensure there were no issues with jurisdiction when bringing an appeal. Also, Autumn Fox authored an excellent article that covers appellate issues nearly twenty years ago in this very journal. See Autumn Fox, Writing to the Kansas Appellate Courts: A Lesson in Appellate Jurisdiction, 69 J.K.B.A. 32 (Apr. 2000). This article covers many of the same issues, while updating the law and taking a more in-depth look at some of the same issues.

5. For an in-depth look at jurisdiction at the district court level, see Robert C. Casad, General Jurisdiction in Kansas, 76 J.K.B.A. 27 (Apr. 2007).
6. Kan. Const., Art. 3, § 6(b) (“The district courts shall have such jurisdiction in their respective districts as may be provided by law.”); K.S.A. 20-201 (“There shall be in each county a district court, which shall be a court of record, and shall have general original jurisdiction of all matters, both civil and criminal, unless otherwise provided by law, and also shall have such appellate jurisdiction as prescribed by law.”); K.S.A. 22-2601 (“Except as provided in K.S.A. 12-4104, and amendments thereto, the districts courts are courts of general jurisdiction.”).

7. Williams, supra note 4, 307 Kan. at 978–79.
10. Davila v. Vanderberg, 4 Kan. App. 2d 586, 588, 608 P.2d 1388 (1980) (“Here the trial court had personal jurisdiction over the plaintiffs; they subjected themselves to the trial court’s jurisdiction by filing their petition in that court.”).
11. Sleeth, supra, note 3.
16. Board of Sedgwick County Comm’rs, supra note 14, at 111.
19. K.S.A. 60-2102(a)(4). K.S.A. 60-2102(a) provides three other instances from which an appeal may be taken. First, a party may appeal an order dealing with a provisional remedy, K.S.A. 60-2102(a)(1). Second, a party may appeal from an order concerning an injunction, mandamus, quo warranto, or habeas corpus. K.S.A. 60-2102(a)(2). Third, a party may appeal an “order that appoints a receiver or refuses to wind up a receivership or to take steps to accomplish the purposes thereof, such as directing sales or other disposal of property, or an order involving the tax or revenue laws, the title to real estate, the constitution of this state or the constitution, laws or treaties of the United States.” K.S.A. 60-2102(a)(3).
23. NEA-Topeka v. U.S.D. No. 501, 260 Kan. 838, 843, 925 P.2d 835 (1996) (“If a party’s summary judgment motion is denied, the party must first proceed to trial before an appeal can be taken. Typically, a party can only appeal from a summary judgment if the trial court has granted the opposing party’s summary judgment motion.”).
24. Id.
30. See K.S.A. 60-254(b); Ullery, supra note 27, at 414.
31. See Prime Lending II v. Trolley’s Real Estate Holdings, 48 Kan. App. 2d 847, 854, 304 P.3d 683, 688 (2013) (“If the trial court properly retroactively certified its August 24, 2011, memorandum decision as a final judgment, then Trolley’s would have needed to file their appeal within 30 days from the August 24, 2011, memorandum decision.”).
32. See id.
33. K.S.A. 60-258.
34. Id.
35. K.S.A. 60-2103.
36. See Board of Sedgwick County Comm’rs, supra note 14, at 111 (“The time for filing a civil appeal is specified in K.S.A. 60-2103(a), which requires the appeal to be filed 30 days from the entry of judgment.”). To better understand how the appellate courts calculate the days, see K.S.A. 60-206, the computation of time statute.
37. K.S.A. 60-258.
38. Supreme Court Rule 2.03 (2018 Kan. S. Ct. R. 14–15) (“A notice of appeal that complies with K.S.A. 60-2103(b)—filed after a judge of the district court announces a judgment to be entered, but before the actual entry of judgment—is effective as notice of appeal under K.S.A. 60-2103 if it identifies the judgment or part of the judgment from which the appeal is taken with sufficient certainty to inform all parties of the rulings to be reviewed on appeal.”).
41. K.S.A. 60-2103(a).
42. Id.; K.S.A. 60-250(b), (d); K.S.A. 60-252(b); K.S.A. 60-259(b), (f).
44. See K.S.A. 60-2103(a).
45. Id.
46. Board of Sedgwick County Comm’rs, supra note 14, at 111.
47. See id. at 120 (abolishing the unique circumstances doctrine and dismissing an appeal as untimely, even though the untimeliness of the filing resulted from the district court’s erroneous action to purportedly extend the time to file an appeal).
48. See id.
49. See Resolution Trust Corp. v. Bopp, 251 Kan. 539, 539, 836 P.2d 1142, 1143 (1992) (“Supreme Court Rule 2.03 (1991 Kan. Ct. R. Annot. 6) validates a premature notice of appeal filed after a motion to alter or amend the appealed judgment but before the motion to alter or amend is denied.”); Ponds v. State, –––, Kan. App. 2d –––, ––– P.3d –––, slip op. at 14 (No. 119,057, filed February 8, 2019) (finding that a notice of appeal, filed after entry of judgment summarily denying a K.S.A. 60-1507 motion but while a timely motion for reconsideration was still pending, transformed into a valid notice of appeal once the motion for reconsideration was denied).
50. K.S.A. 60-2103(b).
51. Anderson v. Scheffler, 242 Kan. 857, 861, 752 P.2d 667 (1988) (“This court is without jurisdiction to hear the arguments of a party who was not named either directly or by inference in the notice of appeal.”).
53. See id. at 627–28.
55. Id.
56. Id.
60. Id.
62. K.S.A. 60-2103(b).
64. “Any appeal permitted to be taken from a district court’s final judgment in a criminal case shall be taken to the court of appeals, except in those cases reviewable by law in the district court or in which a direct appeal to the supreme court is required. Whenever an interlocutory appeal is permitted in a criminal case in the district court, such appeal shall be taken to the court of appeals.” K.S.A. 22-3601(a).
65. “Except as otherwise provided, an appeal to the appellate court having jurisdiction of the appeal may be taken by the defendant as a matter of right from any judgment against the defendant in the district court and upon appeal any decision of the district court or intermediate order made in the progress of the case may be reviewed. No appeal shall be taken by the defendant from a judgment of conviction before a district judge upon a plea of guilty or nolo contendere, except that jurisdictional or other grounds going to the legality of the proceedings may be raised by the defendant as provided in K.S.A. 60-1507, and amendments thereto.” K.S.A. 22-3602(a).
66. “When a judge of the district court, prior to the commencement of trial of a criminal action, makes an order quashing a warrant or a search warrant, suppressing evidence or suppressing a confession or admission an appeal may be taken by the prosecution from such order if notice of appeal is filed within 14 days after entry of the order. Further proceedings in the trial court shall be stayed pending determination of the appeal.” K.S.A. 22-3603.
68. See id. Board of Indigents’ Defense Services attorney and application fees are not part of the sentence. State v. Phillips, 289 Kan. 28, 30, 210 P.3d 93 (2009). When a district court has pronounced the sentence and all that remains is for it to assess or decline these fees, the fourteen-day clock is running and the defendant needs to appeal now.
69. Hall, supra note 67, at 988.
70. See Supreme Court Rule 2.03 (2018 Kan. S. Ct. R. 14–15); see also State v. James, No. 115,939, 2017 WL 3001358, at *1 (Kan. App. 2017) (unpublished opinion) (“But Rule 2.03 does not provide for a notice of appeal filed before the judgment is rendered. One can hardly claim the district court erred in a ruling it has not even made.”).
71. K.S.A. 22-3608(c); Hall, supra, at 983, 988.
72. See Hall, supra, at 983, 988.
75. Id. at 218–19.
76. K.S.A. 22-3602(a).
78. K.S.A. 21-6820(c).
81. See id.
82. K.S.A. 22-3210(c)(1).
83. K.S.A. 22-3210(c)(2).
84. K.S.A. 22-3601(b).
86. K.S.A. 22-3602(b).
88. Id.
91. K.S.A. 22-3603.
92. K.S.A. 22-3601(a).
93. K.S.A. 22-3603.
94. Id.
98. K.S.A. 60-404.
100. Id.
101. Dupree, supra note 97, at 62; Adamson, supra note 97, at 894.
102. Id.
103. Dupree, supra, at 62.
104. Id.
106. Id.; Adamson, supra note 97, at 894.
108. Id.
110. Id.
111. Id.
113. Id.
114. Kelly, supra note 107, at 594.
115. Spagnola, supra, at 1103.
116. Id.
117. Id. at 1101.
118. Id. at 1102–03.
119. Id. at 1102.
120. Id. at 1103.
121. Id.
122. Id.
123. See State v. Thurber, 420 P.3d 389, 434–35 (2018) (“For preservation purposes, it is unnecessary to parse the transcript to determine who made what objection when and on what basis. K.S.A. 2016 Supp. 21-6619(b) renders the State’s preservation argument meritless.”).
126. Id.
129. Id.
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130. Id. at 233–34.
131. Id. at 234. A Van Cleave hearing, named after State v. Van Cleave, 239 Kan. 117, 716 P.2d 580 (1986), is an evidentiary hearing before the district court to determine the effectiveness of the defendant’s trial counsel. Rowland, supra note 125, at 1084.
133. Id.
134. Van Cleave, supra note 131, at 120.
135. Reed, supra note 128, at 234 (citing Dull, supra, at 839).
139. Id.
140. Id.
141. Id.
145. K.S.A. 60-252(b).
146. See Fischer, supra, at 825.
147. Id.
148. See State v. Williams, 303 Kan. 750, 758, 368 P.3d 1065 (2016) (“But the parties have not raised those arguments and have thus abandoned them. We restrict our review to the arguments presented to us.”). See Berreth, supra note 87, at 117 (“We agree that appellate courts have a duty to question jurisdiction on their own initiative.”).
149. Friedman, supra note 12, at 643.
150. Id. at 233–34.
151. Id.
152. Id.
155. Id. at 172.
156. Id. at 161.
157. Williams, supra note 148, at 754.
158. See Proffer, BLACK’S LAW DICTIONARY (10th ed. 2014).
160. Id.
161. Id.
162. Id.
163. Id.
164. Id.
166. K.S.A. 22-3410(1).
170. Id.

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In-House Counsel Beware: Corporate Attorneys and the Practice of Law in Kansas and Missouri

by J. Nick Badgerow

I. INTRODUCTION AND OVERVIEW.

Corporate lawyers come to Kansas and Missouri companies from all over the country. Those lawyers bring a wide array of talents and expertise to their new employers, and help those employers to grow and succeed—while avoiding or mitigating legal liability. The services provided by in-house lawyers are as varied as the lawyers themselves and the needs and activities of the companies that employ them.

When lawyers take on employment with a company in Kansas or Missouri, they bring, along with their knowledge and expertise, their law licenses from other states. Some lawyers believe that, because they are consulting with constituents of their new employer in various states around the country, or even in other countries, and perhaps the corporate employer is based in another state, it is unnecessary for them to seek and obtain a license to practice law in their new state of residence, be that Kansas or Missouri, so long as they maintain their licenses in their originating state(s).

The purpose of this article is to explain that lawyers who work with and for a single corporate employer in these states, and who advise clients about matters of law in various states, must still (in most instances) be licensed to practice law in the states where they now find their offices – at least in Kansas and Missouri. Failure to do so may subject the lawyers to a claim of the unauthorized practice of law.

Fortunately, both Kansas and Missouri provide a procedure by which a lawyer licensed in another state may apply for a limited license to work for their single corporate employer (without taking the bar examination)—if the lawyer is otherwise qualified under the specific rules, which are discussed below.

This article also lists the requirements and procedures for making application for a limited, single-employer license in both states.
II. THE PRACTICE OF LAW IS A PRIVILEGE.

Most lawyers understand that the right to practice law in a particular jurisdiction is not a right, but a privilege. Kansas Supreme Court Rule 705(a) expressly provides that “[t]he practice of law is a licensed privilege, not a right.”

Similarly, the Missouri Supreme Court has held:

“...the ability to practice law is a privilege, accorded only to those who ‘demonstrate the requisite ... moral character.’ [In re] Haggerty, 661 S.W.2d [8] at 10 [(Mo. banc 1983)]." 2

Moreover, every lawyer is bound by Rule not to engage in the unauthorized practice of law. Notably, the Rule also prohibits a lawyer from assisting another lawyer in the unauthorized practice. This means that in-house supervising lawyers have a duty to ensure that all lawyers under their supervision are appropriately licensed to practice law by the applicable jurisdictions. See also, Rule 5.1(a):

(a) A partner in a law firm, and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a law firm, shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that all lawyers in the firm conform to the Rules of Professional Conduct.

Moreover, in most states, the unauthorized practice of law is a crime.

The legislature has also determined that the unauthorized practice of law is a danger to the people of Missouri. It has made the “practice of law” and engaging in “law business” by unlicensed individuals a misdemeanor.

§ 484.020.

III. WHAT IS THE “PRACTICE OF LAW?”

KANSAS.

The “practice of law” has not been specifically and definitively defined by statute in Kansas, and the definition must be gleaned from a series of cases, mostly arising from the work of suspended or disbarred lawyers who attempt to skirt the rules and continue unabated in practicing as a lawyer.

A general definition of the “practice of law” has been quoted with approval as follows: “‘As the term is generally understood, the “practice” of law is the doing or performing of services in a court of justice, in any matter depending therein, throughout its various stages, and in conformity to the adopted rules of procedure. But in a larger sense it includes legal advice and counsel, and the preparation of legal instruments and contracts by which legal rights are secured, although such matter may or may not be depending in a court.’” State ex rel. Boynton v. Perkins, 138 Kan. 899, 907-08, 28 P.2d 765 (1934) (quoting Eley v. Miller, 7 Ind. App. 529, 34 N.E. 836 (1893)).

Advising Kansas clients on legal matters is clearly the “practice of law” in Kansas.

This court has repeatedly recognized the actions of counseling and advising clients on their legal rights and rendering services requiring knowledge of legal principles are included within the definition of practicing law. State ex rel. Stovall v. Martinez, 27 Kan. App. 2d 9, 11-12, 996 P.2d 371 (2000).

MISSOURI.

The “practice of law” is defined as: ... the appearance in a representative capacity or the drawing of papers, pleadings or documents or the performance of any act in such capacity in connection with proceedings pending or prospective before any court of record, commissioner, referee or any body, board, committee or commission constituted by law or having authority to settle controversies. § 484.010.1. The “law business” is defined as: ... the advising or counseling for a valuable consideration of any person, firm, association, or corporation as to any secular law or the drawing or the procuring of or assisting in the drawing for a valuable consideration of any paper, document or instrument affecting or relating to secular rights or the doing of any act for a valuable consideration in a representative capacity, obtaining or tending to obtain or securing or tendering to secure for any person, firm, association, or corporation any property or property rights whatsoever. § 484.010.2. ... [T]he “practice of law” includes acts done both in and out of court. 12

Thus, while the Missouri statutes purport to define the terms “practice of law” and “law business,” that is not the boundary of the terms.

Because the judiciary is the “sole arbiter of what constitutes the practice of law,” Hulse v. Criger, 363 Mo. 26, 247 S.W.2d [855] at 857-58 [(1952)], such statutes merely act in aid of this Court’s regulation of the practice of law and cannot “supersede or detract from, the power of the judiciary to define and control the practice of law.” Id. Nonetheless, this Court has used these statutory definitions of the “practice of law” as a reference point for determining the scope of the practice of law. See, e.g., id.; Eisel v. Midwest BankCentre, 230 S.W.3d 335, 338 (Mo. banc 2007).

Advising clients on matters of law and legal interpretation constitutes the practice of law. Consulting with clients “for
the purpose of advising them of their rights and the action to be taken concerning them, is engaging in the practice of law.”

In addressing a particular lawyer-respondent’s conduct, the Missouri Supreme Court stated:

[He has engaged in] advising members of the public as to their rights under the Workmen’s Compensation Law including the evaluation of their claims, legally and otherwise, and he has regularly negotiated and brought about, through his advocacy, compromise settlements of a multitude of such claims. This can be nothing other than the practice of law.\(^\text{16}\)

IV. WHAT ABOUT THE PRACTICE OF “FEDERAL LAW”?

A lawyer may practice exclusively in the area of law reserved to federal law, such as bankruptcy, patents or immigration. If a lawyer’s practice in Kansas or Missouri is expressly limited solely to an area of federal law, and not involved in any way in state law, that individual may consider proceeding without a license in their state of residence.

KANSAS.

Kansas’ Rule on the unauthorized practice includes a provision found in the Model Rules, which provides a “federal law” exception.

(d) A lawyer admitted in another United States jurisdiction or in a foreign jurisdiction, and not disbarred or suspended from practice in any jurisdiction or the equivalent thereof, may provide legal services through an office or other systematic and continuous presence in this jurisdiction that: . . .

(2) are services that the lawyer is authorized by federal law or other law or rule to provide in this jurisdiction.\(^\text{17}\)

Under this Rule, a lawyer whose practice is exclusively limited to an area reserved for federal practice need not be licensed in the state where s/he practices.\(^\text{18}\)

MISSOURI.

The Missouri Supreme Court did not adopt the “federal law” exception to the unauthorized practice found in Rule 5.5 of the Model Rules. However, a state’s inherent power to govern the practice of law within its borders may be preempted by federal law, applied to one who restricts his/her practice to an area of law reserved to the federal government.\(^\text{19}\) Indeed, the United States Supreme Court, in \textit{Sperry}, specifically held that “The State maintains control over the practice of law within its borders except to the limited extent necessary for the accomplishment of the federal objectives.”\(^\text{20}\) The Court further noted:

A State may not enforce licensing requirements which, though valid in the absence of federal regulation, give the State’s licensing board virtual power of review over the federal determination that a person or agency is qualified and entitled to perform certain functions, or which impose upon the performance of activity sanctioned by federal license additional conditions not contemplated by Congress.\(^\text{21}\)

The \textit{Sperry} decision “stands for the general proposition that where federal law authorizes an agent to practice before a federal tribunal, the federal law preempts a state’s licensing requirements to the extent that those requirements hinder or obstruct the goals of federal law.”\(^\text{22}\)

In any event, to avail oneself of this privilege (by statute or common law), the lawyer’s practice must be exclusively limited to an area of federal law, and this means that the lawyer may not practice “primarily” in a federal law area, while advising clients on other matters outside that area.\(^\text{23}\)

V. RESTRICTED LICENSE FOR IN-HOUSE LAWYERS.

The \textit{Model} Rules of Professional Conduct allow an in-house lawyer to work in a state where s/he is not licensed under certain circumstances. Rule 5.5(d), \textit{Model} Rules of Professional Conduct, provides:

\begin{itemize}
  \item[(d)] A lawyer admitted in another United States jurisdiction or in a foreign jurisdiction, and not disbarred or suspended from practice in any jurisdiction or the equivalent thereof, or a person otherwise lawfully practicing as an in-house counsel under the laws of a foreign jurisdiction, may provide legal services through an office or other systematic and continuous presence in this jurisdiction that:
  \begin{itemize}
    \item[(1)] are provided to the lawyer’s employer or its organizational affiliates, are not services for which the forum requires pro hac vice admission; and when performed by a foreign lawyer and requires advice on the law of this or another U.S. jurisdiction or of the United States, such advice shall be based upon the advice of a lawyer who is duly licensed and authorized by the jurisdiction to provide such advice; or
    \item[(2)] are services that the lawyer is authorized by federal or other law or rule to provide in this jurisdiction.
  \end{itemize}
\end{itemize}

However, both Kansas\(^\text{25}\) and Missouri\(^\text{26}\) have added a provision to this Rule, requiring a limited license for in-house lawyers, and thus strongly constrain the exception provided in the Model Rule.
Thus, if an in-house lawyer is engaged in the practice of (general and not federal) law in Missouri or Kansas while employed by a single non-law firm employer, such as a corporation, s/he must be licensed to practice in the state where s/he is practicing.

KANSAS.

Kansas Rules provide for special reciprocal and limited admission of an attorney employed by a single employer, e.g. a corporation, where that lawyer is licensed to practice law in another state.27 The conditions for such an admission are:

(a) the applicant was duly admitted to and continuously licensed for the practice of law upon written examination in another state;

(b) the applicant has accepted or intends to accept or continue employment by a person, firm, association, corporation, or accredited law school engaged in business in Kansas other than the practice of law;

(c) the applicant’s full time is, or will be, limited to the business of such employer,

(d) the applicant receives, or will receive, his or her entire compensation from such employer for the rendering of services, which include legal services.

If a lawyer satisfies these requirements, s/he must:

(a) file a completed application within ninety days of the beginning of employment;

(b) be fully qualified to take the written bar examination in Kansas;

(c) have satisfied all applicable continuing legal education requirements state where licensed;

(d) be a person of good moral character;

(e) be currently mentally and emotionally fit to engage in the active and continuous practice of law;

(f) be in all respects a proper person to be granted a restricted license to practice law; and

(g) have never failed a Kansas bar examination.28

To emphasize, the lawyer MUST apply for this restricted, single-employer license within ninety days of the beginning of the Kansas practice employment. A number of lawyers discover this provision after the passage of ninety days — to their regret. This involves petitioning the Court for permission to apply out of time, a discretionary matter at best.

MISSOURI.

The Missouri Supreme Court Rules similarly have a special provision for in-house counsel.

(a) A lawyer admitted to the practice of law in another United States jurisdiction, or who is a foreign lawyer, may receive a limited license to practice law in this state if the lawyer:

(1) Is employed in Missouri as a lawyer exclusively for: a corporation, its subsidiaries or affiliates; an association; a business; or a governmental entity and the employer’s lawful business consists of activities other than the practice of law or the provision of legal services; (2) Was conferred a first professional degree in law (J.D. or LL.B.) by a law school that at the time of the lawyer’s graduation was approved by the American Bar Association; (3) has filed such application forms as prescribed by the board and paid the prescribed fee, which is non-refundable; and (4) receives the approval of the board.29

There is no provision requiring the application to be made within a specified time after beginning employment as a lawyer for a single employer in Missouri, but it is strongly recommended that the application be made as promptly as possible at or before the time of taking up the in-house employment.

VI. ALTERNATIVES TO APPLYING FOR A RESTRICTED IN-HOUSE LICENSE.

If the subject lawyer is employed by a single corporate employer without a license in the state where the lawyer practices, there are a number of alternatives to applying for the restricted, single-employer license. These include the following, presumably none of which is too palatable:

(a) the lawyer’s employment could be terminated or the lawyer could resign his/her employment. This would avoid future issues, but would not mitigate the period of unauthorized practice during the period before that termination/resignation.

(b) the lawyer could cease practicing law in Kansas or Missouri, either by moving out of the state or changing job roles, duties and relationships. This latter step could be a change to paralegal or legal assistant, under the direct supervision of a Kansas-licensed or Missouri-licensed lawyer, and not conferring with or giving direct legal advice to Kansas/Missouri clients. This could avoid future issues, but again would not mitigate the period of unauthorized practice during the period before that job change.
(c) the lawyer could apply either for reciprocity (not limited to a single employer).  
(d) the lawyer could apply to for admission through the bar examination.

In applying for admission either by reciprocity or the examination, the same character and fitness examination would occur, including inquiry into the applicant’s unauthorized practice of law.

VII. PROCEDURE TO APPLY FOR RESTRICTED IN-HOUSE LICENSE.

Assuming then that the decision is made for the lawyer to apply for a restricted license as in-house, single-employer attorney, the following discussion outlines the procedure in each state.

KANSAS.

The applicant must submit:

(a) A verified application within 90 days of beginning the employment;

(b) a written certificate from the authority charged with the administration of discipline in each jurisdiction in which the applicant holds a license to practice law, certifying that the applicant is in good standing, has not been disciplined by such jurisdiction for violations of the Code of Professional Responsibility, Kansas Rules of Professional Conduct or any other ethical standards therein applicable, and that there are no complaints of such violations then pending against the applicant;

(c) where required by the rules of such jurisdictions, a written certificate from the authority charged with the administration of continuing legal education in the jurisdictions in which the applicant has been admitted to practice, certifying that the applicant has satisfied the continuing legal education requirements of such jurisdictions for any required years prior to making application in Kansas;

(d) a written certificate from the employer of such applicant evidencing the applicant’s employment by such employer and that his or her full-time employment will be by such employer in Kansas; and

(e) not less than three affidavits, on forms to be supplied by the Clerk of the Appellate Courts, from responsible persons attesting that the applicant is a person of good moral character, or such other evidence of character as shall be satisfactory to the office of the Disciplinary Administrator, the Review Committee, or the Board; and

(f) such other and further information as the office of the Disciplinary Administrator, the Review Committee, or the Board may require in the consideration of the application.

The application must be accompanied by a filing fee of $1,250.00.

The applicant then will undergo a character and fitness investigation, the same as any applicant for admission to the Kansas bar.

MISSOURI.

Missouri Supreme Court Rule 8.105(a) provides as follows:

(a) A lawyer admitted to the practice of law in another United States jurisdiction, or who is a foreign lawyer, may receive a limited license to practice law in this state if the lawyer:

(1) Is employed in Missouri as a lawyer exclusively for: a corporation, its subsidiaries or affiliates; an association; a business; or a governmental entity and the employer's lawful business consists of activities other than the practice of law or the provision of legal services;

(2) (A) Is a lawyer admitted in another United States jurisdiction and has been conferred a first professional degree in law (J.D. or LL.B.) by a law school that at the time of the lawyer's graduation was approved by the American Bar Association; or

(B) Is a foreign [i.e. non-USA] lawyer and is a member in good standing of a recognized legal profession in a foreign jurisdiction, the members of which are admitted to practice as lawyers or counselors at law or the equivalent and subject to effective regulation and discipline by a duly constituted professional body or a public authority;

The procedure for applying for this restricted license is as follows:

(a) submit a completed and verified form;

(b) pay the required fee of $1,240.00.
(c) file documents proving admission to practice law and current good standing in all jurisdictions, United States and foreign, in which the lawyer is admitted to practice law;

(d) file an affidavit from an officer, director, or general counsel of the employing entity attesting to the lawyer’s employment by the entity and the capacity in which the lawyer is so employed, and stating that the employment conforms to the requirements of the Rule;

(e) undergo a character and fitness investigation.38

VIII. WHAT HAPPENS WHILE THE APPLICATION IS PENDING?

Once the in-house lawyer has applied for a limited single-employer license to practice law in Missouri or Kansas, may the lawyer continue with that employment until the application is ruled upon?

KANSAS.

Kansas Rules allow an applicant for limited, single-employer admission to resume the practice during the pendency of the application, under certain stringent conditions. Rule 712(b) provides:

(b) Subsequent to filing the completed application and pending issuance of the restricted license, an applicant may engage in the business of his or her employer, including legal services, if an attorney actively engaged in the practice of law in Kansas agrees, in writing, to supervise and be responsible for the acts of the applicant during that interim period. A restricted license granted under the provisions of this rule shall remain in effect for so long as such person remains in the employ of, and devotes his or her full time to the business of, and receives compensation for legal services from no source other than such employer. Upon the termination of such employment, the right of such person to practice law in Kansas shall terminate unless he or she shall have accepted like employment with another Kansas employer. Persons granted a restricted license under this rule shall be subject to all of the rules for practice in this state, including the requirements for continuing legal education.39

Thus, once the in-house lawyer as filed his/her application for a restricted single-employer license to the Kansas Board of Law Examiners, the applicant may continue to practice if a Kansas licensed attorney agrees, in writing both to supervise and be responsible for the acts of the applicant during the period during which the application is under review. This can often be provided by a general counsel or other in-house lawyer if that lawyer is duly licensed and in good standing in Kansas. There is no requirement to submit to the Court an application or the supervising lawyer’s written statement for this continued practice.

MISSOURI.

Missouri’s Rules do not contain a similar provision. Instead, the applicant must separately apply for a temporary permit to practice law (for a period not to exceed one year) while his/her application under Rule 8.105 is pending.40 The applicant must be duly licensed to practice law in another state, and must file an application41 identifying a Missouri licensed lawyer who agrees to supervise and be responsible for the applicant42 and attaching a statement from the supervising attorney agreeing to the specified supervision.43 The fee is $100.45

IX. CONCLUSION.

In-house lawyers should be aware that they are likely required to be licensed to practice law in the state where they practice, even if employed as an in-house lawyer for a corporation. General counsel should also be aware of these requirements, and advise incoming lawyers about these requirements, so that the incoming lawyer avoids engaging in the unauthorized practice of law and so that employing counsel avoid assisting in that unauthorized practice.

About the Author

J. Nick Badgerow is a trial-lawyer partner with Spencer Fane LLP in Overland Park, Kansas. For thirty years, he served as Chairman of the Johnson County Bar Ethics and Grievance Committee. He is Chairman of the KBA Ethics Advisory Opinion Committee; he was a member of the Kansas Judicial Council for 23 years, including Chairman of the Council’s Civil Code Advisory Committee and Antitrust Law Committee; he served as Chairman of the Kansas Ethics 2000 Commission and the Kansas Ethics 2020 Commission; and he was a member of the Kansas Supreme Court-KBA Joint Commission on Professionalism. For sixteen years, Nick was a member of the Kansas State Board of Discipline for Attorneys. He is the Editor and a co-author of the KBAs Ethics Handbook, Third Edition (2015).

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in-house counsel beware

1. Rule 705(a), Rules of the Kansas Supreme Court (hereinafter "Kansas Rules"). See also, State v. Phelps, 226 Kan. 371, 381, 598 P.2d 180 (1979)("The practice of law is a privilege rather than a right").
2. In re Donaho, 98 S.W.3d 871, 874 (Mo. 2003).
3. Rule 5.5(a), Rules of the Kansas Supreme Court (hereinafter "KRPC"); Rule 4-5.5(a), Missouri Supreme Court Rules (hereinafter "Missouri Rules").
5. See, e.g., In re Lerner, 197 P.3d 1067 ( Nev. 2008); In re DuBre, 656 S.E.2d 343 (S.C. 2007).
6. Rule 5.1(a), KRPC; Rule 4-5.1(a), Missouri Rules.
16. Hoffmeister v. Tod, 349 S.W.2d 5, 16 (Mo. 1961).
17. Rule 5.5(d)(2), KRPC.
19. Sperry v. Florida ex rel. Florida Bar, 373 U.S. 397 (1963)(states may not restrict nonlawyers licensed to practice before U.S. Patent Office from engaging in practice authorized by federal law, even if those activities would represent the unlicensed practice of law under the law of the state); Augustine v. Dept of Veterans Affairs, 429 F.3d 1334 (Fed. Cir. 2005) (federal law governs whether lawyer not licensed in state may represent claimant and recover fees in a federal administrative proceeding).
20. Sperry, supra, 373 U.S. at 402 (emphasis supplied).
21. Id. at 385 (citations and footnotes omitted). See also, Benninghoff v. Superior Court, 38 Cal. Rptr. 3d 759 (Cal.Ct.App. 2006)(state had no jurisdiction over lawyer's federal practice, although state had barred lawyer from practicing law in the state).
22. Sperry v. Killion, 449 F.3d 520, 530 (3d Cir. 2006) (emphasis supplied); see also In re Desilets, 291 F.3d 925, 930 (6th Cir. 2002) (holding, in unauthorized practice of law case, that “[w]hen state licensing laws purport to prohibit lawyers from doing that which federal law entitles them to do, the state law must give way.”).
25. Kansas' version of Rule 5.5(d) adds "and otherwise complies with Kansas Supreme Court Rule 712" (discussed below). Rule 5.5(d)(1), KRPC.
26. Missouri's version of Rule 5.5(d) adds the following to section (d): “if the lawyer has obtained a limited license pursuant to Rule 8.105 or a general license pursuant to other provisions of Rule 8.” Rule 4-5.5(d), Missouri Supreme Court Rules.
27. Rule 712(a), Kansas Rules.
28. Id.
29. Rule 8.105(a), Missouri Rules.
30. Rule 708, Kansas Rules; Rule 8.10, Missouri Rules.
31. Rule 709, Kansas Rules; Rule 8.08, Missouri Rules.
32. Rule 721(d), Kansas Rules; Rule 8.11, Missouri Rules.
34. Rule 704(a)(6), Kansas Rules.
35. Rules 712(d), 721(a), and 707, Kansas Rules.
36. Missouri instructions and forms are found at: https://www.mble.org/browseform.action?applicationId=5&formId=1.
37. Rule 4-5.1, Missouri Rules.
38. The Missouri application for a character and fitness investigation is found at: https://www.mble.org/browseform.action?applicationId=5&formId=1.
39. Rule 712(b), Kansas Rules (emphasis added).
40. Rule 8.06(a), Missouri Rules.
41. The Application Form is found at: https://www.mble.org/browseform.action?applicationId=8. And see, Instructions at: https://www.mble.org/appinfo.action?id=7.
42. Rule 4-5.1, Missouri Rules.
43. Rule 8.06(c). The Statement of Supervising Attorney form is part of the Application Form for Temporary Permit. https://www.mble.org/getpdfform.action?id=17.
Law professionals in Kansas can participate in the pro bono community through clinics, posted projects, or by volunteering to take on specific cases displayed on the site. Opportunities are regularly updated by Pro Bono Coordinators in the 11 statewide KLS field offices.

Please check back often for new and exciting ways to put your skills, experience and training to good use by helping your fellow Kansans.
Traditions of Our Honorable Pursuit

by Peter B. Semegen

The last semester of law school is a transitory phase. I eagerly anticipate practice as much as I am wistful of my time at KU Law. The transition bestows a certain perspective. Beyond the subject material, I’ve begun to understand what it means to be a lawyer. More so, I’ve learned what that means from the honorable members of our community. In reminiscing, I’d like to share a few of these experiences. They are worth remembering because they demonstrate attorneys’ character, highlight the importance of our work and serve as models to guide us in practice.

I was honored to participate in the Kansas Supreme Court Research Practicum at KU taught by Professors Christopher Steadham and Blake Wilson. My professors gave me the guidance and confidence to research, write and present at the highest levels. Observing the Court in session highlights their deep critical thinking and professionalism. After staying late to hear further arguments, the Justices still treated us to lunch. They were gracious, genuinely interested to speak with us and even posed with us for a photograph. Justice Johnson joked he was intentionally put behind the tallest guy (I’m 6’8”), but they never made me feel small—despite their well-earned legal stature. The experience taught me a member of our profession exhibits grace and humility, even at the highest levels.

With the Douglas County Legal Aid Society, I interned under the supervision of Professors Meredith Schnug and Melanie DeRousse. I sharpened my advocacy skills in court hearings and negotiations while helping the underserved. Just standing alongside clients alleviates their burden. Sometimes people don’t have anyone to guide them. I saw just how lonely that position can be. I also saw how much we, as zealous representatives, can transform that situation. The Douglas County Legal Aid Society, Meredith Schnug and Melanie DeRousse exemplify commitment towards public interest and community lawyering. I now understand the need and the means by which advocates create transformations in clients’ lives.

This semester, I am participating in KU Law’s Volunteer Income Tax Assistance Program, in large part from my desire to serve the community. The tax code is, at times, a maze of complex rules and regulations. This can be especially true for individuals and businesses with little prior experience. Attorneys expertly guide clients to the best available outcomes. From my Personal and Business Taxation classes with Dean Mazza,
I know how to ethically utilize the tax code to optimize the economic position of clients. Our profession utilizes complex skill sets to grow businesses, jobs and the economy.

As in business, the law constantly evolves from internal and external forces. The Information Age has changed the business landscape. To best serve clients, an attorney should keep abreast of changes in the law, in new technology, and should engage in continuing study.1 The law is poised to face great technological change with Artificial Intelligence.2 In Legal Analytics with Professor Torrance, I learned how to utilize the latest information technology, dissect technical data and use data analysis to persuasively advocate. I now know our responsibility to clients requires life-long commitment. That commitment adapts to account for rapid change stemming from technology, new legislation, changing interpretation of the law and societal trends.

The law is a serious matter, but attorneys do not take themselves so seriously. Despite the good-natured, and sometimes malicious ridicule, popular culture’s image of an attorney is misguided. Television shows such as “Better Call Saul” depict lawyers committing fraud to serve their own interests.3 The attorneys on “Suits” are more interested in the latest party or convertible than their clients.4 Then there is the plethora of lawyer jokes.5 The legal community takes these slights graciously because it is confident in its character. Attorneys place the interests of clients above their own despite obstacles, impediments, and their own contrary interests.6 The bar is comprised of unwavering professionals who value honor, knowledge, work ethic and results.

My job after passing the bar is uncertain. Whether I am advocating criminal or civil actions, facilitating business as a transactional attorney, or working for the government, I know I’ve chosen the right career. My certainty comes through understanding the virtuous path attorneys walk. They exhibit great character evidenced by the extent their deeds benefit individuals, businesses and the community. After what I have witnessed, for me, there can be no other profession.

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**About the Author**

Peter B. Semegen is a third year student at KU Law. He earned undergraduate degrees in Business Administration-Finance and Economics at the UMKC. He endeavors to practice law in the legacy of his father, Patrick W. Semegen, an honorable member of the Bar for over thirty years.

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1. KRPC 1.1 cmt. 8.
2. See generally, Daniel Martin Katz, Quantitative Legal Prediction—or-How I Learned to Stop Worrying and Start Preparing for the Data-Driven Future of the Legal Services Industry, 62 Emory L.J. 909 (2013) (describing the reasons why AI will transform law and predicting the effect on the legal services industry).
4. Aaron Korsh, Suits: Skin in the Game (USA television broadcast July 12, 2017) (showing a lawyer cruising in a classic Ferrari and enlisting runway models to appear at a function for a client).
5. See, e.g., Lawyers Weekly, World’s best (and worst) lawyer jokes (April 21, 2010), https://www.lawyersweekly.com.au/folklaw/6045-world-s-best-and-worst-lawyer-jokes (mentioning a deceased lawyer protesting to St. Peter he was too young to die at 55 and St. Peter retorting their records indicate his age as 82 by adding up the lawyer’s time sheets).
6. See KRPC Rule 1.3 cmt. 1.
Members in the News

New Positions

William Dakan has joined the law firm of Depew, Gillen, Rathbun & McInteer, LC, in an “of counsel” capacity.

Roger L. Falk has merged his solo practice—Law Office of Roger L. Falk PA— with the larger statewide firm of Joseph, Hollander and Craft LLC. Falk is a graduate of Washburn University and Washburn University School of Law; he is admitted to practice in all Kansas state and appellate courts as well as before the U.S. District Court for the District of Kansas, the 10th Circuit Court of Appeals and the U.S. Supreme Court. Falk has also served as a municipal court judge and as a municipal court judge pro tem.

Jennifer Harper has assumed the new position of Assistant District Attorney for the 27th Judicial District (Reno County). She previously was a Deputy Sumner County Attorney. Harper graduated from Washburn School of Law. In her new position, Harper will handle the juvenile, child-in-need-of-care, and care and treatment for substance abuse/mental illness caseload.

Kurt Harper has joined the firm of Depew, Gillen, Rathbun & McInteer, LC, in an “of counsel” capacity.

Kimberly Rodebaugh was appointed to succeed the outgoing Senior Assistant District Attorney in Reno County, Daniel Gilligan, who was appointed as a Magistrate Judge earlier in the year. Rodebaugh was an Assistant U.S. Attorney in Wichita and the legal instructor at the Kansas Law Enforcement Training Center. She’d also served as an Assistant Lyon County Attorney and an Assistant Sedgwick County District Attorney. A graduate of Washburn University School of Law, Rodebaugh will handle the general felony caseload, including violent person crimes.

Leonard B. Rose and Greer S. Lang have been added as partners in the Lewis Brisbois Kansas City, Missouri office. Rose has over five decades of experience and a well-earned reputation as an exceptional litigator. He’s been selected by peers as “Dean of the Trial Bar” and “Best of the Bar.” Rose’s practice focuses on commercial litigation; banking and finance, and personal injury matters. Lang represents clients in both litigated and non-litigated complex commercial and business-related disputes in state and federal courts, at both the trial and the appellate court level. Lang earned her law degree from Washburn University. She has nearly three decades of experience and has been featured as a Missouri/Kansas Super Lawyer and was named by the National Law Journal as one of the Top 50 Litigation Trailblazers in 2015.

Travis J. Ternes became a partner with Watkins Calcara, Chtd. of Great Bend, Kan., late last year.

Kristen Zacharias has joined the law firm of Newbery, Ungerer and Hickert LLP as an associate. Her practice will focus on estate planning, probate and trust administration, commercial real estate law, business law and tax planning. Zacharias received her law degree from Washburn University School of Law.

NOTE: Members in the News items are largely gleaned from newspaper articles from across the state, provided by our clipping service. If there are questions or concerns regarding information printed here, please feel free to inquire through the following email: editor@ksbar.org
New Locations

**Lewis Brisbois** announced this month that it now has 50 locations across 27 states, including one in Wichita and one in Kansas City. The landmark was achieved as the firm approaches its 50th anniversary. It has opened eight new offices in the past six months—six since the start of 2019. Its most recent office is in Savannah Georgia.

**Stacey Jansen** has moved her practice to St. Louis-headquartered Sandberg Phoenix & von Gontard P.C., bringing more than 25 years of experience in elder law, estate planning, special needs planning, trust litigation, social security disability, patients’ rights, Medicaid, Medicare on behalf of families, senior citizens and clients with special needs. A graduate of the University of Kansas School of Law, she earlier served with Kansas Legal Services for 11 years where she was a Senior Citizen Law Project Coordinator and Elder Law Hotline Administrator.

Swanson Midgley LLC and Slagl, Mernard & Gorman LLC merged on Jan. 1, 2019 to become Swanson Bernard LLC. The newly unified practice leverages the strengths of two Kansas City-based firms to offer greater scope, scale and depth of expertise. Its attorneys will advise and support clients through a wide range of services from commercial litigation to succession planning, asset protection to fiduciary services, business planning to employment counseling, business transactions and real estate to insurance. The firm is located at 4600 Madison Ave., Ste 600, Kansas City, MO 64112.

Notables

**Bob Farmer**, longtime city attorney for Fort Scott, Kan., tendered his resignation to the Ft. Scott City Commission early in March, indicating his intent to resign as of March 30. Farmer has served Ft. Scott in that capacity for 45 years.

**Hinkle Law Firm LLC** was briefly profiled in the Wichita Business Journal because of its sponsorship of the WBJ’s 2019 class of HR professional honorees. For more than 30 years, the Hinkle employment law and employee benefits attorneys have worked with HR professionals in Wichita to proactively prevent office problems and to successfully and positively address those problems when they arise. The law firm used the profile to recognize and honor HR professionals in general, and the 2019 honorees specifically.

**Kellie Hogan** is an attorney for Kansas Legal Services who coordinates the Wichita Bar Association’s “Grow Your Own Lawyer.” The program started in 1996 and recently announced its two winning participants for this year. Participants will have the opportunity to hear oral arguments before the Kansas Supreme Court and join the justices and judges for lunch. They will also tour local courts and the D.A.’s office, and meet other local legal professionals.

The Kansas State Task Force on Lawyer Well-Being was formed in response to the National Task Force on Lawyer Well-Being formed by the ABA in 2016. KALAP will coordinate the task force's efforts to implement national recommendations. Members of the Kansas Task Force include: Justice Eric Rosen (who will serve as the Supreme Court’s representative on the task force), Lou Clothier (KALAP executive director), Steve Grieb (General Counsel to Chief Justice Lawton Nuss), Anne McDonald (retired KALAP executive director) and Penny Moylan, deputy disciplinary administrator from the Office of the Disciplinary Administrator.

**Joslyn Kusiak** of Independence has been selected to succeed William Kelly as Municipal Court Judge for the City of Neodesha. Kusiak received her law degree from Washburn University School of Law where she served as staff editor for the Washburn Law Journal. Kusiak spent three years practicing law in Wichita before returning to Independence to join the established law practice of William J. Kelly. Her legal practice focuses on estate planning and administration, business formation and consulting, and civil litigation. She is very active in the community and in her profession.

**Eric T. Mikkelson**, a partner in the Corporate Finance Practice Group of Stinson Leonard Street LLP began serving as the twelfth Mayor of the City of Prairie Village on January 14th. Mikkelson, previously a city counselor, received 68 percent of the votes cast in the contested nonpartisan election.

**Kevin M. McMaster**, a Wichita attorney with the firm of McMaster & McMaster whose practice focus is business law and civil litigation, has become a member of the National Faculty of the NBOME (National Board Of Osteopathic Medical Examiners), Department of Preventive Medicine and Health Promotion – Division of Medical Ethics, Jurisprudence, and Professionalism.

**Dan Monnat** of Monnat & Spurrier, Chartered, has been named by Who’s Who Legal as one of the world’s leading practitioners in the Investigations sector for the third consecutive year. Who’s Who Legal collaborates annually with Global Investigations Review to identify the world’s leading lawyers, forensic accountants and digital forensics experts who assist companies and individuals under investigation by regulatory or law enforcement agencies.

**Otis Morrow** was recognized in February for his 43 years of service as Arkansas City’s hospital attorney. Morrow first became City Attorney in 1975 and remained in that position for 30 years. Even after his tenure in that office came to an end, he continued his work with the hospital, collaborating with 13 different hospital chief administrators over the years. Morrow received his law degree from Washburn University School of Law and worked for a large firm in Chicago for a brief time before returning to Ark City. Morrow was lauded for his excellence in serving the hospital and the city, and for
being instrumental in keeping the local hospital going at a time when others are having to shutter their doors.

**The Rebein Brothers Law Firm** has been selected for recognition by U.S. News and World Report as one of the Best Law Firms. Only one firm per practice area within each metropolitan region is eligible for this honor. **David Rebein** had previously been named one of the country’s best lawyers for 12 consecutive years.

**The Hon. Meryl Wilson**, Chief Judge of the 21st Judicial District, wrote a letter of recommendation that enabled the Clay County Museum to house a traveling exhibit on the Magna Carta for the month of February. The exhibit is sponsored by the Kansas Attorney General’s office and most of the costs of securing the exhibit were covered by the A.G. and by the KBA. The push to bring the exhibit to Clay Center began with Robin Thurlow, a local businesswoman.

**Gaten T. Wood**, Barber County Attorney, was named by then-Governor Jeff Colyer to serve as a commissioner on the **Kansas Commission on Peace Officers’ Standards and Training (KS-CPOST)**. Wood, who also serves on the Best Practices Committee for the Kansas County and District Attorney’s Association will review law enforcement training standards and hiring practices, recommend continuing and advanced education for department heads, and address ethical and moral behaviors or deficiencies of certified law enforcement offices in Kansas.

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**Obituaries**


William H. “Bill” Dye age 82, a lifelong Wichita resident, passed away on February 13, 2019 at home surrounded by love. He was born February 27, 1936. He was proud to be an East High Blue Ace and was a member of the Delta Upsilon Fraternity at the University of Kansas where he graduated with a BA in political science. He was in the United States Army and then continued to University of Kansas School of Law. He enjoyed a long career as an attorney at Foulston Siefkin, LLP from which he retired in 1996. He was a long-standing member of the Kansas Bar Association, and he served as president in the 1976. He is preceded in death by his wife of nearly 30 years, Margaret; his parents, Marion and Hubert Dye; his sister, Jessica Evers; and his brother, Hubert Dye, Jr. He is survived by his children, Dianna Dye Balanoff (Aaron) of Carmel, IN and Darcy Dye DeVincie (Tom) of Plymouth, MN; and Pauline Dye, their mother; and 5 grandchildren. In addition, he is survived by his stepchildren, Stan Diskin (Nancy) and Mark Diskin (fiance, Vicki) both of Wichita and Debbie Hillman (John) of Cheney. He had 5 step-grandchildren and 4 step-great-grandchildren. Celebration of life was held at St. James Episcopal Church on Friday, February 22. Memorials include Music Theater of Wichita, 225 W. Douglas Ave #202, Wichita, KS 67202; St. James Episcopal Church, 3750 E. Douglas, Wichita, KS 67208; and Interim Hospice, 9920 E. Harry St., Wichita KS 67207. Bill enjoyed good friends, good music and a good glass of Scotch! May his memory be a blessing. Downing & Lahey East Mortuary. Share tributes online at: www.dlwchita.com

Larry E. Keenan, 89, of Great Bend, died February 23 at his home. He was preceded in death by his first wife, Ramona Goering Keenan, after 49 years of marriage. He was born November 16, 1929, in Great Bend, the son of Patrick and Mary Hall Keenan. He graduated from Great Bend High School in 1947 and KU in 1954 with a joint undergraduate and law degree. After graduation, he served for three years in the U.S. Army JAG Corps, earning the rank of Captain. In 1958, he returned home to Great Bend to practice with his older brother Robert at the Keenan Law Firm and continued to practice in his home town for 60 years. In 1960, he was elected Barton County Attorney. Larry was a member of Prince of Peace Parish at St. Patrick Catholic Church and Knights of Columbus Council #862. He was past chairman and member of the Farmers Bank & Trust Board of Directors. He was actively engaged in the oil business and served as the president of Globe Exploration, Inc. He was past president and lifelong member of the KU Law Board of Governors. Larry loved practicing law and was very devoted to his clients. In 2015, he received the Professionalism Award from the Kansas Bar to recognize his honesty, integrity, and courtesy in the legal profession. In 2016, KU Law School honored him with the Distinguished Alumni Award. In 1999, he and Ramona received the St. Lawrence Award from the St. Lawrence Catholic Campus Center at the University of Kansas, the highest honor given to a layperson. He was extraordinarily generous, had a heart for the underdog and always believed in second chances. He was an eternal optimist, was fun loving and had an incredible zest for life. In his free time, he loved traveling with friends, hunting waterfowl, collecting wine, telling stories and spending time at “The Shed.” Larry married Patricia (Hickel) Degner on October 16, 2004. Survivors include his wife Patty of the home; and five children, Katherine and husband Todd Miller of Wichita, Timothy Keenan and his former wife Alicia of Great Bend, Matthew and his wife Lori Keenan of Leawood, Marty and his wife Julie Keenan of Wichita and Beth and her husband Tom Hudak of Overland Park, four step children, Chris Degner and his fiancée Janet, Jamey and his wife Jo Degner, Rex and his wife Karla Degner and Denise Shaw, fifteen grandchildren, Annie (Nate) Blake and Luke Miller, Mark, John and Rachel Keenan, Connor, Thomas (Jenny), Robert and Maggie Keenan, Tyler and Jefferson Keenan, Molly, Mary, Jack and Joe Hudak, two great grandchildren, Malachi Madden and Claire Blake, 11 step grandchildren and 2 step great grandchildren. He is survived by two brothers, Dennis and Terry. In addition to his first wife, he was preceded in death by his parents, his brothers Paul, Russell, Ora, Robert and Pat, and sisters Louise Dale, Sylvia Langer, June Klepper and Gloria Ball. Visitation will be Friday, March 1, 2019, from 9:00 a.m. to 4:00 p.m. at Bryant Funeral Home, and 5:00 to 8:00 p.m. at St. Patrick Catholic Church with family visitation from 5:00 to 6:00 p.m., followed by a Knights of Columbus Rosary and Remembrances at 6:00. Funeral Mass will be at 11:00 a.m. Saturday March 2, at St. Patrick Catholic Church, with Father Don Bedore. Interment will follow at Great Bend Cemetery at 3:30 p.m. Memorials are suggested to Holy Family School Endowment or the KU St. Lawrence Catholic Campus Center, both in care of Bryant Funeral Home, 1425 S. Patton Rd, Great Bend, KS 67530. Condolences may be sent and notice viewed at www.bryanthf.net. Arrangements by Bryant Funeral Home, 1425 Patton Road, Great Bend, Kansas 67530.

Stanley LaVere Lind (1/3/1920 - 3/15/2019)

Stanley LaVere Lind was born January 3, 1920, in Kansas City, Kansas, to Edward Grover Lind and Lenna Wagy Lind. Mr. Lind graduated from Wyandotte High School in 1938, where he was class president all four years, and varsity lettered in track. He received an Associate’s degree from the KCK Junior College in 1940, and then attended the University of Kansas, where he graduated with a BS degree in business administration and was a member of the Sigma Alpha Epsilon fraternity. Mr. Lind joined the U.S. Army in February of 1942. He completed basic training at Fort Bliss, TX, and then graduated from officer candidate school at Camp Davis, Wilmington, NC. He was assigned to the 532nd Anti-Aircraft Battalion, 2nd Corps, 5th Army, and served in the North Africa and Italian campaigns. On February 28, 1944, he was awarded the Soldier’s Medal, the highest honor a soldier can receive for an act of valor in a non-combat situation, when he extinguished a fire in an ammunition dump. He was honorably discharged from the Army on October 2, 1945. He was a First Lieutenant. Mr. Lind attended KU Law School, graduating in 1948, and was called to the Bar on February 12th of that year. He practiced law in Kansas City, Kansas, from 1948 until December 31, 1992. His primary areas of practice were business, bankruptcy, banking, contracts, and commercial law. He served as chairman of the committee for the enactment of the Uniform Commercial Code in Kansas, and helped write every consumer credit law in the state from 1954-1992. He was founder of the Wyandotte County Legal Aid Society, and also served as the chairman of the Kansas Bar committee on business, bankruptcy and banking. He served as a lobbyist for the Kansas Association of Consumer Finance Companies from 1954-1992, plus served for 20 years as counsel for the Kansas Association of Community Colleges. Mr. Lind was a member of the Wyandotte Masonic Lodge No. 3, and Northeast Kansas Scottish Rite; the American Legion; and the Military Order of World Wars, of which he was a Gold Medal recipient. He belonged to the Community Covenant Church of Lenexa, KS. Stanley married Eleanor Restione of New Jersey on June 12, 1945. They had
two sons, Geoffrey Edward Lind and Richard Joseph Lind, both of whom were also lawyers. Mr. Lind was predeceased by his parents, and his brothers and sisters Lillian Gibson Rosier, John Lind, Florence Emery, Eugene Lind, Alan Linda, Oren Lind, Norma Lee Petelin, Marietta Wardall, and his son Geoffrey. He is survived by Eleanor, his wife of 73 years; his son Richard (Julie) of Overland Park, KS; and his grandchildren Laura Kovacs (Brandan) and Andrew Lind. Throughout his life, Mr. Lind was very patriotic and proud to be an American. He was an example to all in his pursuit of excellence, regardless of the task. He was also a wonderful husband, father and grandfather, and will be sorely missed. A memorial gathering was held on Saturday, March 23, 2019, at Community Covenant Church, Lenexa, Kan., with visitation and funeral services, followed by burial at Chapel Hill Memorial Gardens in Kansas City, Kan. The family gives many thanks, and suggests memorial contributions to the Saint Luke’s Hospice House, 3516 Summit Street, Kansas City, MO 64111. Condolences may be expressed at: www.porterfuneralhome.com Arr: Porter Funeral Homes (913) 438-6444.

Frank Charles Norton Sr. (10/23/1930 - 1/19/2019)

Frank Charles Norton Sr., 88, of Salina, beloved family patriarch, lifelong Salina resident, dear friend and colleague to many, passed away at the UT Southwestern Medical Center in Dallas, Texas, Saturday, Jan. 19, 2019. Born in Salina, Oct. 23, 1930, Frank graduated from Salina High School (1948), Kansas Wesleyan University (1954) and Washburn University Law School, cum laude, in 1956.

Frank met the love of his life, Jeanne Williams, in Salina, and they were married in June of 1952. Immediately following graduation from Washburn, Frank and Jeanne moved back to Salina where Frank worked at his father’s law firm, Smith, Berkley, Berkley and Norton, and ultimately founded the firm now known as Norton, Wasserman, Jones and Kelly, LLC. Practicing law for over 60 years, Frank worked tirelessly with many of the individuals, businesses, institutions, churches and charities that make Salina the wonderful city that it is today.

As an example of Frank’s energy and determination, he decided mid-life to change his lifestyle to a healthy diet and became an exercise enthusiast, for years rising at 4 a.m. to run, skip rope, stair step or power walk his way to good health.

That same determination led to a number of honors and awards, honoring him for a lifetime of achievement. None was more humbling to Frank than being honored in 2002 with the Robert K. Weary Award, recognizing the Kansas Bar Association member “lawyer or law firm for their exemplary service and commitment to the goals of the Kansas Bar Foundation.” He was also inducted as an attorney and counselor for the United States Supreme Court and received the highest possible peer rating for legal ability and ethical standards for 30 years.

A dedicated family man and admirer of the rolling Central Kansas landscape, nothing made Frank happier than spending time walking in the pastures around his home with his dog, surrounded by family members and inquiring about every aspect of their lives. His curiosity, wisdom and caring was a gift to all who shared those times with him.

He is survived by his wife of 66 years, Jeanne; brother, Jerry Norton and his wife, Margaret, of River Forest, Ill.; son, Frank C. Norton Jr., of Coto de Caza, Calif., and his wife, Patrice, and granddaughter, Courtney; daughter, Laura Skidmore, of Newport Beach, Calif., and granddaughter, Emerson; son, Bryan Norton, of Mission Hills, and his wife, Julie, and their children, Alexandria, Danielle and Johnnie; daughter, Eve Sullivan, of Dallas, and her husband, Dan, and their children, Trevor and Samantha. Frank is also survived by a wealth of friends and colleagues who admired his integrity, humility, generosity and thoughtfulness. He will be dearly missed by all who knew him.

Preceded in death by his parents, Helen Schrader and Frank Norton; sisters, Helen Norton and Teresa Moore; and brother, Chester.

A service in celebration of Frank’s life was held Friday, Feb. 1, at the First Presbyterian Church of Salina.

If desired, memorial gifts may be made to First Presbyterian Church, Kansas Wesleyan University or Washburn University, in care of Ryan Mortuary, 137 N. Eighth St., Salina 67401.


Joe William Peel (11/12/1928 - 6/11/2017)

Joe William Peel, aged 88, died peacefully on Sunday, June 11, 2017, at good Samaritan Hospital in Downers Grove, Ill. Mr. Peel was born on November 12, 1928 in his maternal grandmother’s house in Erie, Kan., and was the only son of the late George Franklin Peel and Fern Corrine (Pugh) Peel.

He was the beloved husband of Mary Ann (Bromich), father of William Henry Peel (Melanie), and Barbara Ann Pletsch (Joseph); and grandfather of Megan Barag (Aaron), Emily Peel, Kyle Pletsch and Jacob Pletsch, as well as a beloved brother-in-law and uncle.

Having grown up in Pittsburg, Kan., Mr. Peel graduated with a Bachelor of Arts degree from Kansas State Teachers College of Pittsburg in 1950. From there, he joined the U.S. Marine Corps, achieving the rank of Captain before his honorable discharge in 1953. After serving with the Marines, Mr. Peel began work with the Kansas Highway Patrol and also began law school at Washburn University of Topeka, graduating in 1955. Upon graduation, Mr. Peel worked for the
Patrick H. Thiessen (2/5/1928 - 3/7/2019)

Patrick Henry (Pat) Thiessen, was born in Hutchinson, Kansas, on February 5, 1928 to Henry Wipf Thiessen and Pauline Unruh Thiessen. Patrick had one older sister, Lillian. (Lillian married Robert D. Love) Pat was an active member of Boy Scout Troop #1 in Hutchinson from the beginning of its organization. Under the mentorship of Lewis Oswald, he achieved the rank of Eagle Scout, one of the first awarded in the Troop. Pat enrolled at Kansas University during WW II in the summer of 1945, becoming a member of the Class of 1949. He attended the University on a year-around basis, and graduated with an AB degree with a major in law. He entered law school at KU and graduated after the fall semester of 1950, at the age of 22. While attending KU, Pat was elected a member of the Owl Society (an honorary society for Juniors) and Sachem (an honorary society for Seniors). He was elected as President of the Student Council, and served as a Judge on the Supreme Court for the Student Body. While in Law School, he was appointed to and served on the Board of Editors for the Kansas Law Journal. He was a member of the Sigma Chi social fraternity. Pat married Lorraine (Larry) Ross on September 2, 1950 during Larry's senior year in college and Pat's senior year in law school. Pat obtained a commission in the US Army's Judge Advocate General Corp as a 1st Lieutenant. He and Larry moved to Falls Church, VA where they lived while Pat was posted in the Pentagon, serving in the US Army's Judge Advocate General Corp as a 1st Lieutenant. He and Larry moved to Falls Church, VA where they lived while Pat was posted in the Pentagon, serving in the Defense Appellate Division for the Army. Their son, Mark H. Thiessen, was born while they lived in Falls Church. In 1953, Pat was honorarily discharged from the Army, and he and his wife moved to Salina, Kansas, where he practiced law for two years. In 1955, they moved to Hutchinson, KS, and Pat entered the practice of law with William (Bill) Mitchell and A. Lewis Oswald. He was appointed the Assistant County Attorney for Reno County under John Alden. He was elected Reno County Attorney in 1958. His three daughters, Evan, Chris and Anne were born in Hutchinson. In 1960, Pat and Larry moved to Wichita, Kansas, where Pat entered the Flour Milling business. He was employed by Ross Industries, a company in which his father-in-law, Paul Ross, owned a 25% interest. Pat worked in the office of the Kansas Milling Company, which was the largest of five milling companies that were totally owned by Ross Industries (Kansas Milling Company, Wichita, KS; American Flours, Newton, KS; Hunter Milling Company, Wellington, KS; Wichita Terminal Elevator, Wichita, KS; and Whitewater Flour Mills, Whitewater, KS). In 1974, Ross Industries was sold to Cargill, Incorporated. Pat remained with Cargill until he retired in 1993. While working for Cargill, Pat moved to Kansas City from 1981 until 1983, where he helped Fritz Corrigan form Cargill Milling, a Division of Cargill, Incorporated. Cargill Milling was formed by combining three separate flour milling companies: Ross industries, headquartered in Wichita, Burris Milling, headquartered in Ft. Worth, TX, and Seaboard Allied Milling Company, headquartered in a suburb of Kansas City. In 1983, he was appointed as the manager of the Southwest Division of Cargill Flour Milling, a position he held for ten years. Pat and Larry returned to Wichita in 1983. While working for Cargill Milling, Pat was very active in the Millers National Federation, principally working on the Export Committee. He acted as Chairman of that Committee for several years. For ten years he traveled extensively to points in Europe, Russia, the Middle East, and Africa on Federation and Cargill Milling business. Upon his retirement, Pat was appointed a Life Member of the Millers National Federation. While living in Wichita, Pat was elected to the Wichita School Board and served as its President. He was President of the Wichita Downtown Kiwanis Club. He also served on the boards of the Wichita Chamber of Commerce and the Kansas Chamber of Commerce. He was a board member of Intrust Financial Corporation, a position he held for 25 years. He was an Elder of the Eastminster Presbyterian Church and served as President of the Congregation for one year. Later, Pat was a loyal participant for many years in a small men’s weekly Bible Study Group that met to discuss and study the Scriptures. Pat’s approach to life was whole-hearted. He enjoyed a robust discussion. He loved learning and applied himself to investigating all angles of a subject, whether it be baking, business, or beliefs. But what he learned, he then loved to teach in order to help others. Pat’s faith in God was of supreme importance, not just to learn about it but to endeavor to live it. He was passionate in his encouragement of others to seek a true relationship with God. To the end, he was trying to make a difference in the lives of those he knew, whether they be life-long friends or new ones forged in the Care Home. He wasn’t all business, though. Pat enjoyed hunting, golf, and almost any card game. He and Larry loved Santa Fe. And he loved to laugh. His epic smile and laughter will be missed by all who knew him. On March 7, 2019, Patrick H. Thiessen, surrounded by those who loved him, finished his earthly journey. He ran a good race and crossed the finish line with confidence and peace. He was preceded in death by his wife, Lorraine (Larry) Ross Thiessen, and his sister, Mrs. Robert D. (Lillian) Love; He is survived by his four children, Mark Thiessen (Paula), Evan Thiessen Stumpf (Richard), Chris Thiessen McDonnell (Mark), Anne Thiessen Owen (John), eight grandchildren and seven great-grandchildren. The family held a private service. Pat’s family requested no flowers be sent. Please send any memorials to the charitable organization of your choice.
ATTORNEY DISCIPLINE

ORDER OF INDEFINITE SUSPENSION
IN RE LINDA S. DICKENS
NO. 119,198—FEBRUARY 22, 2019

FACTS: A hearing panel determined that Dickens violated Kansas Rules of Professional Conduct 1.1 (competence); 1.3 (diligence); 1.4(a) (communication); 1.5(d) (fees); 1.8(e) (providing financial assistance to client); 1.16 (termination of representation); 3.2 (expediting litigation); 5.1 (responsibilities of partners, managers, and supervisory lawyers); 8.3(a) (reporting professional misconduct); 8.4(a) (misconduct); 8.4(c) (engaging in conduct involving dishonesty, fraud, deceit, or misrepresentation); 8.4(d) (engaging in conduct prejudicial to the administration of justice); and 8.4(g) (engaging in conduct adversely reflecting on lawyer’s fitness to practice law). While representing a client, Dickens loaned the client $20,000 at 8.99% interest. After acknowledging that violation of the KRPC, Dickens entered the Kansas attorney diversion program. As part of that agreement, Dickens agreed to complete 16 hours of continuing legal education, including 6 hours of ethics. She failed to complete the required hours. The diversion was revoked in 2017 after Dickens had two new complaints filed against her. These complaints included allegations of entering a contingent fee arrangement without a written agreement and threatening clients when they did not give her money that was not earned. Dickens also had a pattern of missing deadlines.

HEARING PANEL: The hearing panel found that Dickens’ violations were both knowing and negligent. In addition to several aggravating factors, the panel determined that there were mitigating factors, including Dickens’ mental health. The disciplinary administrator recommended discipline ranging from a one-year suspension to disbarment, depending on which factual findings were made by the panel. Dickens asked that she be placed on probation and the panel agreed, finding that significant mitigating factors were compelling. The panel recommended a two-year suspension underlying a two-year term of probation.

HELD: Dickens did not contest the underlying factual allegations. Unlike the hearing panel, the Court was not persuaded that Dickens’ underlying health conditions warranted probation in this case, where some of Dickens’ actions involved dishonest conduct. Because Dickens showed bad faith and selfish motives when dealing with clients and the court, the Court determines that the appropriate discipline is an indefinite suspension with eligibility for reinstatement coming after three years.

ORDER OF PROBATION
IN THE MATTER OF SAM S. KEPFIELD
NOS. 112,897 AND 119,709—MARCH 15, 2019

FACTS: Kepfield has a previous history of discipline; he received a three-year suspension which was suspended while Kepfield was placed on supervised probation. A new disciplinary complaint was filed in 2018 alleging violations of KRPC 1.1 (competence); 1.3 (diligence); 1.4 (communication); 1.15(a) (safekeeping property); 1.16(d) (terminating representation); and 8.4(c) (misconduct involving dishonesty, fraud, deceit, or misrepresentation). After hearing evidence, the panel concluded that Kepfield did not violate KRPC 1.1 or 1.4. Kepfield stipulated to the other violations and the panel found evidence in support. The violations arose after Kepfield failed to file a petition for review on behalf of a client. Issues also arose after it was discovered that not only did Kepfield did not have an attorney trust account, he lied to investigators about that fact when asked.

HEARING PANEL: The panel not only found that Kepfield committed new violations but also that he violated the terms of his probation. The panel considered the violations, the aggravating factors (dishonest or selfish motive, multiple offenses, and bad faith obstruction of the disciplinary process), and the mitigating factors (Kepfield’s mental health, his cooperation in some aspects of the investigation, and his good character and reputation). The disciplinary administrator asked that Kepfield be disbarred. Kepfield asked that his probation be extended. The hearing panel recommended a three-year suspension with a probationary term entered after Kepfield serves 6 months of that suspension.
HELD: With no exceptions taken, the hearing panel’s final report is deemed admitted. After hearing arguments, a majority of the court granted the motion to revoke probation and ordered the one-year suspension reinstated. After Kepfield serves this one-year suspension, the court recommended that Kepfield be suspended from practice for three years, with a three-year probation plan implemented after six months. A minority of the court agreed with the disciplinary administrator and would have imposed discipline of an indefinite suspension.

DISCHARGE FROM PROBATION
IN THE MATTER OF STEPHEN M. STARK
NO. 114,583—MARCH 15, 2019

FACTS: In June 2016, the Kansas Supreme Court suspended Stark for two years, with the suspension stayed and Stark ordered to serve a two-year term of probation. Stark filed a motion for discharge from probation in February 2019.

DISCIPLINARY ADMINISTRATOR: The disciplinary administrator confirmed that Stark fully complied with the conditions of his probation. There was no objection to Stark’s release from probation.

HELD: In the absence of any objection, the motion is granted. Stark is discharged from probation and this proceeding is closed.

CIVIL

STATUTE OF LIMITATIONS
DAWSON V. BNSF RAILWAY COMPANY
WYANDOTTE DISTRICT COURT—AFFIRMED
COURT OF APPEALS—REVERSED,
NO. 112,925—MARCH 15, 2019

FACTS: Dawson was diagnosed with arthritis in his back in 2004 and degenerative disc disease in 2008. Dawson was a train engineer, and after several rough rides, his pain intensified. While seeking treatment in 2010, a doctor mentioned that he treated several railroad employees. Dawson claimed this was the first time he realized that his work duties could have caused his back pain. After a spinal fusion surgery, Dawson was unable to continue to perform his job duties. In 2011 Dawson sued BNSF, his employer, under the Federal Employers’ Liability Act alleging that negligence caused his back injuries. Although BNSF argued that Dawson’s claims were time-barred, the case went before a jury, which found in Dawson’s favor. BNSF appealed and the court of appeals ruled that the district court erred when it ruled that Dawson’s claims were timely. Dawson’s petition for review was granted.

ISSUES: (1) Disregard of Dawson’s factual assertions; (2) timeliness of Dawson’s cumulative injury

HELD: Although Dawson failed to comply with Supreme Court Rule 6.02(a)(4) by providing pinpoint citations to the record on appeal, it was error to disregard the factual assertions supported by the record. Dawson properly requested all necessary materials but the Clerk of the District Court failed to compile an accurate record. Other pleadings that are in the record on appeal support Dawson’s factual claims. Generally, a cause of action accrues when an injury occurs. With cumulative injuries, time begins to run when the injured person discovers or should have discovered the existence and cause of the injury. Dawson presented some evidence that he did not know about the cause of his injury until he was within three years before filing his claim. Because there was a factual dispute, the matter was properly sent to the jury. Dawson’s cumulative injury claim was timely filed. The case must be remanded back to the court of appeals for consideration of Dawson’s other claims.


EVIDENCE—SEX OFFENDER TREATMENT
IN RE CONE
CLAY DISTRICT COURT—AFFIRMED
COURT OF APPEALS—AFFIRMED
NO. 116,801—FEBRUARY 22, 2019

FACTS: In 2012, Cone was convicted of aggravated indecent solicitation of a child. Prior to his release from prison, the State sought to have him involuntarily committed as a sexually violent predator. During the trial on that motion, the State planned to have an expert witness testify about Cone’s results on the Static-99R and Static-2002R tests, which are actuarial tools that attempt to measure an offender’s risk of recidivism. Cone challenged the admissibility of the test results on grounds of relevance and reliability. The district court applied the Daubert standard and admitted both test results, in addition to other testimony. A jury found that Cone qualified as a sexually violent predator subject to involuntary commitment. The court of appeals affirmed that finding, holding that the district court did not abuse its discretion by admitting expert testimony about the actuarial tests. The Supreme Court then granted Cone’s petition for review.

ISSUES: (1) Admissibility of expert testimony; (2) sufficiency of the evidence

HELD: In the absence of a cross-appeal, the court will presume that Daubert is the appropriate test for evaluating challenges to actuarial tools in a sexually violent predator case. Cone does not challenge the experts’ qualifications and focuses only on the determination that the tests are reliable. After considering the Daubert factors, the court agrees that the dis-
The district court did not abuse its discretion by admitting the expert testimony. Experts testified at Cone’s hearing that he meets the diagnostic criteria for pedophilic disorder, and there was sufficient evidence to support that conclusion. This diagnosis allows for a finding that Cone is a sexually violent predator.

STATUTES: K.S.A. 2017 Supp. 59-29a02(b), 60-456(b); K.S.A. 2014 Supp. 60-456(b); K.S.A. 2011 Supp. 59-29a06(c)

JURISDICTION—SERVICE
SCOTT V. EWING
WYANDOTTE DISTRICT COURT—REVERSED AND REMANDED
NO. 118,730—FEBRUARY 22, 2019

FACTS: Scott claims she was injured by fireworks during an Independence Day celebration in 2015. On June 30, 2016, Scott filed suit against Ewing, who hosted the event. Ewing answered, denying liability and raising a defense of comparative fault. On July 4, 2017, two years after the injury, Scott electronically filed a motion to amend her petition in order to add additional defendants. The district court allowed the amendment and Scott served the additional defendants in August 2017. The defendants moved to dismiss, claiming the statute of limitations barred recovery because Scott’s actual motion to amend was not filed until July 5, 2017, after expiration of the statute of limitations. The district court granted the amendment and Scott served the additional defendants in August 2017. The defendants moved to dismiss, claiming the statute of limitations barred recovery because Scott’s actual motion to amend was not filed until July 5, 2017, after expiration of the statute of limitations. The district court granted the motion to dismiss, finding that the statute of limitations expired before Scott served the amended petition in August 2017. The court of appeals permitted an interlocutory review of this ruling.

ISSUES: (1) Expiration of the statute of limitations; (2) tolling of the statute of limitations

HELD: Although Scott was injured on July 4, 2015, the statute of limitations did not expire until July 5, 2017, because K.S.A. 60-206 extends the deadline until the next day that is not a holiday or weekend. The district court did not rule on Scott’s motion to amend her pleading until after the statute of limitations had expired. K.S.A. 60-215(a) does not address how to handle this situation. The statute of limitations was tolled while the district court decided how to rule on Scott’s motion to amend. The district court took more than 30 days to rule on the motion, and Scott should not be penalized for that delay.


CRIMINAL

CRIMINAL LAW—CRIMINAL PROCEDURE—JURY INSTRUCTIONS—STATUTES
STATE V. BLANSETT
SUMNER DISTRICT COURT—AFFIRMED
NO. 115,634—MARCH 8, 2019

FACTS: Blansett convicted of first-degree premeditated murder and aggravated assault in stabbing son to death while she was in a psychotic episode. She appealed, claiming error in the jury instructions and arguing premeditation is a culpable mental state that can be negated by mental disease or defect defense. She also alleged prosecutorial error, and claimed cumulative error denied her a fair trial. Supplemental briefing ordered to address impact of State v. McLinn, 307 Kan. 307 (2018), which rejected the crux of Blansett’s claim of instructional error. Blansett then argued the jury instructions prevented jury from considering how evidence of her mental disease or defect affected her ability to premeditate.

ISSUES: (1) Jury instructions—mental disease and defect; (2) prosecutorial error; (3) cumulative error

HELD: The inclusion of premeditation in the challenged jury instruction was technically a misstatement of the law set forth in McLinn, but not reversible error And contrary to Blansett’s new arguments, the jury instructions as a whole did not prevent the jury from considering how her mental disease or defect affected her ability to premeditate.

Three claims of prosecutorial error are examined. First, applying principles in State v. Williams, 299 Kan. 911 (2014), prosecutor did not suggest Blansett bore the burden of disproving the crimes charged when prosecutor told jury that defense had power to introduce evidence that defense counsel had inferred the State was hiding. Second, viewing State’s argument as a whole, prosecutor did not misstate evidence of Blansett’s intent with the knife. And distinguishing State v. Marks, 297 Kan. 1131 (2013), no error for prosecutor to argue that the nature of the weapons used and the multiple stab wounds were circumstantial evidence of premeditation. Third, prosecutor misstated evidence by mistakenly commenting that Blansett had testified, but this error was harmless under facts in this case.

Cumulative error doctrine does not apply to a single instance of prosecutorial error.

CONCURRENCE (Johnson, J.): Concurs in the result.

DISSENT (Beier, J.): Reiterates her dissent in McLinn. Would hold the inclusion of “premeditation” in the challenged instruction as an element of first-degree murder whose existence could be defeated by proof of Blansett’s psychosis was a correct statement of law.

The narrow definition of culpable mental state supplied by the instructions as a whole prevented jury from considering
FACTS: Blansett’s undisputed contemporaneous psychosis as competition for State’s evidence of her actions from which the jury might infer the existence of premeditation. Would hold this error was significant enough to reverse the first-degree premeditated murder conviction, vacate the sentence, and remand for further proceedings.


FACTS: LaPointe was convicted of aggravated robbery and aggravated assault. Trial evidence included hairs on clothing that jury knew probably did not belong to LaPointe, and damaging accomplice testimony. Years later, while in federal prison and subject to a Kansas detainer, LaPointe filed K.S.A. 2017 Supp. 21-2512 motion for DNA testing of the hairs. State argued the statute, which allows postconviction testing for crimes of first-degree murder and rape, did not apply to LaPointe’s crimes. State also argued LaPointe did not file his motion while he was in state custody, and argued the test results would not have affected jury’s verdict. District court granted the motion. Analysis confirmed one hair did not belong to LaPointe, and result on other hair was inconclusive but probably not his. LaPointe filed motion for new trial. Lower courts denied relief. LaPointe appealed. State cross-appealed the DNA testing decision. Court of appeals affirmed the decision denying a new trial, and dismissed State’s cross-appeal for lack of jurisdiction. Petitions for review by all parties granted.

ISSUES: (1) Motion for new trial, (2) K.S.A. 2017 Supp. 21-2512

HELD: Under facts in the case, the favorable DNA testing did not warrant a new trial. District court’s decision on this issue is affirmed.

There is jurisdiction to consider State’s statutory arguments as questions reserved. District court did not err in deciding LaPointe was in state custody. K.S.A. 2017 Supp. 21-2512 does not apply to LaPointe. State v. Cheeks, 298 Kan. 1 (2013), which expanded postconviction DNA testing to a second-degree murder defendant to avoid perceived equal protection problems, is examined and overruled to the extent it held the sentence imposed determines whether an offender is similarly situated to a person to whom postconviction DNA testing is statutorily available.

CONCURRENCE (Beier, J., joined by Luckert and Johnson, JJ.): Agrees with majority’s treatment of the motion for a new trial and the statutory “in custody” argument. Agrees with the result on the remaining issue, but would find it unnecessary to overrule Cheeks to hold LaPointe was ineligible to file motion for DNA testing.


FACTS: Moyer was convicted of sex crimes. On direct appeal, he claimed in part conflict of interest and ineffective assistance of defense counsel, who was also serving as guardian
ad litem of J.T., a witness with potential exculpatory evidence who did not testify. He also claimed the district court judge should have recused because judge's son was in the sheriff's office, had secured and participated in Moyer's arrest, and was listed as a prosecution witness. Instead, the district court judge banned any mention or reference to his son during the trial. Kansas Supreme Court reserved question of cumulative error and remanded to district court for hearing under State v. VanCleave, 239 Kan. 117 (1986), to determine whether Moyer was denied his Sixth Amendment right to counsel because the defense counsel's concurrent representation of Moyer and J.T. created an adverse conflict of interest, and/or counsel's failure to secure J.T.'s presence at trial or preserve J.T.'s testimony was deficient performance. 302 Kan. 892 (2015), as modified in 306 Kan. 342 (2017) (Moyer I). A different district court judge conducted the VanCleave hearing, finding defense counsel had a conflict of interest but Moyer was not prejudiced because the conflict had not adversely affected counsel's representation. Alternatively, district court found the missing testimony would not have affected the verdict because J.T. was extremely unreliable and untruthful, and State's evidence was overwhelming. Moyer appealed the VanCleave decision.

ISSUES: (1) Sixth Amendment right to counsel—conflict of interest, (2) Sixth Amendment right to counsel—deficient performance, (3) cumulative error

HELD: Moyer's argument for expanded scope of the demand and VanCleave hearing is rejected. Moyer's constitutional right to effective assistance of counsel was implicated by defense counsel's conflict of interest when J.T.'s testimony became difficult to secure, but Moyer failed to prove adverse effect. Various tests for proving adverse effect are examined and applied. Moyer failed to establish that defense counsel's performance with regard to J.T.'s testimony was deficient, and even if deficiency is assumed, no showing of prejudice.

Errors found in Moyer I are restated and considered with the additional error of defense counsel's conflict of interest. In light of the overwhelming evidence of guilt, Court remains convinced that Moyer was not entitled to a fair trial. "

DISSENT (Rosen, J.): Adopts reasons stated in his dissent in Moyer I, as expanded by J. Malone's dissent in this case.

DISSENT (Johnson, J.): Cannot adopt majority's holding that due to overwhelming evidence of guilt the cumulative effect of errors did not deny Moyer a fair trial. In this case there was a breakdown in the execution of duties by: trial judge with a conflict of interest, defense counsel with conflict of interest, and prosecutor's gross and flagrant misconduct. This level of unfairness cannot be condoned even if there is unquestionable guilt. Would reverse and grant a new trial that is correct and fair.

DISSENT (Malone, J.): Agrees a new trial is required, free of numerous serious errors and conflicts, and adopts J. Rosen's dissent in Moyer I. Focusing on the most egregious error, concludes the district judge's conflict of interest substantially prejudiced Moyer and denied him a fair trial. Would reverse and grant a new trial before a different judge.

STATUTE: K.S.A. 60-455

CRIMINAL LAW—CRIMINAL PROCEDURE—JURY INSTRUCTIONS—STATUTES
STATE V. MURRIN
CLAY DISTRICT COURT—AFFIRMED
COURT OF APPEALS—AFFIRMED
NO. 115,110—MARCH 8, 2019

FACTS: Murrin charged with drug offenses, criminal trespass, and interference with law enforcement. He requested a voluntary intoxication instruction for the drug-related charges, which the district court granted. Jury found Murrin guilty on all charges. Murrin appealed, claiming in part that although he had not requested it, district court should have instructed jury on voluntary intoxication as a defense to charges of criminal trespass and interference with law enforcement. Court of Appeals affirmed in unpublished opinion, finding criminal trespass and interference with law enforcement were both general intent crimes for which a voluntary intoxication instruction was not legally appropriate. Review granted on this one issue.

ISSUE: (1) Jury instruction—voluntary intoxication

HELD: Statutory and caselaw history concerning "intent" and "knowledge" is reviewed. Aggravated battery conviction in State v. Hobbs, 301 Kan. 203 (2015), is cited as illustrating both the shift in meaning of "intentionally" and the change in what it means to be a general intent crime. A voluntary intoxication defense is available under K.S.A. 2018 Supp. 21-5205(b) when a defining mental state is a stand-alone element separate and distinct from the actus reus of the crime. In this case, the district court erred by not instructing on voluntary intoxication as a potential defense for both crimes. Criminal trespass is a classic specific intent crime because the statute requires a stand-alone particular intent or other state of mind as a necessary element—Murrin must know he was not authorized or privilege to enter or remain. The statute defining interference with law enforcement prescribes no such stand-alone particular intent or other state of mind as a necessary element, but the instruction given for this crime arguably set one up as necessary to convict—Murrin knew or should have known the officer was a law enforcement officer. Nonetheless, under facts in this case, the district judge's failure to give a voluntary intoxication instruction did not rise to clear error. The convictions are affirmed.

STATUTES: K.S.A. 2018 Supp. 21-5202, -5202(a), -5202(b), -5202(h), -5202(i), -5205(b), -5414(a)(2), -5807(a)(1), -5808(a)(1)(A), -5812, -5812(1), -5904(a)(3), 22-3414(3); K.S.A. 21-3201(a), -3208(2)
CRIMINAL PROCEDURE—MOTIONS—STATUTES
STATE V. ROBERTS
ANDERSON DISTRICT COURT—AFFIRMED
NO. 117,450—MARCH 8, 2019

FACTS: Roberts pled no contest to rape of child under age of 14. Hard 25 year prison sentence imposed. Prior to his plea, a court ordered evaluation established that Roberts was competent. Years later Roberts filed motion to correct an illegal sentence, claiming he had never admitted he was older than 18 or that the victim was under 14 at time of the crime. District court denied the motion, finding both ages were established in the record. Roberts appealed. He conceded summary denial was appropriate on the age issue, but argued he was still entitled to relief because noncompliance with the statutory procedures for determining pre-plea competency deprived the district court of jurisdiction to sentence him.

ISSUE: (1) Motion to correct illegal sentence

HELD: District court’s summary dismissal of the motion to correct an illegal sentence is affirmed. Roberts does not advance a substantive competency claim. A merely procedural failure to comply with competency statute, K.S.A. 2017 Supp. 22-3202, is not jurisdictional, thus a motion to correct an illegal sentence is foreclosed. And on facts in this case, even the existence of a procedural flaw is far from clear. Although the judge did not make an explicit competency finding in open court, the competency issue appears to have been resolved by the district judge after the evaluation was ordered.


CRIMINAL PROCEDURE—MOTIONS
STATE V. WOODRING
SALINE DISTRICT COURT—AFFIRMED
NO. 117,347—MARCH 1, 2019

FACTS: In exchange for all other charges being dismissed, Woodring entered plea of no contest to felony murder based on his involvement in a vehicular shooting. Prior to sentencing months later, he filed pro se motion to withdraw plea, arguing he was innocent because he did not pull trigger, and claiming State’s deadline for accepting the plea agreement was coercive. District court denied the motion, finding none of the factors in State v. Edgar, 281 Kan. 30 (2006), supported withdrawal of the plea. Hard-25 life sentence imposed. Woodring appealed the denial of his motion.

ISSUE: (1) Motion to withdraw plea

HELD: Under facts in this case, Woodring failed to show the good cause required by K.S.A. 2017 Supp. 22-3210 for withdrawing his plea prior to sentencing. Theory of aiding and abetting defeats his claim of innocence, and the 10-day deadline for accepting the plea agreement was not unduly coercive. District court’s ruling is affirmed.


Kansas Court of Appeals

Civil

APPEALS—CRIMINAL LAW—JURISDICTION—JUVENILES—SENTENCES—STATUTES
IN RE J.S.P.
WYANDOTTE DISTRICT COURT—DISMISSED
NO. 118,790—MARCH 15, 2019

FACTS: J.S.P. entered no contest plea to charges for crimes occurring when he was 14 years old. In an extended juvenile jurisdiction proceeding (EJJP), district court imposed a juvenile sentence of 72 months with 24 months of conditional release, as well as adult sentence of 237 months to be served if J.S.P. failed to complete his juvenile sentence or comply with conditional release. Prior to expiration of the conditional release term, State filed motion to revoke the juvenile sentence and to impose the adult sentence. District court granted the motion, finding J.S.P. had violated conditions of his conditional release. J.S.P. appealed, alleging denial of due process, insufficient evidence, and Eighth Amendment claims. State contended there was no statutory authority for the appeal.

ISSUE: (1) Appellate jurisdiction

HELD: The appeal is dismissed. Although juvenile offenders are entitled to similar constitutional protections as adults, they are not guaranteed the same statutory rights as adults unless specially provided for in the revised Juvenile Justice Code. Kansas statutes reviewed, finding none provide a juvenile offender with right to appeal an order revoking the juvenile sentence and ordering imposition of the stayed adult sentence in an EJJP.

DEATH OF A PARTY—DIVORCE—JUDGMENT IN RE MARRIAGE OF TOWLE AND LEGARE
WYANDOTTE DISTRICT COURT—REVERSED AND REMANDED
NO. 119,021—MARCH 15, 2019

FACTS: Dana and Louise were married in the late 1980s. Dana filed a petition for separate maintenance in 2015. The parties agreed to a temporary order which allowed the couple to live separately and ordered Dana to pay Louise’s living expenses. While the process of working through the couple’s assets was occurring, Louise was diagnosed with terminal lung cancer. The parties reached an agreement on property division and spousal support. The district court approved the agreement and filled out a docket sheet so that the parties could later attach a journal entry and get it filed. Unfortunately, Louise died before the journal entry was drafted and filed. Her counsel asked that her son, Mathieu, be substituted as a successor in interest. The district court granted that motion over Dana’s objection. Mathieu’s counsel continued to stall on preparing the journal entry, which was not complete until February 2018. Dana appealed.

ISSUES: (1) Whether death of party to a separate maintenance action required dismissal; (2) sufficiency of journal entry

HELD: A divorce action is purely personal and ends on the death of either spouse. A search of both common law and previous cases shows that a separate maintenance action is the same. It is personal and abates at the time of a party’s death. The district court’s docket sheet could not qualify as a judgment, as it is expressly excluded by statute. Although it was signed by the judge, the docket sheet was never filed. The district court is reversed and the separate maintenance action must be dismissed.

STATUTES: K.S.A. 2017 Supp. 60-2225(a), -258; K.S.A. 2016 Supp. 60-241(a), -258, -260(b); K.S.A. 60-1801

SCHOOLS—SCOPE OF REVIEW
B.O.A. V. U.S.D. 480 BOARD OF EDUCATION
SEWARD DISTRICT COURT—AFFIRMED
NO. 119,773—MARCH 15, 2019

FACTS: An investigation revealed that B.O.A. threatened a school shooting on social media. B.O.A. explained that it was meant as a joke, and he apologized to the principal and the school district. The principal recommended a 186-day expulsion. B.O.A. appealed and received a formal hearing. The hearing officer agreed with the principal and imposed a 186-day expulsion, the maximum allowed by statute. B.O.A. appealed. The superintendent acknowledged the gravity of B.O.A.’s mistake, but recommended a shorter expulsion. The Board of Education disagreed and expelled B.O.A. for 186 school days, beginning in January 2018. B.O.A. appealed to the district court, which found that the Board of Education’s actions were arbitrary and capricious. The district court granted B.O.A. the relief he requested—limiting his expulsion to the spring of 2018. The Board appealed.

ISSUE: (1) Scope of permissible review

HELD: The record on appeal contains facts which support the district court’s decision. There is evidence that B.O.A.’s social media post was a joke that went too far. He accepted responsibility and apologized. The Board offered no explanation as to why it imposed the maximum period of expulsion instead of following the superintendent’s recommendation. The district court acted within its scope of review and is affirmed.

STATUTE: K.S.A. 60-2101(d), 72-6114(a) – (d), -6115(a)

EVIDENCE—WORKERS COMPENSATION
WOESSNER V. LABOR MAX STAFFING
WORKERS COMPENSATION BOARD—REVERSED AND REMANDED
NO. 119,087—FEBRUARY 15, 2019

FACTS: Woessner died after being injured at work. While he was at the hospital for treatment a urine sample was obtained, which tested positive for THC. A follow-up sample was similarly positive. The employer introduced at the regular hearing lab results from both labs. Woessner’s counsel objected on hearsay and foundation grounds, but those objections were denied. Admission of evidence showing drugs in Woessner’s system triggered the statutory presumption that he was impaired at the time of his accident, excusing his employer from providing compensation to his widow. After the widow appealed, the Board reversed, finding that the lab results were not admissible. Moreover, the Board concluded there was no evidence that Woessner was impaired at the time of the accident. The employer appealed.

ISSUE: (1) Admissibility of lab results

HELD: The Kansas Rules of Evidence do not apply in workers compensation cases. This means that hearsay evidence is often allowed, although there is a threshold question about whether the hearsay evidence is reliable. The Board made a legal error when it found that the sample sent for verification was “collected by an employer”. It wasn’t; it was taken by hospital personnel. The employer presented ample evidence that the lab results were reliable. The employer introduced sufficient evidence to trigger the presumption that Woessner was impaired. The burden then shifts to his widow to prove by clear and convincing evidence that the impairment did not contribute to his death. The Board did not make sufficient findings about this burden to allow for review. The case must be remanded so that the Board can fully consider all relevant evidence.

DISSENT (Green, J.): The Board correctly interpreted K.A.R. 51-3-5a(a) when it found that it excluded from consideration certain types of hearsay evidence.

IMPLIED EASEMENTS—ESTOPPEL
DEBEY V. SCHLAEFFI
OSBORNE DISTRICT COURT—AFFIRMED
NO. 119,218—FEBRUARY 15, 2019

FACTS: DeBey and the Schlaefli own adjoining tracts of land. DeBey operates a seed business from his tract, and traffic is often heavy. At the time DeBey purchased the land, both parties believed the tracts were separated by a dirt path. A later survey showed that was an incorrect assumption. Schlaefli’s tract stretches farther to the east than first believed, to include the driveway that customers use to reach DeBey’s seed business. Schlaefli attempted to build a fence to stop traffic from using the driveway. The district court found there was an implied easement by reservation or grant allowing continued traffic to DeBey’s seed business. Schlaefli appealed.

ISSUES: (1) Implied easement by reservation or grant; (2) easement overburden; (3) easement by estoppel; (4) attorney fees

HELD: An implied easement by reservation or grant is based on the intent of the parties and what expectations one party could reasonably foresee the other party had from the sale of land. In this case, a quasi-easement existed from the time the tracts were developed. DeBey gained that quasi-easement when he bought the property from Schlaefli. Schlaefli knew that DeBey intended to expand his business, making the increased traffic foreseeable at that time. There is substantial competent evidence to support a finding of equitable estoppel. Schlaefli knew DeBey's business was expanding and made no objections to the increased traffic, even though he unquestionably knew about it. Schlaefli is not entitled to attorney fees because the district court's decision was correct.

STATUTE: K.S.A. 68-117

CRIMINAL

APPEALS—APPELLATE PROCEDURE—CRIMINAL PROCEDURE—JUDGMENTS—RESTITUTION—STATUTES
STATE V. DWYER
SEDGWICK DISTRICT COURT—REVERSED
NO. 118,940—MARCH 15, 2019

FACTS: Dwyer was convicted of theft in 2003. Prison sentence with postrelease supervision was imposed, and $8,450 in restitution ordered. In November 2017, he filed motion to release the restitution judgment. He argued the judgment went dormant after five years of inaction and was void and subject to release after no collection had been attempted for two additional years. Applying K.S.A. 60-2403 as amended in 2015 which reduced the collection period from ten to five years, and provided that all restitution judgments not yet void were enforceable forever, district court found the judgment became void the minute the 2015 amendments went into effect, and thus was not enforceable. District court granted Dwyer’s motion and released the restitution judgment. State appealed. Dwyer filed motion to dismiss the appeal arguing it was untimely filed within the 14 days allowed in a criminal case, or within 30 days in a civil case. He also argued the appeal failed to satisfy any statutory circumstance for allowing an appeal in a criminal case, and failed to list the basis for jurisdiction in its notice of appeal.

ISSUES: (1) Appellate jurisdiction; (2) statutory interpretation—K.S.A. 2017 Supp. 60-2403

HELD: There is jurisdiction to hear the appeal. Proceedings regarding the collection of restitution judgments are civil in nature. Here, the State filed timely notice of appeal within 30 days of the filing of the district court’s journal entry, and the notice of appeal satisfied all statutory requirements for filing an appeal in a civil case.

District court’s judgment is reversed. Under plain and unambiguous language of K.S.A. 2017 Supp. 60-2403, restitution judgments that were already void (or subject to mandatory release upon request) as of July 1, 2015, would not be subject to the new “never dormant” restitution provision because those judgments already had a predetermined expiration date. On facts in this case however, the collection clock on Dwyer’s restitution judgment began October 2003, making it subject to mandatory release in October 2015 after ten years dormant plus two additional years. The restitution judgment rendered against Dwyer is valid and is reinstated.

STATUTES: K.S.A. 2017 Supp. 22-3602, 60-258, -2403, -2403(a), -2403(b), -2403(d); K.S.A. 21-4603d(b)(2), 60-2101, -2101(a), -2102(a), -2102(a)(4), -2403, -2403(b), -2403(d)
Welcome Changes in Attorney Registration for 2019

Did you see the notice this past month about the proposed changes to Supreme Court Rules 208 and 808? I hope you took the time to read the proposed changes and make comments or suggestions. These rules govern the registration procedures for attorneys admitted to practice law in the State of Kansas by the Supreme Court.

In its current form, Rule 208 is difficult to understand and even hard to utilize. The proposed changes are required in anticipation of online annual registration availability this year and to also provide procedural guidelines to change status.

Proposed changes in Rule 208 include the following:

• **THE GRACE PERIOD WILL BE ELIMINATED.** All registration forms and fees are due by June 30. The late fee will automatically be assessed for registration forms and fees received after June 30.

• A status change that results in a lower fee (such as active to inactive) or no fee (such as active/inactive to retired) **MUST BE RECEIVED IN THE CLERK’S OFFICE BY JUNE 30.** An attorney must pay the registration fee based on the attorney’s status shown in the records of the clerk as of July 1.

• For this first year of implementation, online registration will be available for attorneys to register and submit payments only. Status changes will not be accepted online. Changes to any contact information will still need to be submitted online at http://www.kscourts.org/appellate-clerk/attorney-registration/default.asp

• Online registration will be voluntary for 2019 and 2020 but will be mandatory in 2021.

Proposed changes in Rule 808 include the following:

• The annual CLE fee is due by June 30. A fee postmarked on or after July 1 must be accompanied by the late fee.

*The winds of change have blown into Attorney Registration like a Kansas Tornado.* Make sure you don’t get swept away in the electronic revolution.

For questions about registration issues, call the Office of the Clerk of the Appellate Courts, Kansas Attorney Registration: registration@kscourts.org • (785) 296-8409

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Classified Advertisements

Positions Available

Advocate – Disability Crime Victims Unit
Help obtain justice for victims of crime with disabilities. Advocate sought by Disability Rights Center of Kansas to advocate for crime victims with disabilities. 40 hour a week position, yearly pay is approx $32K, but depends on experience. Paralegals encouraged to apply. Great benefits. Employer-paid BCBS health insurance, KPERS retirement, etc. Questions? Need an alternative format? Contact DRC: 1-877-776-1541 for info@drckansas.org. Get the full job description & application at www.drckansas.org/about-us/jobapp

Attorney Position Available. Arn, Mullins, Unruh, Kuhn & Wilson LLP, established Wichita law firm seeks associate and/or lateral hire. Minimum two (2) years experience in Civil, Family, Litigation and General Practice. Attractive benefits, including health insurance, 401(k), disability/life insurance. Please forward resume, introductory letter and writing sample(s) to: Kris J. Kuhn (kkuhn@arnmullins.com).

Attorney Position Available. Young, Bogle, McCausland, Wells & Blanchard, a downtown Wichita law firm seeks associate or lateral hire. At least three years’ experience in civil litigation/general practice and must be admitted to the Kansas Bar. Equal opportunity employer. Competitive benefits, including health insurance. Email resume, introductory letter, writing sample, and salary requirements to Paul McCausland, p.mccausland@youngboglelaw.com.

Commercial Services-Based Law Firm
Seeking new litigation attorney, preferably 1-5 years of experience. Attorneys with additional experience in bankruptcy, business or transactional matters would be ideal. Candidates with a developed book of business in our practice areas encouraged to apply. Must be licensed to practice in Kansas with significant civil litigation experience. Our firm is dynamic, filled with colorful, expressive personalities. We seek someone to complement our diversity and flair. Must be capable of high quality work, a superior client experience. Very competitive salary, great benefits package. Send resume, cover letter, salary history, list of references and writing sample to laura@eronlaw.net. All inquiries confidential, except to contact references.

Crow & Associates, Leavenworth, seeks associate attorney. Benefits include health/dental insurance. Salary negotiable. Send resume to mikecrow@crowlegal.com

Evans & Dixon, LLC seeks to hire an attorney with strong transactional expertise for our Overland Park office. We offer a rewarding work environment with a commitment to creating long-term relationships with our clients by providing excellent service. Email cover letter and resume to lhauft-vitale@evans-dixon.com

Legal Secretary – Goodell, Stratton, Edmonds & Palmer, LLP has an opportunity for an experienced legal secretary. The legal secretary will perform necessary legal functions by providing administrative support to professional legal staff. For detailed information regarding the position, contact gsep@gseplaw.com. Goodell, Stratton, Edmonds & Palmer, LLP offers a competitive compensation and benefit package commensurate with level of experience including health, dental and life insurance, 401k, Profit Sharing, paid vacation and sick leave. Resumes may be sent to: Managing Partner, Goodell, Stratton, Edmonds & Palmer, LLP, 515 South Kansas Ave., Suite 100, Topeka, KS 66603 or email to: gsep@gseplaw.com

Overland Park Law Firm. Ferrree, Bunn, Rundberg & Ridgway seeking attorney experienced in complex Estate Planning and Probate work. Must be licensed in Missouri and Kansas. If interested, please forward introductory letter and resume for consideration to pbunn@fbr2law.com

Overland Park/Corporate Woods Law Firm. Jones & McCoy, PA. seeking experienced associate attorney with 3+ years of civil litigation experience in business, estates and trust, family law, personal injury and other civil matters. Must have Kansas and Missouri licenses. Great opportunity for the right person to learn and grow their practice. Please send cover letter and resume to brant@jones-mccoy.com.

Part-Time Legal Assistant. A private law firm in Topeka has an immediate opening for a qualified Legal Assistant processing collections. Experience in general office administration required and legal office experience is preferred. Only applicants meeting specific criteria will be considered; please contact for duties and requirements. Please send resume and cover letter for consideration to the attn. of Alisia at info@probascolaw.com or via fax (785) 233-2384.

Wichita Law Firm Seeks Associate Attorney
Downtown Wichita law firm seeks to hire an associate attorney to work on all aspects of family law cases. The associate may be given an opportunity to develop a practice outside of the family law area. Interested candidates are asked to send their resume and cover letter to telegrand@slwlc.com.

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@mcmonaltdinker.com.

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Need Experienced Help Meeting a Deadline? Have an experienced attorney (25+ yrs.), with superior writing skills, successful track record, and excellent work history (small and large firm), assist you on a contract basis. Available to prepare Dispositive Motions, other motions, trial court and appellate Briefs, pleadings, probate/estate planning documents; also available to assist with Research, discovery requests and responses. Quality work; flexible. Experience includes litigation, wills/trusts, probate, debt collection, bankruptcy, contracts, domestic. Contact me at m-ksmolaw@outlook.com to discuss.

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.

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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.

Office Space Available

Large Office Space now available at One Hallbrook Place in Leawood, KS. Two conference rooms, kitchen, high-speed internet, postage services, copier/fax all included. For more information or to schedule a viewing, contact Bryson Cloon at (913) 323-4500.

Leawood Law Office. Two partner-size offices and interior office available for sublease. Conference room, phone system, internet, high-speed copier/printer, and lunchroom also available. Plenty of surface parking. In a great area in south Leawood—bright and modern space on second floor of bank building. Also willing to consider work-sharing arrangements. Contact Paul Snyder (913) 685-3900 or psnyder@snyderlawfirmllc.com.

Office Space Available on Ward Parkway in south Kansas City, Missouri. This is a great location for attorneys licensed in MO & KS. Large suite with 12 offices with two conference rooms. There are 3 available offices. Full services provided, including phones answered, internet, supplies, and copier. Contact Kevin Hoop at 816-519-9600 or k hoop@kevinhooplaw.com.

Office Space for Lease, Corporate Woods. Approximately 1,300 sf available on top floor of building with a view. Easy location to meet clients, with access to a conference room designed to impress. Comes with all the amenities of a working law firm; witnesses, notaries, fax/copy machine, internet, phone, etc. Please contact Tim Winkler at 913-890-4428 or tim@kcelderlaw.com.

Ottawa, KS Office Space for Rent- 950 sq. ft. for business office. Reception area, conference room, 4 private rooms, loft area for storage, kitchenette, back storage area, restroom. $600/month Please call (785) 893-0494 for more information. The location is 110 W 3rd St, Ottawa, Kansas. Pictures available upon request.

Overland Park Law Office. Two offices available at SW corner of 119th & Quivira. Cubicle space available for paralegal. Use of large conference room and storage space included. Open to either office share or ‘Of Counsel’ arrangement. Contact Whitney at web@calwellandmoll.com or 913-451-6444.

Professional Office Space for lease. The available space consists of one to two offices and an administrative staff bay, in a larger office building. No cost use of reception area, conference rooms, and high-speed internet. Located in southwest Topeka. Competitive rent. For more information, call 785-235-5367 or write Law Office, P.O. Box 67689, Topeka, KS 66667.

Seeking Office Space: Bilingual Immigration attorney with over 10 years of experience, looking to rent a conference room or office once or twice a month in Garden City, Kansas. No services needed other than a place to meet clients. We have served the immigrant community in Western Kansas for 9 years and have an ample client base. Our office is a great source of referrals for a family or criminal attorney as we only practice immigration. Please reply to: erika.juradograham@gmail.com.

WYCO Office Suite Available at 134 N. Nettleton, Bonner Springs, KS 66012. 1100-2000 sf. Waiting area, receptionist area, break room, conference room, large and small offices, private parking. ADA Accessible. 1.25/sf/mo. Utilities included. For more information, call (913) 422-1620.

Other

KANSAS REPORTS. Due to retirement I have Kansas Reports Vol. 1-306; Kan App 2d Vol. 1-54 and supplements current through July 2018 (missing two early out of print volumes). I will donate to a law library, public library or worthy charity. I will also donate to a young lawyer or law firm who could put them to use. Excellent condition. You must pick up or arrange and pay for delivery. Contact Richard G. Tucker, Parsons, KS, 620-423-9693 or at rickt@wavesflaw for details.

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