



LAW WISE

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Greetings from the Kansas Bar Association (KBA).
Welcome to this edition of *Law Wise* and the third edition of the 2015-2016 school year.

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Who are the Kansas Federal Judges?

Last month, *Law Wise* discussed state court judges and justices, who they are, and how they came to hold their office. This month, we take a look at the federal judiciary, with a focus on the 10th U.S. Circuit Court of Appeals and the U.S. District Court for Kansas.

The highest ranking federal judge on the 10th U.S. Circuit Court of Appeals is the chief judge, Hon. Timothy Tymkovich, Denver. He became just the administrative head of the six-state 10th Circuit in September, succeeding Hon. Mary Beck Briscoe, Lawrence, who had been chief judge of the Circuit since 2010. The 10th Circuit includes the states of Kansas, Wyoming, Colorado, Utah, New Mexico, and Oklahoma. Judge Briscoe had previously served on the Kansas state Court of Appeals, where she was chief judge when she was appointed to the 10th Circuit in 1995.

The chief judge has administrative responsibilities for the 10th Circuit, and presides over any panel on which he or she serves unless the circuit justice—Associate Justice Sonia Sotomayor, the Supreme Court justice responsible for the 10th circuit—is also on the panel. Unlike the Supreme Court, where one justice is specifically nominated to be chief, the office of chief judge rotates among the circuit judges. To be chief, a judge must have been in active service on the court for at least one year, be under the age of 65, and have not previously served as chief judge. A vacancy is filled by the judge highest in seniority among the group of qualified judges. The chief judge serves for a term of seven years or until age 70, whichever occurs first. The age restrictions are waived if no members of the court would otherwise be qualified for the position.

Joining Judge Briscoe on the 10th Circuit from Kansas is Hon. Nancy L. Moritz, who was appointed to the court in July 2014. Judge Moritz served on the Kansas Court of Appeals from 2004-2011 and then as a justice of the Kansas Supreme Court from 2011 until her federal appellate court appointment.

Judges Briscoe and Moritz were appointed to office by the President of the United States, with the approval of the U.S. Senate, following extensive background checks and examination of their legal careers. Presidents typically appoint judges who are members, or at least generally supportive, of their political party, but that doesn’t mean that judges are given appointments solely for partisan reasons. The Senate Judiciary Committee conducts confirmation hearings for each federal court nominee.

The U.S. district courts in Kansas are located in Topeka, Kansas City, and Wichita, where 16 federal district judges and magistrates preside over

CALENDAR OF EVENTS

December

Mock Trial Case Released



any manner of civil and criminal cases. There also is a federal bankruptcy court associated with each U.S. district court.

In contrast to the U.S. Supreme Court, which was established by the U.S. Constitution, the district courts were established by Congress. There is no constitutional requirement that district courts exist at all. Indeed, after the ratification of the Constitution, some opponents of a strong federal judiciary urged that the federal court system be limited to the Supreme Court, which would hear appeals from state courts. This view did not prevail, however, and the first Congress created the district court system that is still in place today.

There is at least one judicial district for each state, the District of Columbia, and Puerto Rico. There are 94 districts in the 50 states, including territories. In addition to district judges, Kansas federal courts include magistrate judges and bankruptcy judges. They are not appointed by the President or subject to congressional confirmation hearings. Instead, the Court of Appeals in each circuit appoints bankruptcy judges for 14-year terms, and magistrates for eight years.

As with the federal appeals courts, each district court has a chief judge, who oversees the general administration of the district court, in addition to maintaining a caseload. In Kansas, the chief judge is the Hon. J. Thomas Marten, Wichita. He is joined by four other district judges. They are Judges Carlos Murguia and Julie A. Robinson, both of Kansas City; Eric F. Melgren, Wichita; and Daniel D. Crabtree, Topeka, plus three other district judges who have taken "senior status," a form of semi-retirement.

Kansas federal district judges on senior status include Judges Sam A. Crow, Topeka; and John W. Lungstrum and Kathryn H. Vratil, both of Kansas City. To attain senior status, a judge must be at least 65 years of age and have served in federal court for 15 years with one fewer year of service required for each additional year of age. When that happens, they receive the full salary of a judge but have the option to take a reduced caseload. Many senior judges choose to continue to work full time. The Kansas federal magistrate judges include James P. O'Hara, Chief Magistrate Judge, Kansas City, KS; and Magistrate Judges K. Gary Sebelius, Topeka; Kenneth G. Gale, Wichita; Teresa J. James, Kansas City; Gwynne E. Birzer, Wichita; Gerald L. Rushfelt, Kansas City; Donald W. Bostwick, Wichita; and David J. Waxse, Kansas City.

Rounding out the Kansas federal courts are the Kansas bankruptcy judges. They are Chief Judge Robert E. Nugent, Wichita; Judges Janice Miller Karlin and Dale L. Somers, both of Topeka; and Robert E. Berger, Kansas City. The federal district court for each circuit appoints the bankruptcy judges. The number of bankruptcy judgeships is determined by Congress, which receives periodic advice from the Judicial Conference of the United States on the need for additional judges. Nationally, there are approximately 350 bankruptcy judgeships, including 34 temporary judgeships authorized for the districts by Congress. ■

This Year's Mock Trial Case to be Released Next Week

The KBA Mock Trial Competition will kick off in December, when this year's case problem is published, mock trial coordinators Mitch Biebighauser, Overland Park, and Lisa Brown, Topeka, reported. Although the regional competition will not be conducted until February, they plan to publish the problem before the winter school break so the competing teams may take advantage of that time to prepare if they want.

This year, the Independent School of Wichita placed 37th in the national competition, which was conducted in Raleigh, N.C., in May. The mock trial coordinators are volunteers from the KBA's Young Lawyers Section, which has organized the competition since 1997. Biebighauser and Brown said approximately 10 schools with 20 teams have been participating in recent years in the two regional contests, but they would love to add a third regional round in western Kansas.

Biebighauser said judges, lawyers, and other legal professionals are needed to help with the competition. "We would also welcome any law student or coach for public speaking-related competitions. And, quite frankly, anyone with an interest in seeing the students succeed is someone we would be looking for," Biebighauser said. "The best judges are the public because those are the jurors that these students will one day be appealing to as attorneys. We're looking for volunteer time of between two to six hours on Saturday, February 27, 2016, in Olathe or Wichita."

When asked why he volunteered to co-chair the competition with Lisa Brown, he said he "thinks it is incredibly important to provide routes to positive advocacy for youth. In addition

to technical speaking expertise, it encourages self-confidence and teaches students how to stand up for their values and the values of others. Having been in mock trial competitions since high school himself, Biebighauser said he proudly displayed a mock trial letter on his high school letter jacket.

For students, "it is a risk free way to gain speaking skills and learn how to receive feedback constructively. Competitions like these require critical thinking skills not just on paper, but in moment by moment on-your-feet situations," Biebighauser said. "Learning how to think fast, and to think fast critically, and then verbalize outcomes are essential skills in any professional career."

Although this season's case has not been released, Biebighauser and Brown said it will be a criminal case of some sort. The 2015 case was based on civil products liability law. The problem is a condensed version of a real-life court case. The case materials contain witness statements, which purposefully conflict, and a bare-bones compilation of applicable law. Panels of three individuals involved in the legal profession judge each round of the competition. Judges score the students on performance and rule on disputes and evidentiary objections.

The mock trial teams must have at least six students. In the spring, all teams participate in one of two regional competitions in at least two rounds of competition, both prosecuting and defending the case. Each team consists of three student attorneys and three student witnesses.

After the final rounds of competition at each of the regional tournaments, an awards ceremony is held to recognize out-

standing students and teams, and to announce which teams will go on to compete at the state tournament. Recognition for outstanding mock attorneys, outstanding student witnesses are awarded, in addition to team rankings that are also announced. All teams are encouraged to attend the awards ceremony to support the competitors. The winning team of

the state mock trial championship will be eligible to compete for the 2016 National High School Mock Trial Championship May 12-14 in Boise, Idaho. You can learn more about the competition by going to the KBA mock trial website <http://www.ksbar.org/mocktrial> or by sending an email to kansasmocktrial@gmail.com.

Meet the Young Lawyers Section Mock Trial Coordinators

This year's KBA Mock Trial Competition is being organized by co-chairs Lisa Brown, Topeka, and Mitch Biebighauser, Overland Park. They are succeeding Shawn Yancy, Topeka, who was the competition chair for the past two years.



Brown is an associate in the Topeka firm of Goodell, Stratton, Edmonds & Palmer. A native of Andover, she was graduated magna cum laude from Wichita State University in 2009 with a B.A. in English languages and literature and a minor in psychology. She then attended Washburn University School of Law where she received her J.D. in 2012. While at Washburn, Brown served

terms as president of the Women's Legal Form and as student liaison to the Law School Curriculum Committee. She also was a member of the Phi Alpha Delta legal fraternity. Brown is a

member of the Sam A. Crow American Inn of Court, the Topeka Bar Association, the Kansas Bar Association, the Women Attorneys Association of Topeka, and the Kansas Women Attorneys Association.



Her co-chair, Mitch Biebighauser, has been a practicing criminal defense attorney with Bath and Edmonds P.A. in Overland Park since he graduated from the University of Missouri-Kansas City in June 2014. Before his admission to the bar, he co-founded the Board of Barristers at UMKC Law School to develop and promote trial advocacy education and competed in more than 10

national law school competitions. He also served on the Urban Lawyer Law Review Board as a research editor. ■

As you gear up for the 2016 Kansas Mock Trial Competition, check out *We the Jury* on www.iCivics.org

We The Jury

Have fun deciding a tough case while learning about what jurors discuss in the deliberation room. Choose from different civil cases, analyze evidence, weigh testimony, and use the right arguments to reach a fair and impartial verdict.

iCivics curriculum is grouped into topical units that align to state and Common Core standards. Teachers in a wide variety of classrooms have successfully implemented iCivics, and

students using the program are more knowledgeable, engaged, and eager to participate in civic action and discussion than their counterparts. The resources, games and tools on this site are provided at no charge. Resources include print-and-go lesson plans, award winning games and digital interactives. Check out teacher and student reviews on Facebook. <https://www.facebook.com/icivics/reviews/>

TERRIFIC TECHNOLOGY FOR TEACHERS

This month's links to Terrific Technology for Teachers were assembled courtesy of the Public Affairs Office of the U.S. Administrative Office of the Courts in Washington, D.C.

One shop directory for federal judges, 1789-present!

If you ever need a quick thumbnail bio for any judge, this directory includes the biographies of presidentially appointed judges who have served since 1789 on the U.S. District Courts, the U.S. Courts of Appeals, the Supreme Court of the United States, the former U.S. Circuit Courts, and the federal judiciary's courts of special jurisdiction. <http://bit.ly/FedJudgesHistory>

Cameras in the Kansas federal courts. Kansas was one of but 14 volunteer states to participate in a pilot program to permit video cameras for the first time in history. Pilot coverage under very rigid rules started July 18, 2011. Although the data collection portion of the pilot program concluded July 18 of this year, participating courts are authorized to continue

to record proceedings and post them on uscourts.gov until the Judicial Conference considers recommendations regarding the pilot, which could occur at its March 2016 session. Videos of the Kansas cases that have been recorded are here: <http://1.usa.gov/1PEYrTM>

Everything you ever wanted to know about the federal courts. The Federal Judicial Center has a terrific site that explains concisely about the federal courts. from how they are organized to everything about how the judges are selected and even how they could be fired. <http://bit.ly/FedCourtsOrganized>

More from the Federal Judicial Center. Here you can learn how much you know about the federal courts: The federal judiciary offers 10 online quizzes that measure just how much we really know about courts. Even better, the answers are one click away. Go to: <http://bit.ly/FedCourtQuizes>

Lesson Plan

Getting to Know the House

Source: <http://kids.clerk.house.gov/lesson-plans/know-the-house-4.pdf>

Grades: high school

OVERVIEW

This activity is designed to help students get to know the representatives serving their district in the U.S. House of Representatives. Students will be tasked with researching and analyzing the political background, House of Representatives. Students will be tasked with researching and analyzing the political background,

CURRICULUM CONNECTION

- U.S. History, American Government, Social Studies
- U.S. House of Representatives, First Day of Congress, Locally Elected Representatives

OBJECTIVES

1. Students should be able to identify and discuss the representatives currently serving their districts.
2. Students should be able to discuss the organizational hierarchy of the U.S. House of Representatives and its members.
3. Students should be able to identify their representatives' roles in the House hierarchy.
4. Students should be able to recognize the background and political ideologies of their representatives.

LESSON PLAN

Day One

1. To help introduce students to the upcoming activity, lead a brief discussion using the questions below:
 - a. Why is the U.S. House of Representatives so much larger than the U.S. Senate? What fundamental ideas caused the U.S. House of Representatives to be nicknamed "The People's House?"
 - b. How many congressional districts does your state have?
 - c. Who is currently representing your district?
 - d. What is the basis for the organizational structure of the U.S. House of Representatives?
2. Ask students to read the content of the First Day of Congress lesson for high school learners on <http://kids.clerk.house.gov> either independently or in groups. Encourage students to take notes and write down any unanswered questions they encounter.
3. Once students have completed the reading, answer and discuss the Comprehensive Questions and Critical Thinking Questions below as a group.
4. Choose one of the options listed under the category Main Exercise. Students can use the online resources listed at the end of the activity to complete the Main Exercise. Give the students class time to plan their exercises and ask them to complete any required research and writing for homework.

Day Two

5. Take half an hour to discuss the students' findings regarding their local district representatives.
6. Ask the students to write a letter to their representative addressing an issue that concerns them. Students should research their representatives' views and floor history regarding their choice.

Comprehension Questions

1. What are the primary duties of the speaker of the House?
2. What is a quorum and how many members does it take to achieve one?
3. What duties does the Whip perform? Where does the term originate?
4. Which day does the Constitution specify a new Congress should begin? Is it possible for this date to be changed?
5. What is a "viva voce" roll call vote? What is this type of vote used to accomplish on the first day of a new congress?
6. Who is the Dean of the House? What function does he/she perform on the first day of Congress?
7. Describe the interactions between the majority and minority party leaders on the first day of Congress.
8. After the House Rules have been adopted, what are some examples of other types of legislative business that are sometimes conducted on the first day?

CRITICAL THINKING QUESTIONS

1. What is the significance of the Oath of Office? What does it say and what does it mean to the members who take it?
2. What are the benefits of reorganizing the U.S. House of Representatives every two years?

MAIN EXERCISE

Option 1: Who is My Representative?

1. Assign the students one of several local congressional districts in the area where they live. For homework, instruct the students to use the House's website (<https://forms.house.gov/wyr/>) to find the name of the representative from their assigned district.
2. Instruct the student to use the clerk's website (<http://erk.house.gov>) and other online and offline sources to research their representative's background, political views, and floor activities.
3. Students should come back to class prepared with a one- to two-page essay about their representative

Option 2: Hypothetical

1. You are a newly elected representative who has been asked to make a five-minute floor speech in which you must address a key issue that faces your local community. Instruct the students, as a homework assignment, to research and prepare their speech to be given in class the next day.
2. Following a decennial census, your state has been redistricted. You are campaigning to be elected as Representative of a new seat added to the U.S. House of Representatives for your state. How will you get elected? What is your slogan? What are the issues on which you will campaign?

Option 3: Cooperative

1. Working in small groups, choose a representative serving any district in your state.
2. Locate the committees the representative serves using the clerk's website (<http://clerk.house.gov>).
3. Pick one of these committees and find their website using the House's Committee Offices list (<http://www.house.gov/house/CommitteeWWW.shtml>).

4. **Scenario:** You are a news reporter writing an article on the recent activities of this particular committee. Use the committee website, as well as additional online and offline resources to compile your facts. The article should be no less than 600 words and include an interesting graphic or relevant photo.

ADDITIONAL ONLINE RESOURCES

- Online Biographical Directory of the United States Congress
<http://bioguide.congress.gov>
- Office of the Clerk
<http://clerk.house.gov>
- Library of Congress/THOMAS
<http://thomas.loc.gov>
- Speaker of the House
<http://speaker.house.gov>

Buzzing In!

@ THE LAW-RELATED COLLECTION, EMPORIA STATE UNIVERSITY, TEACHERS COLLEGE RESOURCE CENTER

The Kansas Mock Trial Competition is a most perfect reason to explore the Law and the Court System. A mock trial is an opportunity to evaluate and scrutinize a set of circumstances from many different angles, and then through the process of reasoning, choose outcomes that uphold the law.

Here at Emporia State University's Teachers College Resource Center, we have the Law-Related Education Collection that is generously supported by the Kansas Bar Association. Within this collection are all manner of resources that enrich learner experiences toward government and historical topics, and more specifically, mock trials. Upon browsing the Collection, several opportunities presented:

- **Everyday Law for Young Citizens**, a collection of scenarios addressing 22 cases and 95 related activities, with a focus of grades 5-9, all extending the discussions of civil or criminal, and state or federal jurisdiction.
- **Mini-Mock Trial Manual**, Grades 5-12, includes student handouts for mock Trial Procedures and selected mini-mock trial cases.
- **Law in the Classroom: Activities and Resources**, includes case studies, guidelines and instructions, strategies for discussions, and mock trials.

And other related awesome resources:

- **Supreme Court Decisions that Changed the Nation: *Marbury v. Madison***: (DVD)
- **History of the Supreme Court**: (3-volume DVD set)
- **The Supreme Court**: (4-volume DVD set) a compilation of public TV offerings that showcase the Supreme Court as the ultimate interpreter of the Constitution.

For your online convenience, go to: emporiastate.worldcat.org and choose Resource Center from the dropdown menu. If you would like to call to order and check out items, our number is (620) 341-5292, and our hours are from 9 a.m. – 6 p.m., Monday through Thursday, and 9 a.m. – 5 p.m. on Friday. You may also email me to check out items: jromeise@emporia.edu. These items will come to you postage paid, and will have a return envelope also postage paid, a courtesy of the Kansas Bar Association. We welcome you to our growing list of patrons!



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DEAR READERS,

Law Wise is provided as a public service and is a publication funded by the KBA Law Related Education Committee through a grant from the Kansas Bar Foundation.

We are interested in your thoughts, ideas, and suggestions about current and future issues. In an effort to provide a format for subscribers to share information, we have created a new way to register and to receive *Law Wise*. If you do not currently receive *Law Wise* via your inbox but would like to, we need for you to let us know. Here are some simple instructions to do that.

How to Subscribe

Nonmembers:

We now request you have a FREE **Educator** account.

1. During the sign up process (www.ksbar.org/join), choose Educator.
2. Create a username, input your first and last name, and select "Law Wise" from the Education drop down menu. Click Continue.
3. Create a password and complete the form.
4. You are now subscribed to *Law Wise*.

KBA Members:

5. Please sign in.
6. Go to [Law Wise](#) page.
7. Next, you click the Join Group icon near the top of the *Law Wise* webpage.



FAQs

We have a list of FAQs available on the *Law Wise* webpage at <http://www.ksbar.org/LWFAQ>.

The Kansas Bar Foundation, with Interest on Lawyers' Trust Accounts funding, provides support for this publication. *Law Wise* provides general information about law-related matters of interest to teachers, students, and the public in Kansas, but does not provide any legal advice, so readers should consult their own lawyers for legal advice. For further information about any projects or articles, contact Ron Keefover at ronkeefover@gmail.com; or Anne Woods, public services manager, (785) 234-5696. *Law Wise* is published by the Kansas Bar Association, 1200 SW Harrison St., Topeka, KS 66612-1806, during the school year.