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Will, Mariam, Mary Shea, and their dog, Mae



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PUBLISHER

John D. Meyers

EDITOR

James P. Dady

MANAGING EDITOR

Shannon H. Roberts

DESIGN & LAYOUT

Jesi L. Ebelhar

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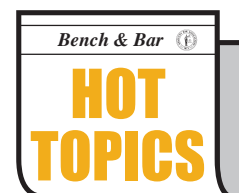
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BY: DOUGLAS C. BALLANTINE
KBA PRESIDENT

Advocating *with* Respect

A long time ago in a galaxy far away, someone asked me if I might be interested in getting involved with the Kentucky Bar Association. I said that I would think about it and soon thereafter, just a few years out of law school I became a member of KBA Professionalism Committee. I have been involved in the KBA in some way or another ever since and have enjoyed every bit of it. Now, it is my honor to serve as president of the KBA. First and foremost, thank you for that honor. Although I occasionally joke and say that I must have missed a meeting in order to have been selected for this position, I do not take lightly the responsibility of the position. As trite as it might sound, when I consider the presidents before me, as well as the quality of lawyers throughout the Commonwealth, I am truly humbled to serve as president of the Kentucky Bar Association.

Several people have asked if I have any particular goal or program in mind for my term. The short answer is not really. I am in the fortunate position of following many great presidents who started or have continued several very good programs. The Board of Governors and the Executive Committee will have our hands full continuing those programs. An overview of a few of the programs is below, followed by a few comments about our opportunity as lawyers to demonstrate passionate, yet respectful, arguments.

BAR LEADERSHIP CONFERENCE. This was primarily Immediate Past President Bill Garmer's idea. Many lawyers approached Bill and members of the Board of Governors asking how they could become involved with the KBA. Bill asked KBA Past President Buzz English to chair a committee to plan a program to help lawyers become involved in the KBA. The program was a great success and Bill wrote about the program in his last president's page. The planning for the next program has already begun. Thanks to Bill Garmer not only for the conference, but also for his service as president last year.

KENTUCKY LAWYER ASSISTANCE PROGRAM TASK FORCE. Past President Mike Sullivan has set up an ad hoc committee to examine KYLAP to assess what needs the program may have, and to try to determine what the KBA can do to help address those concerns. We expect to have a report from the committee this year.

DIVERSITY INITIATIVES. Past President Doug Farnsley came up with the idea to have a Diversity and Inclusion Summit, which we try to hold every other year, and expect to have it in the spring of 2019. The Diversity Summit is a program to help provide practical ideas for the creation of diversity and inclusion programs, to assist managers in handling diversity issues and to empower attorneys from diverse backgrounds to work through issues to contribute in their workplaces. There will also be a Diversity Pipeline, by which high school and college students from diverse backgrounds will be invited to learn more about the legal profession.

KENTUCKY LEGAL EDUCATION OPPORTUNITY PROGRAM (KLEO) TASK FORCE. The KLEO program is designed to increase the number of historically under-represented students in Kentucky's three law schools. The KLEO program has two aspects: a scholarship and a 12-day residential pre-law preparatory program called the KLEO Summer Institute. The Summer Institute is designed to prepare students from low income, minority and disadvantaged backgrounds for the rigors of law school. Over 175 students

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have successfully completed the KLEO Summer Institute.

Funding for the KLEO Program is a challenge. In fact, sadly, this year, the KLEO Program does not have the funds to operate. Thus, the Board of Governors will likely appoint a task force to examine the best way to resume and continue funding for this very important program to help increase diversity in our profession in Kentucky.

TASK FORCE ON JUDICIAL EVALUATIONS. Chaired by Board Governor Amy Cabbage, with the help of many great members, the task force's goal is to develop a statewide judicial evaluation process. The task force is working to create a standardized evaluation form to be used to evaluate judges throughout the Commonwealth. The results of the evaluations should provide useful feedback to judges to help improve performance on the bench and to assist the public in selecting judges in our judicial elections. We anticipate that the Board of Governors will establish a standing committee on judicial evaluations, likely consisting of representatives from each Supreme Court district, along with at least one retired judge.

We also have a Long Range Plan that is being implemented and we expect to continue working to implement that plan.

So you can see there is a lot going on with the KBA to keep us all busy and I am delighted to be able to contribute in a small way to that effort. I always tell people that it sounds cheesy, but my work for the KBA is some of the most rewarding work I do as a lawyer.

Finally, I just want to mention a couple of points that I hope we remember as lawyers and judges.

It is no great insight or revelation to say that these days discussion of controversial topics or differing opinions seem to be filled with a great deal of vitriol, hostility, and personal attacks. And no, this is not going to be a political diatribe; unfortunately, these issues are there regardless of one's political persuasion. When I graduated from law school, I was asked to deliver

the commencement speech for the students. Perhaps naively, but nonetheless sincerely, the message of my talk was to be a human being first and a lawyer second when practicing law. In other words, treat each other decently and with respect as human beings, while at the same time advocating for our clients. I have tried to practice with that in mind, though I will be the first to admit, not always successfully.

WE AS LAWYERS ARE TAUGHT SOME TREMENDOUS SKILLS:

1. To think critically and identify clearly and precisely what are the facts in a particular situation;
2. To advocate passionately and zealously for our clients;
3. But at the same time that we advocate, we are to be respectful of our opponents and the court.

This past year's convention theme, "More than a lawyer," can tie in to this too. We should be more than a lawyer; yes, we should be lawyers, but lawyers who are human beings who advocate respectfully. This applies to judges and would-be judges too. When lawyers are in your court, treat them with respect. (This is probably the only time I am ever going to be able to tell a judge what to do.)

As Kentucky lawyers, we can be carriers of the message of passion and respect throughout our profession and in our communities. When we attend town meetings, we can go as lawyers armed with the facts, arguments, passion and respect to show our friends and opponents that it is possible—indeed far preferable—to have passionate yet respectful discussion and disagreement on what may be very controversial issues.

I believe that the legal profession is, and can continue to be, the shining example and beacon of calm, rational analysis, and well-crafted arguments, but most important today, arguments presented respectfully.

Is this too unrealistic? Maybe for some. However, we must guard very jealously some of the most valuable principles and teachings of our profession and use them as examples to our communities, small and large, of how to advocate with respect, including how to lose with respect. The lack of respect and the attacks that we hear of can spread in our profession and our communities like an insidious cancer, if we let it.

Kentucky lawyers are some of the best and brightest people in the Commonwealth and beyond. Please don't let our talent, training and professionalism go to waste. Maybe if we try to be more than a lawyer, a human being who advocates with passion but with respect, others will see our example and realize that this is the best way to resolve issues.

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Stoll Keenon Ogden PLLC proudly
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2018-19 President of the
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Q & A

WITH KBA PRESIDENT

Doug Ballantine

BY: JAMES P. DADY

You were born to the breed. Your uncle Thomas Ballantine, Jr., was a U.S. District Judge. Your grandfather on your father's side was a lawyer. Your father John T. "Jack" Ballantine still practices with your law firm, Stoll Keenon Ogden. When did you develop the notion to become a lawyer, and what was your father's influence on that decision? How has your father helped you along on your journey as a lawyer?

Doug: I guess I come by it honestly. I was always interested in law as I grew up, but needed to get some wanderlust out of my system first. My father and uncle, and even my grandfather have had a great influence on my practice as a lawyer. My grandfather was hired away from the law firm where he began work as a young lawyer because the client said that all of the other lawyers the client had worked with had told the client why the client could not do what the client wanted to do. My grandfather, on the other hand, told the client how he could do what he wanted to do, and the client wanted someone like that to be his lawyer. I try to remember that lesson as I practice.

My uncle Tom had a great wit, and was very economical with his words in his writings for the Court. Unfortunately, I don't believe that I have Tom's wit, but I do try to be as succinct as possible with submissions to courts.

As for my father, I couldn't have found a better mentor or teacher to practice law. He has guided me when and as necessary, but has never been overbearing in any way. He is not one to try to take the limelight or showboat his talents. Rather, he lets his results over the decades speak for themselves. He is a leader by example. He and other senior lawyers in

and out of our firm have emphasized that it takes a long time to build a good reputation but a very short time to build a bad one, and I have tried to keep that in mind as I practice. He teaches me how little I know every day, but in a very nice way.

Election as KBA president is always the culmination of a long history of bar service. You also have been involved in practice-specific committee work at the state and federal levels. Can you describe your own history of service to the bar, and what it has meant to you, personally and professionally?

Doug: I always tell people that it may sound cheesy, but my volunteer work for the Kentucky Bar Association and other legal entities, such as various committees for the Sixth Circuit, has been some of the most rewarding work I've done as a lawyer. When I first started practicing, my dad suggested that I check out the KBA to see if there were any committees or groups that interested me. I think I may have started on the KBA Professionalism Committee many years ago. Since then, I have served on the KBA Board of Governors for six years (three 2-year terms), Ethics Committee, CLE Commission, including serving as chair, the KBA Rules Committee (chair), the Sixth Circuit Advisory Committee on Rules, Sixth Circuit Judicial Conference Planning Committee, Sixth Circuit Life Members Committee, and some others.

What has made my service to the Bar so rewarding are the great, dedicated people I have met. Almost without exception, the KBA staff and the lawyers and non-lawyers who serve on the various Bar committees, commissions and other volunteer Bar groups are true believers in the mission of the Bar and the



related committees. Practicing law has been a stimulating career, but it can also be stressful, as all of us know. Getting together with other lawyers who believe in the good that lawyers can do, and who work to accomplish those good things, is rewarding and uplifting. The time I spend with the Bar is a small way that I can repay our profession for the benefits I have received over my life from the practice of law.

In 2009, the KBA published a book of interviews with senior attorneys, “Kentucky Lawyers Speak.” Among the lawyers interviewed was your father. In his interview, he called “destructive and horrible” attacks on judicial decision-making by “people who don’t have any basis of understanding” the nature of what courts do. Do you share his concerns? How viable these days are the constitutional principles of judicial independence and the separation of powers?

Doug: I do share his concerns, but I also know that he and I believe in our system of government. There will likely always be some who attack our judicial system when they don’t obtain the results they want. I think one of the greatest attributes of lawyers is the ability to disagree respectfully, without attacking personally the lawyer or the party on the other side, or the particular judge assigned to a case. It is very important that we as a profession serve as an example of how we as a society can disagree agreeably. I think we need to be sure that our children are learning about how our government is structured and how it functions, including the importance of judicial independence within our system. Then, as they mature and if they see any attacks on the judicial system, they may understand and respect the need for continued judicial independence.

KBA presidents tend to come into office with a cause or concept they’d like to emphasize in their year in office. Have you settled on a theme for your presidency?

Doug: I don’t know that I have a particular theme or cause for the short time that I will serve as president, but there are certainly ongoing issues to be addressed, already begun by some of my predecessors. We need to do all we can to support our judiciary in efforts to increase funding for the courts. We must strive to increase the diversity of our Bar in Kentucky. Efforts are already underway on that front, begun by then-President Doug Farnsley and others, but we must not let up in our efforts. Also, President Bill Garmer recently held the first Bar Leadership Conference, which is designed to encourage participation by members of the Bar who want to serve, but have not been sure how to go about that. We hope that will be an annual event to continue to encourage new leadership in the KBA. Additionally, unfortunately, mental health issues arise for our members. Our Kentucky Lawyer Assistance Program (KYLAP) is doing a great job trying to help with those issues. We have a commission appointed by former president Mike Sullivan to examine KYLAP to see if there are ways it can better serve our members. These are just some of the issues that the KBA and the Board of Governors will be addressing during my time as president.

Stoll Keenon Ogden’s (SKO) history goes back more than 120 years. Stoll Field, once the home of the UK football Wildcats, was named for the founder, Richard Stoll. Squire Ogden is a Kentucky

legal legend. Can you talk about your law firm, one of the most venerable and venerated in Kentucky?

Doug: After my judicial clerkship, I started with the former Ogden Newell and Welch in Louisville. Squire Ogden was quite a character, and had an impressive legal mind. Although I did not practice law when he was alive, I remember him from when I was a boy. He and other lawyers in our firm then such as Rick Newell, Jim Welch, Joe Oldham, as well as my dad, all stressed the importance of putting the client's interests first and working as hard as we could to accomplish the client's goals, while adhering to the highest ethical standards in the practice of law.

I have vague memories of the old Stoll Field and driving by there with my grandfather, though at the time, I had no idea for whom it was named. Richard Stoll was an extraordinary lawyer and community leader whose accomplishments and contributions to the profession are too many to list here. The SKO lawyers who followed Judge Stoll have carried on his tradition of excellent legal work, as well as contributing to the community in many different ways. It's important to everyone at SKO that we honor the legal and community service legacy we've been entrusted with—and we look forward to passing that torch to future generations.

Your background includes time as a law clerk for a U.S. District Judge in the Virgin Islands, and time sailing in the Caribbean. Can you describe those adventures to our readers?

Doug: Back when I was an undergraduate at the University of Kentucky, I got wanderlust and quit school before graduating (much to my parents' dismay). During that time out of school, I met a man who owned a 46 foot sailboat in Tortola, in the British Virgin Islands. Even though I did not then know how to sail, he offered me a job on his boat as captain. A friend of the owner met me on the boat and taught me how to sail, and how to take care of the sailboat. One of my brothers went down with me and we had an unbelievable experience sailing throughout the Caribbean on the boat. We would pull into an anchorage, drop anchor, and then put on a snorkel mask and catch fish or lobster for dinner. After about a year on the first boat, I went to work as a charter captain for a company called the Moorings. That was a more regular charter captain job, where I would take families out for week-long charters, mainly in the BVI.

After about two and a half years sailing, I decided it was time to return to school. After completing law school, I applied to be a law clerk for the U.S. District Court in the U.S. Virgin Islands. I was



fortunate enough to get that position in St. Croix, where I served for two years. The judge was a great person—very smart, kind, understanding and patient. It was a great experience in part because the court really served as three different courts then: it was an Article One court, and heard all federal claims; it was also a court of general jurisdiction for cases above a certain dollar minimum; and it was an appellate court from the Territorial Court of the Virgin Islands. The clerking experience was quite interesting, but also full of adventure, as it turns out. I was there when Hurricane Hugo hit St. Croix and really caused problems. My apartment was without electricity for more than four months as the island tried to rebuild after the storm, similar to what is occurring now after Hurricanes Irma and Maria in 2017. Sadly, the judge I worked for passed away soon after the hurricane, before my term ended. After the judge's death, I worked with various visiting judges who were sent to help address the caseload and learned many different styles of judging as a result.

The budget for the judicial branch has become a biennial battle in Kentucky, and the same thing is occurring in statehouses around the country. Is the legal profession doing a good enough job in educating the public about the primacy of the rule of law in society?

Doug: As for the budget for the judicial branch, our legislators are all trying to balance a lot of different demands for funding priorities. Their job is not an easy one in that respect, and I appreciate the support the judicial branch receives from the legislature. Chief Justice Minton has worked tirelessly to explain the needs of our courts to the Legislature and the KBA tries to help as it can. It is an ongoing challenge, but I believe the legal profession is trying to educate the public about the importance of the rule of law, but I'm sure we can always do more.



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2018 KBA Annual Convention

WRAP UP

Under our convention theme of “**More Than a Lawyer,**” this year’s event offered **over 50 outstanding CLE programs.**

On **Wednesday, June 13th**, John Douglas, FBI Investigative Support Unit founder and inspiration for the character Holden Ford in Netflix’s “*Mindhunter*,” took attendees behind the television screen for a real-life look at the investigative techniques used for hunting serial killers, sex offenders and other violent offenders. Producer Amy Ziering joined afterward and discussed her documentary “*The Hunting Ground*” which was an expose of sexual assault on U.S college campuses, their institutional cover-ups, and the devastating toll they take on students and their families.

Oscar-winning screenwriter and *New York Times* best-selling author Graham Moore spoke on **Thursday afternoon**. Moore won the 2015 Oscar for Best Adapted Screenplay for “*The Imitation Game*” and his latest best-selling novel *The Last Days of Night*, which looks at the battle between Thomas Edison and George Westinghouse over the lightbulb patent, will be in movie theaters soon. Thursday also hosted several spotlight CLE programs, including last year’s standing room only program, “*The Opioid Epidemic in Kentucky*,” as well Philip K. Howard, attorney and best-selling author of *The Death of Common Sense*, *The Collapse of the Common Good*, *Life Without Lawyers*, and *The Rule of Nobody*.

The programming was packed with fun and interesting sessions on **Friday, June 15th**, such as “*Better NOT Call Saul: Professional Ethics Lessons from ‘Breaking Bad’ and Its Prequel*,” “*Presidential Last Will & Testaments*,” “*Legal Issues in the Star Wars Universe*,” and “*Ethics Jeopardy*.” Also in the lineup was Matt Jones, Kentucky attorney and host of “*Hey Kentucky!*” and “*Kentucky Sports Radio*,” who, along with a panel, joined us to discuss the legal world of NCAA sports infractions. The convention ended with our featured presentation from civil rights attorney Lisa Bloom, known for representing women whose sexual harassment claims precipitated the firing of Bill O’Reilly from “*Fox News*,” where she discussed the #MeToo movement and its legal implications.



KBA ANNUAL BANQUET

During the convention's annual banquet held at the Lexington Convention Center on **Thursday, June 14**, outgoing KBA President Bill Garmer presented the **2018 Distinguished Lawyer Award** to Somerset attorney **Richard W. Hay** and the Distinguished Judge Award to **Jefferson County Circuit Court Chief Judge Brian C. Edwards**. Chief Justice John D. Minton, Jr., presented the **Chief Justice's Special Service Award** to **Arnold S. Taylor** for his service on the Judicial Ethics Commission and **Grant M. Helman** from his work on the Character and Fitness Committee of the Office of Bar Admissions. Taylor and Helman both served as chair for these groups for many years.

Following the awards, the KBA's new Officers and Bar Governors for 2018-2019 were sworn into office by Chief Justice Minton. The new officers include **Douglas C. Ballantine**, Louisville, as **President**; **President-Elect J. Stephen Smith**, Ft. Mitchell; **Vice President Thomas N. Kerrick**, Bowling Green; **Bill Garmer**, Lexington, as **Immediate Past President**; and **Young Lawyers Division Chair Jennifer "Jenna" S. Overmann**, Edgewood.

Bar Governors receiving the oath of office were **W. Fletcher Schrock**, Paducah, 1st Supreme Court District (SCD); **Matthew P. Cook**, Bowling Green, 2nd SCD; **Melinda Gillum Dalton**, Somerset, 3rd SCD; **Bobby Simpson**, Louisville; 4th SCD; **Eileen M. O'Brien**, Lexington; 5th SCD; and **Gary J. Sergent**, Covington, 6th SCD; and **Judge John F. Vincent** of Ashland, 7th SCD.

Other Kentucky Bar Governors continuing their service are **Van F. Sims**, Paducah, 1st Supreme Court District (SCD); **J.D. Meyer**, Owensboro, 2nd SCD; **Howard O. Mann**, Corbin, 3rd SCD; **Amy D. Cabbage**, Louisville, 4th SCD; **Mindy G. Barfield**, Lexington, 5th SCD; **Todd V. McMurtry**, Ft. Mitchell, 6th SCD; and **Rhonda J. Blackburn**, Pikeville, 7th SCD.

Also honored during the event were retiring KBA President **Garmer**; Immediate Past President **R. Michael Sullivan**, Owensboro, and outgoing YLD Chair **Eric M. Weihe**, Louisville.

KBA MEMBERSHIP LUNCHEON

The annual membership luncheon was held on **Friday, June 15**, at the Hyatt Regency. Prior to the luncheon President Garmer and Chief Justice Minton honored the attorneys who achieved senior counselor status. Following their ceremony the senior counselors attended the membership luncheon and watched a touching tribute to recognize their years of service. This year 188 attorneys were recognized as senior counselors. President Garmer presented the **Bruce K. Davis Bar Service Award** to Louisville attorney **H. Scott Davis III**. President Garmer later presented the **2018 Donated Legal Services Award** to **Marilyn S. Daniel**, of Versailles.

The **Nathaniel A. Harper Diversity Award** was presented to **Michelle Browning Coughlin** from Wyatt Tarrant & Combs' Louisville office. To conclude the luncheon **2018 Annual Convention Chair Robert L. Elliott** and **CLE Planning Committee Chair Judge Sheila R. Isaacs** were thanked for all of their hard work and dedication to the 2018 KBA Annual Convention.

2018 Annual Convention Award Recipients



Lexington attorney **Bradley D. Clark**, left, receives the 2018 Outstanding Young Lawyer Award from Zachary A. Horn of Frankfort.



Lindsey L. Howard of Louisville and Zachary A. Horn of Frankfort present the Service to Young Lawyers Award to Louisville attorney **Christopher E. Schaefer**, center, during the YLD Luncheon.



Megan P. Keane of Prospect receives the Outstanding Executive Committee Member Award from YLD Chair Eric M. Weihe of Louisville.



Cassie Chambers of Louisville receives the Young Lawyer Service to the Community Award from Zachary A. Horn, left, and Jonathan D. Miller of Louisville.



YLD Chair Eric M. Weihe presents **Elizabeth A. Combs** of Lexington with a plaque recognizing her as Outstanding Committee Chair.



Incoming YLD Chair Jennifer "Jenna" S. Overmann of Edgewood presents YLD Chair **Eric M. Weihe** with a plaque recognizing his service to the division over the past year.



Richard W. Hay of Somerset receives the 2018 Distinguished Lawyer Award from KBA President Bill Garmer of Lexington during the annual banquet.



KBA President Garmer presents Jefferson County **Circuit Court Chief Judge Brian C. Edwards** with the 2018 Distinguished Judge Award.



Chief Justice John D. Minton, Jr., presents **Arnold S. Taylor** of Crestview Hills, with the Chief Justice's Special Service Award during the annual banquet for his service on the Judicial Ethics Commission.



Chief Justice John D. Minton, Jr., presents Louisville attorney **Grant M. Helman**, with the Chief Justice's Special Service Award during the annual banquet for his service on the Office of Bar Admissions Character and Fitness Committee.



KBA President Bill Garmer presents Immediate Past President **R. Michael Sullivan** of Owensboro with a plaque honoring his four years of service on the KBA Board of Governors. Sullivan has served on the Board from July 1, 2014-June 30, 2018.



YLD Chair **Eric M. Weihe** of Louisville accepts his plaque from KBA President Bill Garmer for his service on the KBA Board of Governors from July 1, 2017-June 30, 2018.



Chief Justice John D. Minton, Jr., administers the oath of office to the members of the 2018-19 KBA Board of Governors.



KBA President **Bill Garmer** passes the gavel to incoming KBA President **Douglas C. Ballantine** of Louisville.



Incoming KBA President **Douglas C. Ballantine** addresses the attendees during the 2018 KBA Annual Banquet held on June 14.



KBA President **Bill Garmer** was presented with this plaque for his service as president during 2017-2018 by incoming KBA President **Douglas C. Ballantine**.



Louisville attorney **H. Scott Davis III** receives the 2018 Bruce K. Davis Bar Service Award from KBA President **Bill Garmer** during the KBA Membership Luncheon. Davis chairs the KBA's Investment Committee.



Marilyn S. Daniel of Versailles receives the 2018 Donated Legal Services Award from KBA President **Bill Garmer** during the membership luncheon for her service to the Maxwell Street Legal Clinic.



Laura Landenwich of Louisville presents the Young Lawyer Division's 2018 Nathaniel R. Harper Award to **Michelle Browning Coughlin** of Louisville.



Continuing Legal Education Commission Chair **Jason F. Darnall** presents the Thomas B. Spain Award to **Carl Frazier-Sparks** of Arkansas.



KBA President **Bill Garmer** presents **Robert L. Elliott** of Georgetown with a plaque recognizing him for his service as the 2018 Annual Convention Chair.



KBA President **Bill Garmer** presented **Judge Sheila R. Isaac** of Lexington with a plaque recognizing her for her service as the 2018 Annual Convention Continuing Legal Education Chair.

Thirteen of the KBA's past presidents attended the annual membership luncheon held June 15 at the Hyatt Regency in Lexington.



2018 Annual Convention





2018 Annual Convention

2018 LAW DAY AWARD

The winner of the Kentucky Bar Association's annual Law Day Competition received their awards during the membership awards luncheon held Friday, June 15, at the Hyatt Regency as a part of the 2018 KBA Annual Convention. Law Day Committee Chairman Gailen W. Bridges, Jr., presented the award during the luncheon.

The **Bowling Green-Warren County Bar Association** was the recipient of the award for the Large Bar Category. The Bowling Green-Warren County Bar Association focused their celebration around this year's theme, "Separation of Powers: Framework for Freedom."

The Bowling Green-Warren County Bar Association celebrated Law Day with a public ceremony held at the Capitol Arts Center. They continued their tradition and held a poster and essay contest for the schools in their area. They also participated in the KBA Young Lawyers Division's Legal Food Frenzy collecting canned food goods and held a Red Mass.

Thank you to all of those Bar Associations who participated in Law Day 2018.



Immediate Past President of the Bowling Green-Warren County Bar Association **Brent Stinnett**, right, and Secretary **Chris Whitfield**, center, accept the plaque from Gailen W. Bridges, Jr., honoring the Bowling Green-Warren County Bar Association in the Large Bar Category.

2018 Annual Convention

2018 CONVENTION EXHIBITORS

The Kentucky Bar Association would like to **thank the exhibitors** who attended our 2018 Annual Convention.



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THE RISE OF THE CHATBOTS

BY: ROBERT BRAMMER



Facebook Messenger is now the third most popular mobile social networking app in the United States.¹ The popularity of instant messenger platforms has led to a race by businesses to establish a presence on these platforms. Just as businesses hurried to create an app to take advantage of the ubiquity of smartphones in the early 2000s, now businesses are creating chatbots to take advantage of the popularity of instant messenger platforms. One of the most frequent criticisms of lawyers' use of the internet is that lawyers build web pages that are nothing more than digital equivalents of static advertisements in the Yellow Pages. These sites provide little more than an advertisement that is an invitation to email or call the lawyer to retain their services. Chatbots provide an opportunity to address that criticism but also pose pitfalls for the unwary.

Chatbots are already a common presence among retailers. Typically, a customer interacts with a chatbot by typing a question or clicking on a menu, and the chatbot provides a text-based response or a visual menu to explore further options. For example, a

customer may visit a shoe retailer's chatbot and type, "I would like to buy running shoes." The chatbot will then respond with a gallery of images of popular running shoes, along with a brief description and price underneath each shoe. The customer could then click on a shoe to jump to the retailer's webpage to learn more or click on an option that says, "Show me more options" and another gallery of options would be displayed. Chatbots are also used for frequently asked questions, such as questions regarding returning a product to a retailer. The use of chatbots is not confined to the commercial space. Some, such as Poncho, can provide information about local weather conditions and will send an instant message when it begins raining in the user's location to remind the user to bring an umbrella.

One of the first chatbots in the legal domain to gain media attention was a parking ticket bot called Do Not Pay. Designed by an undergraduate student at Stanford, this bot allows the user to generate a form letter to appeal a New York City parking ticket. It has since expanded its offerings to

other jurisdictions. Users input their name, address, and other standard information, and then choose from a series of excuses or justifications, drawn from the municipal code, that indicate why they should not have received a parking ticket. The user can then print out the appeal and mail it in. The chatbot that I created, the Law Library of Congress Chatbot, is accessed from the Law Library of Congress Facebook page and allows users to click on a menu or type commands to retrieve legal research guides, foreign law reports, and primary sources of law. If the user wants to consult an attorney, the chatbot directs the user to an American Bar Association directory or a directory of Legal Aid organizations.

Despite their promise, chatbots could also pose ethical considerations for lawyers and create a risk of engaging in the unauthorized practice of law for non-lawyers. What constitutes the practice of law has become murkier, particularly in an era where tasks traditionally associated with legal services are increasingly subject to being unbundled, automated, and outsourced. In the case of unbundling, a lawyer may limit the scope of

representation through retainer agreements where, for example, the lawyer may agree to draft a complaint, petition, or brief, but not agree to appear in court on behalf of the client.² Tasks traditionally associated with legal services are also being automated, as is the case with popular online self-help legal products that ask users a series of questions in order to prepare documents, such as wills, trusts, or petitions for dissolution of marriage.³ Tasks associated with legal services are also being outsourced to low-cost providers, as is the case with some document review projects where a firm may outsource their document review to less expensive domestic or foreign labor markets.⁴

These developments, which allow non-lawyers to perform tasks traditionally associated with legal practice, have made it more challenging to define the practice of law and identify the unauthorized practice of law. The practice of law as defined by Kentucky Rules of Professional Conduct in SCR 3.020 is helpful because it focuses less on specific tasks and places emphasis on the application of legal knowledge or legal advice, defining the practice of law as “any service rendered involving legal knowledge or legal advice, whether of representation, counsel, or advocacy in or out of court, rendered in respect to the rights, duties, obligations, liabilities, or business relations of one requiring the services...”

Even with a definition focused less on tasks traditionally performed by a lawyer than on the application of legal knowledge, it is easy to conceive of a situation where the author of a chatbot could step over the line of providing legal information and could create a chatbot that engages in the practice of law. These risks will increase when the artificial intelligence that powers chatbots advances to the point where a chatbot can interact with a user’s natural language questions, determine the user’s set of facts through a series of responses to fixed questions, and recommend a course of action informed by the application of the law to the user’s unique set of facts. For a non-lawyer, this could mean the creator of the chatbot engaged in the unauthorized practice of law, a felony in some jurisdictions and a Class B misdemeanor in Kentucky.⁵ For the

lawyer, it is possible a lawyer-client relationship could be imputed to exist between the author of the chatbot and the user, since according to Kentucky Bar Ethics Opinion KBA E-316, “an attorney client relationship is not dependent upon payment of fees, nor execution of a formal contact... In addition, the relationship may be established by the client’s reasonable and detrimental reliance on the lawyer to provide legal services.”⁶ The imputation of a lawyer-client relationship between the author of a chatbot and its users could be disastrous, since a law chatbot may interact with thousands of users. It is also possible that prospective clients could interact with a lawyer’s chatbot in an attempt to deliberately provide significantly harmful information that creates a conflict of interest that, in accordance with Kentucky Rule of Professional Conduct SCR 3.130(1.18), would prevent the attorney from representing a party with an adverse interest in the same or a substantially related matter without the consent of both parties to the controversy.

Lawyers can strive to avoid these thorny issues by being careful to provide legal information, rather than legal advice, through their chatbots. This is the approach I have taken with the Law Library of Congress Chatbot. The first prompt makes it clear that the chatbot cannot provide legal advice, only legal information, and the chatbot never applies the law to the facts of a client’s case to recommend a course of action. This approach can help empower the user with authoritative information before he or she makes contact with an attorney, allowing the client to become an informed consumer of legal services.

Chatbots are a novel technology that could provide lawyers the opportunity to educate and empower potential clients in a new communication platform, but this platform must be used with caution, lest the lawyer unwittingly find his or herself

subject to unanticipated ethical obligations with thousands of users. Be sure to contact the Kentucky Bar ethics hotline for authoritative information concerning professional ethics issues related to chatbots and other emerging legal practice technologies. **BB**

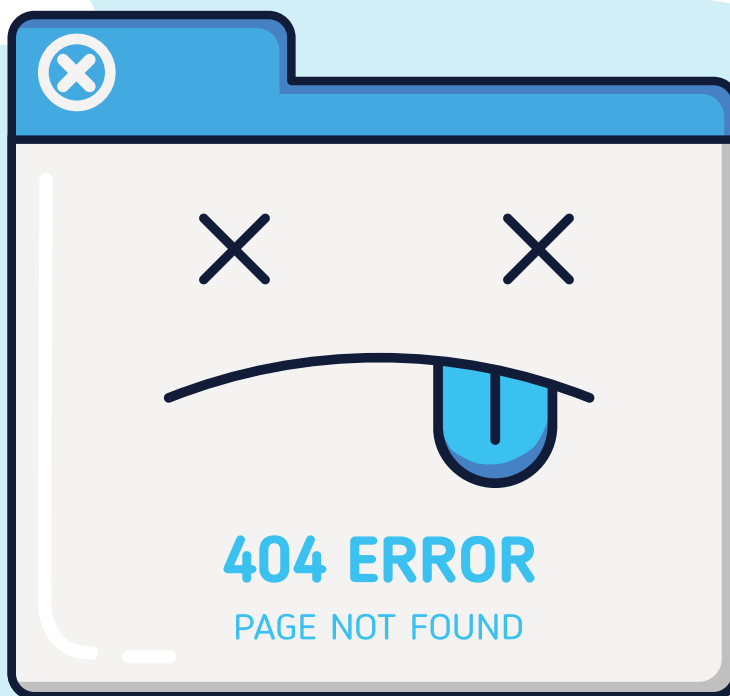


ABOUT THE AUTHOR

ROBERT BRAMMER is a senior legal information specialist at the Law Library of Congress and the creator of the Law Library of Congress Chatbot (<https://www.facebook.com/messages/t/lawlibraryofcongress>). Brammer received a Bachelor's degree in political science from the University of Kentucky, a law degree from Wayne State University, and a Master's in Information Science from Florida State University. He is licensed to practice law in Kentucky and Florida. Any opinions expressed in this article are his own and do not necessarily represent the views of the Law Library of Congress.

ENDNOTES

1. Verto Analytics, *Most popular mobile social media networking apps in the United States as of February 2018, by monthly users (in millions)*, Statista (2018), <https://www.statista.com/statistics/248074/most-popular-us-social-networking-apps-ranked-by-audience/> (last visited May 23, 2018).
2. David L. Hudson, Jr., *What ethics issues to consider when offering unbundled legal services*, *American Bar Association Journal* (June, 2013), http://www.abajournal.com/magazine/article/lawyers_offering_unbundled_legal_services_must_consider_the_ethics_issues/news/article/judges_and_the_administrative_state/.
3. Robert Ambrogi, *Latest legal victory has LegalZoom poised for growth*, *American Bar Association Journal* (August, 2014), http://www.abajournal.com/magazine/article/latest_legal_victory_has_legalzoom_poised_for_growth/.
4. Jason Krause, *Can legal service outsourcing get adopted beyond document review?*, *American Bar Association Journal* (July, 2017), http://www.abajournal.com/magazine/article/legal_service_outsourcing.
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6. Kentucky Bar Ethics Opinion KBA E-316 (1987).



* Internet Citations in Appellate Court Opinions: *

Something's Still Rotting in the Commonwealth

By: Michael Whiteman¹ and Jennifer Frazier

By 2012, Kentucky Courts had embraced the Internet for research as well as for citation in their published opinions. At that time, the authors conducted a survey of Kentucky's appellate courts and their Internet citation practices. The results of that survey revealed that the problem of link rot² was alive and well in the opinions of the Kentucky appellate courts.³ The 2012 article discussed the problems inherent with link rot, and proposed a solution to the issue, based on guidelines from the Judicial Conference of the United States.⁴ In the current article the authors have updated their study of Internet citations by Kentucky's appellate courts and found that the problem of link rot is alive and well. In light of the continued problem, the authors offer additional proposals for how the courts might address this problem with the continued goal of preserving information for the future generations of Kentucky lawyers.

At the time of the last study, the Kentucky appellate courts had cited to the Internet a total of 123 times in 93 cases. The previous study covered the years 2000-2011 (May). At that time, only 52.8 percent (or 65) of those links were still active and brought the researcher to the cited websites, leaving 47.2 percent (or 58) of the URLs as dead links. The current study looked at appellate court opinions from June 2011 through July 2017. Surprisingly the results remained fairly consistent with the previous study.

The current study found that the courts cited to the Internet a total of 184 times in 113 cases. The URLs for 65.2 percent (or 120) were still active and brought the researcher to the cited websites, leaving 34.8 percent (or 64) of the URLs as dead links. These results show a slight increase in the accessibility of Internet links (65.2 percent vs 52.8 percent), but this still leaves a relatively high percentage (34.8 percent) of Internet citations that are inaccessible. These statistics indicate that citations to the Internet will continue to increase in appellate opinions. The courts cited to Internet pages an average of 11 times per year in the previous study, and 26 times per year in the current study. Given the higher ratio of citations, and the continued “link rot” amongst the citations, the authors suggest the appellate courts address this issue in a variety of ways. These suggestions will be discussed further in the second part of this article.

In the previous article, the authors posited that the increased citation to Internet sources, combined with a relatively high percentage of dead links, can lead to a loss in the understanding of the underlying rationale for why a court decided a case in a particular manner. “The ability to look at the authority relied upon by a court in coming to its decision underlies the system of *Stare Decisis* which forms the basis of the Common Law. Increased use of Internet citations in judicial opinions, especially ones that fall victim to link rot, may undermine this system and make it much more difficult for future lawyers and judges from determining exactly how to use a judicial opinion.”⁵

By way of example, in *Sluss v. Commonwealth*, 381 S.W.3d 215 (Ky. 2012), the court looked at two matters of first impression:

The first being:

Whether being a person’s Facebook “friend” standing alone can disqualify a juror is a question this Court has not been called upon to answer, nor has the Court previously considered the impact of an online “friendship” between a juror and someone closely involved in a criminal case. More broadly, it is the first time that the Court has been asked to address counsel’s investigation of jurors by use of social media. *Id.* at 226.

The second being:

There is an unsettled question about the extent to which counsel for a criminal defendant may investigate jurors during or after trial. The question generally involves whether the attorney engaged in inappropriate “communications” with a juror, such as adding the juror as a “friend” on Facebook directly through his own account or through a form of deception, or whether the information was truly public. *Id.* at 226-227.

In discussing these issues the court relied on a Formal Opinion of the N.Y. County Lawyers Association Commission on Professional Ethics. The Court cited to an ethics opinion via a URL on the Commission’s web site. Unfortunately the link to the opinion

no longer works. However, given the easy nature of locating this opinion, perhaps this particular broken link is not terribly inconvenient.⁶ While this may be true today, the same may not be true in the future, so a broken link may be our only source for the opinion, an opinion which was relied upon by the Court in deciding this matter of first impression.

More troubling is the citation to a news story which the Court relied upon as “evidence that, while the practice of conducting intensive internet vetting of potential jurors is becoming more commonplace, ‘lawyers are skittish about discussing the practice, in part because court rules on the subject are murky or nonexistent in most jurisdictions.’” *Id.* at 227.

Since this case deals with “first impression” issues, the evidence, upon which the decision rests, should not be such that it is hard, or impossible, to uncover by future researchers. While the authors were able to eventually find the original news story, there is no guarantee that a future researcher will find it, or a more likely scenario may be that the original story will eventually make its way behind a firewall, so only those with paid access can find the original news article.

Link rot in judicial opinions continues, and the threat that this poses to our Common Law system cries out for some form of a solution. In 2012, the authors cautioned the Bar with the following passage:

“When . . . a court purportedly bases its understanding of the law or the law’s application to case facts upon a source that cannot subsequently be located or confirmed, the significance of the citation to that source becomes more ominous. If present readers of the opinion cannot determine how much persuasive weight was or should be accorded to the unavailable source, they have little reason to place much confidence in the opinion’s authoritativeness.”⁷ Either a judge’s opinion citing a dead-end source loses some of its authoritativeness or the system becomes one in which we no longer try to tease out a judge’s reasons for a decision.⁸

Given the continued problems with link rot, and the likelihood that litigants and courts will continue to use the Internet as a source of information, the authors wish to propose some possible solutions to this problem. It is the authors’ hope that these proposals will be seen as friendly suggestions to the appellate courts as a way to address an issue that the evidence suggests is not going away.

A number of jurisdictions, both federal and state, have wrestled with how to deal with link rot. Some jurisdictions have adopted internal operating procedures to preserve the web site materials, while others are turning to outside resources to help with this problem. Any of the solutions described below would be a positive step forward for the Courts of the Commonwealth.

One low tech-solution would be for the Kentucky Supreme Court to adopt procedural rules that requires the Clerk’s office to print

out hard copies of the websites cited in an opinion, and these hard copies would be kept with the physical case file. While this solution would allow future researchers to access the cited source(s), it is not an ideal solution given a researcher's desire for instant access in the digital age. In order for a researcher to gain access to the physical file, one would need to request the file from either the Clerk's office or the Department for Libraries and Archives in Frankfort. The opinions themselves are freely available online and consumers of these opinions would expect archived websites to also be so available.

A more "digital" solution to this issue would be to follow the lead of some courts that have implemented a digital archiving solution for URLs cited in opinions. The earliest attempt to tackle link rot in appellate opinions was undertaken at the federal level. "Since 2007, federal court libraries have been tracking citations to online resources and preserving original documents and web pages as .pdf files. This project was created by the Library of the U.S. Courts of the Seventh Circuit in 2007 and was quickly implemented by most of the other Circuit Library programs".⁹ The Internet citations are captured as .pdf files and either archived on the Circuit Library's web site, or embedded within the PACER system for the respective opinion.¹⁰

While the federal Courts have access to a uniform case management system, PACER, the same is not true at the state level, and

so solutions have varied from doing nothing, to using an outside service to help with the issue of link rot.

For example some states are using Perma.cc¹¹ to archive websites and links in its opinions. Perma.cc is a web tool that allows individuals to create permanent links to materials as they appeared at the time the Perma.cc link is created.

Perma.cc was developed by Harvard's Law Library Innovation Lab and is maintained by them and other university law libraries across the country interested in the preservation of resources for future use. Perma.cc is a free service so access is not limited by contracts or loss of services by cancelation of such contracts.

Utah uses Perma.cc as a way to combat link rot. The State Law Library takes the lead in informing and helping the judges and law clerks with using Perma.cc. While there is no "official rule" requiring that the Courts use Perma.cc, the Courts appear to be using it to preserve links in opinions for future accessibility.¹²

Some jurisdictions are creating a "home-grown" system to deal with the issue of link rot. In Florida, the Supreme Court Library, has created its own website where it maintains .pdf copies of the websites cited in court opinions. The goal is "to capture, as closely as possible, what the court was referencing at the time the opinion was released."¹³



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The solutions that have been implemented at the federal and state level provide some framework for how Kentucky can address this issue. Perhaps the simplest solution would be to adopt the Perma.cc model. Perma.cc offers a free solution that is backed by the Harvard Law Library and many of the other law libraries throughout the nation. Whatever solution is selected, the problem of link rot is not going away, and something should be done to address it, as citations to Internet sources continues within Kentucky's appellate opinions. The authors ended their previous piece with the following warning:

"If something is not done to preserve the information cited by judges, the current system will, as one commentator has cautioned, do "a disservice to clients, and posterity, to create a body of precedent written on the wind."¹⁴ The wind is still blowing! **B&B**

Total URL citations in 113 cases		
	Links Good	Links Bad
	184	65.2%
		34.8%
Total Cases	Citations in KY. S.Ct. Opinions	Citations in KY. Ct. App. Opinions
113	120	64

ABOUT THE AUTHORS



JENNIFER FRAZIER is the State Law Librarian for the Commonwealth. She serves as the administrative head of the library and conducts legal research for the Judicial Branch elected officials. She has been a guest speaker at several conferences including the Equal Justice Conference, National Legal Aid and Defenders Association, Kentucky Library

Association Annual Meeting and was featured in an episode of the NBC series *Who Do You Think You Are?*

Frazier received her B.A. in history from Northern Kentucky University; J.D. from the Brandies School of Law at the University of Louisville and Masters in Library and Information Science from the University of Kentucky. She is a member of the Kentucky Bar Association, American Association of Law Librarians, Kentucky Library Association, and the Southeastern Chapter of the American Association of Law Librarians. She lives in Lawrenceburg with her husband and two wonderful children.

DEAN MICHAEL WHITEMAN is the Interim Dean at the NKU Chase College of Law. His responsibilities include overall planning and operations of the College of Law. He teaches basic and advanced legal research, as well as criminal law. Dean Whiteman's research interests include the impact of technology on the practice of law. His most recent publications include: *Appellate Jurisprudence in the Internet Age*, 14 *Nw. J. Tech. & Intell. Prop.* 255 (2017).

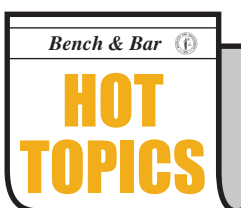


Dean Whiteman received his B.A. from Concordia University in Montreal, Canada, his Juris Doctorate from the University of Louisville, and his Master of Science in Library and Information Science from Simmons College. He is a member of the Massachusetts Bar.

ENDNOTES

1. Michael Whiteman would like to thank his research assistant, NKU Chase student Justin Wayne, for his assistance in compiling the statistics for this article.
2. "Link rot" is the term used to describe the effect of a Uniform Resource Locator (URL), sometimes referred to as the "web address" of an internet site, that no longer works.
3. Jennifer Frazier and Michael Whiteman, *Internet Citations in Appellate Court Opinions: Somethings Rotting in the Commonwealth*, *Ky. Bench & Bar* 2 (January 2012).
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10. *Id.*
11. When a user creates a Perma.cc link, Perma.cc archives the referenced content and generates a link to an archived record of the page. Regardless of what may happen to the original source, the archived record will always be available through the Perma.cc link. (<https://perma.cc/about>)
12. For example see *Met v. State*, 388 P.3d 447, 452 n.1 (Utah 2016).
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ADDITIONAL ARTICLE



**"I'll Expect a W.P.A. Check in the Morning":
The Path of the University of Louisville
School of Law to Belknap Campus"**

BY MARCUS WALKER

This article has been placed on the **KBA website** under the **Hot Topics** page.



Powers of attorney (POA) are tools that can help individuals plan for both short-term and long-term disability. These tools allow the individual (the “principal”) to choose whom they want to make decisions for them if they are unable, and decide the extent of power they want to assign in the event of incapacitation. It is a frequent misunderstanding that powers of attorney allow the agent to now act as the individual’s attorney; this is not the case. A power of attorney does not substitute for a law school degree and bar license.

Kentucky law and powers of attorney have been vague. Because our statutory law was so vague, legal drafters had prepared one page powers of attorney that did not meet Kentucky requirements or the clients’ needs. Similarly, Kentucky health-care and financial institutions have refused powers of attorney (even the well-drafted, highly specific ones) because there was no law limiting the liability those individuals accepting the power of attorney could incur. The result has been two-fold: 1) The power of attorney is powerless, and; 2) An advocate needed to utilize the complicated process of establishing a guardianship.

In 2006, the Uniform Power of Attorney Act was created to provide a template for states to follow.¹ This past session, the General Assembly tailored the Uniform Act to Kentucky’s needs by enacting House Bill 11 (“HB 11”). This article will discuss the statute, and how the statute will provide guidance, balance, and instruction to the agent, the principal, the attorney drafting the document, and the institutions ask to recognize the documents.

DOES THIS STATUTE AFFECT ALL POWERS OF ATTORNEY?

The new statute does not apply to all powers of attorney. Section 3 exempts the following powers unless the document otherwise provides:

- 1 a power to the extent it is coupled with an interest in the subject of the power, including a power given to or for the benefit of a creditor in connection with a credit transaction;
- 2 a power to make health-care decisions;
- 3 exercise voting rights or management right with respect to a legal entity;
- 4 a power created on a form prescribed by a government or governmental subdivision, agency, or instrumentality for a governmental purpose;
- 5 a power for reciprocal insurers;
- 6 a power given by a member of the United States armed forces, a person serving as a merchant seaman, or a person living outside the United States in connection with war activities as detailed in KRS Chapter 384; and
- 7 a power for the temporary delegation of parental rights.

The statute also does not affect powers of attorney that were executed prior to its effective date, July 15, 2018. Powers of attorney that were executed before the effective date of the new statute are valid so long as its execution complied with the law of the state as it existed at the time of execution.²

DEFINITIONS AND PROCEDURES CLARIFIED

Prior to HB 11's execution, Kentucky provided little guidance, specific definitions, or procedures necessary to ensure a power of attorney's validity. Section 2 of HB 11 defines such terms of art as: 'Agent', 'Incapacity', and 'Sign.'

Section 8 provides for a principal to nominate a conservator or guardian of the principal's estate. This nomination shall be treated as an indication of the principal's preference for the person or entity to be appointed conservator or guardian and the court is instructed to give this preference due consideration.

Further, Section 10 clarifies that when a court appoints a limited conservator, limited guardian, or guardian, the power of attorney terminates unless the court specifically order the power of attorney remain in effect.

Simple clarifications, such as what constitutes a signature³, when an agent's authority terminates⁴, and whether a copy is to be given

the same effect as an original⁵ are now spelled out in statutory law. Section 9 explains how to interpret when a power of attorney is effective and, once that is determined, what steps may be required. This section also allows an authorized agent to access relevant health-care information to determine whether the principal is incapacitated, unless the power of attorney otherwise provides.

If there is more than one agent, each co-agent may exercise that co-agent's authority independently unless the power of attorney otherwise provides.⁶

CHANGES TO EXECUTION REQUIREMENTS

Section 5 requires a power of attorney to be signed in the presence of two disinterested witnesses. This section also allows for individuals who are not physically able to sign, for example, a quadriplegic individual, to direct another individual to sign so long as the reason for this method being used is recited somewhere in the power of attorney.

Because powers of attorney are most often necessary when the principal cannot act on their own behalf, concerns of fraud, abuse and neglect often surround this topic. It is not unusual for an agent (or someone claiming to be an agent) to drain accounts and make unauthorized purchases. For these reasons, two signatures of disinterested witnesses are now required for powers of attorney, making the requirements more like the requirements in a valid will.

AN AGENT APPOINTED IN A POWER OF ATTORNEY IS NOW A FIDUCIARY

In a 2013 edition of the *Bench & Bar* the authors mentioned that Kentucky did not have a comprehensive power of attorney statute which addressed the issues of agent and attorney-in-fact accountability and liability.⁷ The authors wrote "that to curb financial abuse of the elderly, Kentucky agents should be statutorily classified as fiduciaries."⁸ With the passage of HB 11, agents now owe a duty of good faith and loyalty for the principal's benefit and are required to act with care, competence and diligence.⁹ Agents must keep a record of receipts, disbursements, and transactions made on behalf of the principal,¹⁰ cooperate with the health-care agent(s),¹¹ and attempt to preserve the principal's estate plan according to relevant factors.¹²

A defense to an agent's actions called into question is that they acted in good faith. Where an agent acts in good faith, there will be no liability to any beneficiary of the principal's estate plan for failure to preserve the plan.¹³ However, if an agent is selected because of special skills or expertise, the special skills must be considered in determining whether the agent has acted with care, competence, and diligence.¹⁴ If an agent does not possess a special skill that is necessary to carry out the agent's responsibilities, they may delegate these tasks to another entity.¹⁵ For example, if the agent is responsible for maintaining a residence and the residence needs electrical work, the agent may hire an electrician. The agent is not responsible for the electrician's mistakes so long as the agent exercised diligence in selecting and monitoring the electrician.¹⁶

As long as an agent acts with care, competence, and diligence for the best interest of the principal, the agent has is not liable solely because the agent also received a benefit from the act.¹⁷

The agent accepts appointment by performing duties as an agent or by any other assertion or conduct indicating acceptance.¹⁸ The agent's duties are fastened when the agent exercises authority, the agent's performs the agent's duties, or any other conduct indicating acceptance.

The authority terminates when the principal revokes the authority; the agent dies, becomes incapacitated, or resigns; an action **is filed** for the dissolution of marriage to the principal unless the power of attorney otherwise provides; or the power of attorney terminates by its terms.¹⁹ If an agent's authority has been revoked without the agent's actual knowledge of the termination and the agent preforms an act, the act is binding on the principal unless it was not executed in good faith or would be otherwise invalid or unenforceable.²⁰

The fact that agent authority dissolves when an action for dissolution of marriage is filed and not when it is ordered by the court, is a recognition by the law that spouses should be prevented from handling the others assets under the power of attorney veil amid marital disorder.

Agents are now required to report a breach or imminent breach of fiduciary duty by another agent of the same principal if they have actual knowledge.²¹ The agent shall notify the principal and, if the principal is incapacitated, take any action reasonably appropriate in the circumstances to safeguard the principal's best interest. An agent that fails to notify the principal or take action is liable for reasonably foreseeable damages that could have been avoided if the agent had notified the principal or taken such action.²²

Under the old statute, if an agent abused the agent's authority under the power of attorney resorting to guardianship was often the only option to stop the abuse. Though improvements are being made, Kentucky guardianship proceedings can be timely, costly, and fragmented.²³ Upon its effective date, HB 11 allows for specific individuals to petition the district court to review the exercise of the agent's authority and grant specific relief.²⁴

If an agent violates the agent's duties and responsibilities, the agent is liable to the principal or the principal's successors for restitution and for attorney's fees when legal action is necessary.²⁵

THIRD PARTY ACCEPTANCE

Third parties that had been asked to accept Kentucky powers of attorney often hesitated to honor the power of attorney due

to the vagueness in the law of what is required and the lack of protection afforded third parties with respect to who is liable for an agent's fraudulent conduct. Frequently, well-drafted powers of attorney had been rejected if not on the third-party's internal form. HB 11 specifies who is required to accept a power of attorney, what legal options are available for the third party if unsure of its validity, and who is liable should an agent misbehave or misappropriate funds. The new law regards the third party similar to a bona fide purchaser in the UCC; if the third party acts in good faith, they are not liable for the agent's acts if the power of attorney is found invalid. In other words, the good faith rule also applies to the third party who accepts the power of attorney. A person who accepts the POA is not responsible to determine or ensure the proper applications of funds or property by the agent.

THE GOOD FAITH REQUIREMENT

The new general rule is if someone accepts a notarized power of attorney without actual knowledge that the power of attorney is invalid or that the agent is violating the agent's duties, the individual accepting the power of attorney may rely upon the instrument. Further, if a person accepts an acknowledged power of attorney without actual knowledge that the signature is a forgery, the third party may rely on the presumption that the signature is genuine.²⁶ Further, if a third party who in good faith accepts an acknowledged power of attorney without actual knowledge that the power of attorney or the agent's authority is void, invalid, or terminated, or that the agent has exceeded the agents authority, the third party may rely upon the power of attorney as if the power of attorney were genuine, valid, and still in effect.²⁷

ADDITIONAL ASSURANCES ARE AVAILABLE

If a third party accepting a power of attorney is unsure of its validity or has a good faith reason for suspecting abuse of power, additional assurances are available through House Bill 11.

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If a person is asked to accept a power of attorney, they may request: an agent's certification under penalty of perjury of any related factual matter; an English translation; and an opinion of counsel as to any matter of law concerning the power of attorney.²⁸ If an English translation or an opinion of counsel is requested, this must be provided at the principal's expense unless the request is made more than seven business days after the power of attorney is presented for acceptance.²⁹

If an apparently valid power of attorney is presented to a third party, the third party has four choices. The third party can accept it. If the power of attorney is in another language, the third party can request a translation. The third party can request an opinion of counsel. The third party can request a certification of the power in question.

The third party must advise the agent that the third party is pursuing these options within seven days of the presentation of the instrument.³⁰ If neither a certification, translation, nor opinion of counsel is requested, the person shall accept the power of attorney no later than five business days after presentation.³¹ A third party may not require additional or different forms of a power of attorney for authority granted in the power of attorney presented.³²

A person is not always required to accept an acknowledged power of attorney. If the acceptance of the power of attorney is inconsistent with federal law, the person has actual knowledge of terminated agent authority, a request for a certification, translation or opinion is refused, or the person believes in good faith the power is not valid, the person may refuse the power of attorney.³³ Similarly, if the person makes or has actual knowledge that another person has made a report to the Cabinet for Health and Family Services stating a good faith belief that the principal may be subject to financial or physical abuse, neglect or exploitation, the person may refuse the power of attorney.

For the first time in Kentucky, there are statutory consequences to anyone who refuses a power of attorney in violation of Section 20. The statute authorizes a judge to order an acceptance of a power of attorney and to order payment of costs and attorney's fees when acceptance of a POA has been unlawfully withheld.

CONCLUSION

This statute encourages acceptance of powers of attorney by third persons, safeguards the incapacitated, and provides much clearer guidelines for agents to follow. The statute provides broad protection

for good faith acceptance or refusal of acknowledged powers of attorney and consequences for unreasonable refusals. The statute aims for a balance between requirements and safeguards amount principals, agents, and third parties presented with powers of attorney. **BB**

ABOUT THE AUTHOR

Growing up in Lexington, **SARA JOHNSTON** has an affinity towards helping Kentucky businesses and residents – especially when in a time of financial or emotional distress. Johnston provides legal solutions for the long term success of her clients. Through prudent and future-looking estate planning and asset preservation, she helps families maintain, protect, and preserve the home and other assets so that individuals may preserve their legacy.



She also enjoys practicing in a different area of asset preservation involving consumer and corporate bankruptcies. Through a combination of financial restructuring, workouts, liquidation or utilizing exemptions and other preservation techniques, Johnston works through the bankruptcy process with her debtor and creditor clients from start to finish.

Johnston is the chair of the Kentucky Bar Association's Elder Law Section's Legislative Sub-Committee, a member of the American Bankruptcy Institute, ElderCounsel, National Academy of Elder Law Attorneys, and an accredited attorney by the Department of Veterans Affairs.

ENDNOTES

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3. *Id.* at Section 5.
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12. *Id.* at Section 14(2)(f).
13. *Id.* at Section 14(3).
14. *Id.* at Section 14(5).
15. *Id.* at Section 14(7).
16. *Id.*
17. *Id.* at Section 14(4).
18. *Id.* at Section 13.
19. *Id.* at Section 10(2).
20. *Id.*
21. *Id.* at Section 11(4).
22. *Id.*
23. The General Assembly also made updates to the Guardianship statute, subject to further revision through House Bill 5.
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28. *Id.* at Section 19(4).
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Bitcoin for Lawyers

By: R. Morgan Salisbury



In May 2017, Bitcoin reached a new all-time high at a price of over \$1,800 per Bitcoin. In June, it was traded at nearly \$3,000. At the same time, this “cryptocurrency” made international news when computer hackers seized control of hundreds of thousands of computers across the globe and demanded a ransom consisting not of cash, but of Bitcoin. Bitcoin (and cryptocurrencies like it) are undoubtedly the chosen medium of exchange for hackers and online “dark web” contraband. In December 2017, Bitcoin became a household name as even moderately savvy investors were drawn to the rising price as it skyrocketed to nearly \$20,000.

As Bitcoin grows in popularity and becomes more commonplace, it is important for Kentucky lawyers to be aware of this digital form of money and how it may influence various practice areas.

WHAT IS BITCOIN?

According to the Internal Revenue Service, Bitcoin is property. According to the Commodity Futures Trading Commission (CFTC), Bitcoin is also a commodity.¹ Instead of paper notes or metallic coins, Bitcoin is entirely digital – truly a “virtual currency” taking the world by storm.

What Lawyers Should Know:



BITCOIN IS ALREADY IN KENTUCKY.

In 2013, Fox News reported that both the mayor and police chief in Vicco, Ky., were being paid in the form of Bitcoin.² Kentucky’s United States Senator Rand Paul accepted Bitcoin donations as part of his fundraising efforts in 2015.³

Bitcoin is in Kentucky courts, too. The Breathitt Circuit Court made headlines in 2015 when it granted summary judgment to a Plaintiff seeking to recover over \$67,000 after the defendant failed to repay a loan consisting entirely of Bitcoins.⁴

BITCOIN IS NOT ILLEGAL.

Kentucky lawyers should understand that while Bitcoin is sometimes used for illegal transactions, it is not illegal merely to possess Bitcoin or to use it as a medium of exchange in the United States.



BITCOIN HAS IMPORTANT TAX IMPLICATIONS.

It is important that lawyers understand that their clients may have substantial assets in the form of Bitcoin and that the gains and losses associat-

ed with trading Bitcoins *matters* for tax reporting purposes. For example, if you have a client who owned Bitcoin in October 2016, that client likely recently enjoyed a nearly 300 percent or more increase in the value of those Bitcoins.

BITCOIN IS EASY TO HIDE.

Because Bitcoin users may serve essentially as their own bank, Bitcoin can be easy to hide. For example, an individual desiring to hide his or her assets might purchase Bitcoins and store them on a personal computer hard drive or even a common USB thumb drive, just like cash stuffed under a mattress.



BITCOIN TECHNOLOGY COULD CHANGE CONTRACTS.

Perhaps more accurately, the blockchain (or “ledger”) technology that makes Bitcoin work could change the legal profession. For example, primarily alternative cryptocurrencies have proposed “smart contracts,” whose aim is to make contractual agreements work with the accuracy of a computer program. Last summer, insurance giant American International Group (AIG) reported that it was partnering



with IBM to “develop a ‘smart’ insurance policy that uses blockchain to manage complex international coverage[.]”⁵ Many other large companies are experimenting with similar technology as well.

REGULATION IS COMING.



Though Bitcoin has enjoyed what some would consider a “wild west” atmosphere of no regulation or oversight, regulation is expected, and soon. Currently, regulators struggle to fit Bitcoin and other cryptocurrencies into existing regulatory framework. Is cryptocurrency a commodity or a security?

The U.S. Senate Committee on Banking, Housing, and Urban Affairs held hearings in February 2018 where testimony from both the SEC and the Commodity Futures Trading Commission (CFTC) provided testimony to lawmakers about cryptocurrencies and their views on regulation.⁶ The general reaction among cryptocurrency investors and industry leaders is that regulation, in one form another, is coming soon.

CONCLUSION

Bitcoin and the blockchain technology are changing our world. As lawyers, we must recognize these changes and be prepared for them to do our job effectively. **BB**

ABOUT THE AUTHOR



R. MORGAN SALISBURY is an associate attorney in the Fort Wright, Ky., office of Lewis Brisbois Bisgaard & Smith. He is licensed in both Indiana and Kentucky and his practice focuses on civil litigation. Salisbury earned his law degree from the Salmon P. Chase College of Law at Northern Kentucky University, where he graduated *cum laude*. While in law school, he served on the editorial board of the Northern Kentucky Law Review. He also holds a Bachelor’s degree in history from Morehead State University, where he graduated *magna cum laude*. Salisbury closely follows innovative technological trends, including the recent rise of cryptocurrencies such as Bitcoin.

DID YOU FIND THIS ARTICLE INTERESTING?
Be on the lookout for the next issue which focuses on Cryptocurrency.

ENDNOTES

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GET INVOLVED WITH THE

BY: JENNIFER "JENNA" S. OVERMANN YLD CHAIR



The start of a new bar year means a new opportunity to get involved with the Young Lawyers Division (YLD). My primary goals as YLD chair are to engage current members and to invite potential members who meet the criteria for membership to join the division. It has come to my attention that many potential and current members do not know much about the organization or how to get involved. Most of the current leadership, including myself, were introduced to the YLD by a colleague who was a leader in the division. While this is not a bad process for developing an active and engaged association, more can be done to encourage KBA members to both join the YLD and to be an involved participant. In an effort to remedy this issue, I am utilizing my first column as chair to provide information about the YLD and explain how to **GET INVOLVED**.

WHO CAN GET INVOLVED?

All KBA members who are age 40 and under or have been practicing for 10 years or less are eligible for the Young Lawyers Division. Please do not let the name of the division deter you from becoming a member or taking on a leadership role. Our active membership ranges in age from those who were recently admitted to the bar to those who have been practicing for over 10 years but are still under the age of 40.

WHAT IS THE KBA YLD?

The YLD is a division of the Kentucky Bar Association dedicated to using the unique

talents of young lawyers to provide education opportunities through CLE and programming, to implement community and public service projects, and to interact and engage with the KBA at large and other sections to benefit Kentucky attorneys.

The division is led by four officers, the chair, chair-elect, vice chair and secretary/treasurer, and the Executive Committee (EC) which is the governing body of the YLD. The EC consists of seven district representatives, one for each Supreme Court District; 13 at-large representatives, appointed by the chair; five affiliate representatives, leaders from the Bowling Green/Warren County, Fayette County, Louisville, Northern Kentucky, and National Bar associations' young lawyers organizations; and a representative from each of the three Kentucky law schools.

WHY GET INVOLVED?

The rewards of being involved with the YLD are unique to each member. For me, networking has been one of the most valuable products of my involvement. I have met and developed great friendships with attorneys from all over the state. This has led to relationships, business development through referrals, and resources to improve my practice. Beyond networking, the YLD has provided me with an avenue to serve. During my time with the YLD I have had the pleasure to serve law students, new lawyers, my fellow colleagues and the community.

WHERE AND HOW TO GET INVOLVED?

The YLD has a number of opportunities to get involved. First, the easiest method to participate is to simply become a member. The cost to join the division is only \$20 per year which runs July 1–June 30 each year. By becoming a member, you will have access to all of the division's membership benefits and resources. You can become a member by visiting the YLD website at www.kybar.org/page/yld and clicking the "Join" link.

Second, members and potential members can follow the YLD's on twitter @KBAYLD or like us on Facebook to see the YLD accomplishments and activities throughout the year, and to understand what opportunities, resources, and benefits are available for members.

Third, members can get involved by participating in public service projects and other programs. The YLD is always looking for volunteers for our programs. Examples of YLD projects and programs are: the Bully-proof and U@18 programs, where we present at schools throughout the state; the Why Choose Law Pipeline Program, which is part of our diversity and inclusion in the legal profession initiative; and the Legal Food Frenzy which is our major members project with the goal of collecting food and raising funds to help feed Kentucky families. Every year we look to expand and develop new projects to serve lawyers and

the community. This year is no different, so you can expect to have additional volunteer opportunities.

Finally, **you can take on a leadership role with the YLD.** While the officers and the EC are already set for the current bar year, there are various other leadership positions available. We have several director positions, coordinator positions, and teams/committees. These are all appointed positions. If you are interested in being a part of the leadership team, please visit the website at www.kybar.org/page/yld for more details on the positions available and information on how to apply. You can email vicechair@kbyld.org if you have questions.

Whether you decide to simply join the YLD this year to see all that membership has to offer, to join the leadership team or to become a volunteer, I hope to meet you this year. Please feel free to reach out to me directly at jovermann@dofamilylaw.com with any questions or thoughts on how the YLD can better serve the community or our members. I also encourage you to look at our list of officers and EC members to the right and reach out to any that you may know with questions about the YLD and how to get involved.

ABOUT YLD CHAIR



JENNIFER "JENNA" S. OVERMANN is partner at Dietz & Overmann, PLLC, in Edgewood, Ky. She represents parties in all family law matters including divorce, dissolution, child support, child custody, post-decree, and domestic

violence. She also handles all forms of adoption cases. She received her J.D. from Northern Kentucky University, Salmon P. Chase College of Law and her B.A. from the University of Kentucky. She is a member of the Northern Kentucky, Kentucky and American Bar associations.



YLD Secretary/Treasurer Megan Keane, YLD Vice-Chair Miranda D. Click; YLD Chair-Elect Zachary A. Horn, and YLD Chair Jennifer "Jenna" S. Overmann.

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BRANDEIS SCHOOL OF LAW

INTERNATIONAL PERSPECTIVES AT THE **Brandeis School of Law**



**BY: DEAN COLIN
CRAWFORD**

As the new dean of the Brandeis School of Law, one of my initial goals is to expand international opportunities.

International travel and scholarship have been a core part of my career, and I believe that the cross-cultural experiences I have gained have deepened and enriched my work as a lawyer and academic. Working and living in other countries encourages curiosity, broadens

perspectives and enriches professional connections—all valuable benefits for lawyers.

Before I came to Louisville, I was advised that our students do not share this view. But I have discovered a reality quite different. Just weeks ago, for example, Dru Childress, a rising second-year student from Pikeville, appeared in my office and said he dreamed of a career in international law—even though he has not yet traveled outside the United States. I hope that in my tenure as Dean I can help Dru and students like him achieve that goal.

In Louisville, we are fortunate to live in a diverse city with a strong international presence. It was a surprise to me, as I think it would be to many outside Kentucky, to learn that the city has, per capita, some of the largest immigrant communities from different countries of any city in the U.S., including Bosnians, Cubans, Somalis and Vietnamese, to name a few. These communities form an important base of our workforce and add to the city's dynamism. I have been impressed in my meetings with the city's Office of Globalization and have been fortunate to connect with alumni and faculty who also see the value in international study. At the end of the day, the economic motive for international experience is great. In the global economy of 2018, these experiences can be a route to new business engagements.

Let me therefore take this opportunity to share with you a few things the Brandeis School of Law is doing to expand global opportunities.

And if you have any ideas for ways our students or faculty can gain international experience, please don't hesitate to contact me at colin.crawford@louisville.edu.

PROFESSOR RUSS WEAVER BRINGS EUROPEAN EXPERIENCES BACK TO BRANDEIS

As a sought-after lecturer, writer and professor, Russ Weaver has developed an international travel schedule that might daze even the most seasoned jetsetter.

Weaver, a Distinguished University Scholar who has taught at the Brandeis School of Law since 1982, estimates he travels to Europe 10 to 12 times a year to participate in the discussion fora he organizes, and to teach and speak. The fora deserve their own column, but suffice it to say that Professor Weaver gathers between 25-30 scholars from around the world to discuss issues of administrative law, remedies and other legal topics.



He has visited at law schools in Luxembourg, Hungary, Spain, England, Germany, Japan, Australia and Canada. But his favorite country to visit? France. His wife, who holds a Ph.D. in literature, teaches at a university there. This summer, he is spending time in Aix-en-Provence and Paris, in addition to another trip to Luxembourg.

"I like to work with different people, and it also expands my work because I'm looking at different ideas," Weaver says. "The ideas in, say, Europe, are different than the ideas in the United States, so it brings an additional perspective to my scholarship but also to my classes."

He gives an example:

"I wrote an article on Holocaust denial, which is prohibited in France and in Germany. We talk about that in Comparative Constitutional Law. France has a prohibition against what they call 'degradations of human dignity.' The U.S. doesn't have comparable things. So we talk about the difference and why those differences exist."

Weaver, known for his expertise in the area of free speech, says his interest in that area began in law school.

"I just think it's important to democracy," he says. "It's important to the functioning of society."

BRANDEIS RISING 3L TO SPEND WEEK STUDYING JAPANESE LAW



In August, rising third-year law student Irina Strelkova will spend a week in Tokyo. She will study at Chuo University, where she'll take an intensive course on the basics of Japanese law. After the course, Strelkova will choose a topic that sparked her interest from the course and write a research paper about it.

This opportunity is available thanks to the generosity and connections of Robert Brown, a 1974 graduate of the law school. Brown, who now practices with Louisville firm Lynch, Cox, Gilman

& Goodman PSC, has worked and lived in Japan for much of his career. He holds a master's degree in business from Tokyo's Jochi University and a Ph.D. in Japanese Privatization from Cambridge University.

As incoming chair of the American Bar Association's Section of International Law, Brown wants to encourage more law students to get involved in international law.

This scholarship is one tangible way he is doing that.

For Strelkova, an international focus is simply part of her life. Born in Russia, she moved to the United States as a child. She has worked for two summers in Turkey and traveled throughout Europe during that time. As an undergraduate student at the University of Louisville, she majored in criminal justice at UofL and minored in French while earning an associate's degree in paralegal studies.

She has also volunteered at Kentucky Refugee Ministries as a citizenship instructor and is a fellow with the Brandeis Human Rights Advocacy Program, which focuses on advocating with the local immigrant, noncitizen and refugee community.

She explained to me the root of her interest in the law:

"When I was a child growing up in Russia, the criminal justice system there is very different than that of the United States, especially back in those times. We were just coming out of the communist regime. There was a presumption of guilt. Watching the criminal justice system work in that unfortunate way inspired me to get involved when I moved to the United States. As a child, I found myself interested with things like Law & Order: SVU and TV shows that really dramatized the practice of law. However, when I got into my undergraduate studies, I really found that the field of law has so many different aspects to it, and I felt myself drawn to civil litigation in particular."

Before she heads to Tokyo, Strelkova will work as a summer associate at Frost Brown Todd LLC. She hopes to stay in Louisville after graduation and is encouraged by the city's growing international law focus.

"Louisville has a really great, growing market in different areas of international law. We not only have a city that is booming with business and opportunities to take that business internationally or to receive international clients, we're also getting an immigration court and there are issues with human rights or civil rights that are going on here in Louisville," she says. "As someone that wants to practice in an international area of law, there are plenty of opportunities here in Louisville. After graduation, I hope to be able to stay here and contribute my skillset to the growing area of law."

These are just two of many examples of the international work that faculty and students at the School of Law are doing and hope to do. I hope such opportunities will only grow in the future.

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UK LAW ALUMNI ASSOCIATION RECOGNIZES 2018 HALL OF FAME INDUCTEES AND ALUMNI AWARDS RECIPIENTS

Alumni, family and friends gathered at the Lexington Hyatt Regency in June to honor the 2018 UK Law Alumni Association Hall of Fame Inductees and Alumni Awards winners.

“We had a great turnout for the event and continue to be amazed at the strong alumni connections that have been made here at UK Law,” said Stephen Milner, UK Law Alumni Association President.

The UK Law Alumni Association Hall of Fame was established to acknowledge graduates of the College whose extraordinary professional success and contributions, profound positive influence on the College of Law, and high degree of character and integrity are recognized by their peers. Inclusion in the Hall of Fame is the highest honor bestowed by the Association. The 2018 Hall of Fame inductees are Barbara B. Edelman, Hon. Thomas B. Russell and Sheryl G. Snyder.

BARBARA B. EDELMAN is a partner in the Lexington office of Dinsmore & Shohl. She serves on the firm’s Board of Directors and its Executive Committee, and also heads the litigation department in the Lexington office. She is a 1977 graduate of the University of Kentucky College of Law and in 1974 earned her B.B.A. degree with Honors from the College of Business.

She began her legal career in the Special Prosecutions Division of the Kentucky Attorney General’s Office. She also served as Director of Litigation for the Lexington-Fayette Urban County Government. Barbara was appointed to serve as an Assistant U.S. Attorney for the E.D. of KY where she prosecuted federal court cases and handled many high-profile cases involving white collar crime, murder for hire and public corruption.

In 1987, she entered private practice and established herself as one of the premiere commercial litigators in Kentucky. Barbara is listed in Best Lawyers Appellate Law, Bet the Company, and Commercial

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Litigation. She is listed in Kentucky's Super Lawyers; Kentucky's Super Lawyers Top 25 Women; Kentucky's Super Lawyers Top 50 Lawyers in the State; Benchmark Litigation as a "Local Litigation Star;" and Top 250 Women in Litigation in the Nation.

She is the 2012 recipient of the Fayette County Bar Association's highest honor, the Henry T. Duncan Award. She is also a past president of the Fayette County Women Lawyers Association and the University of Kentucky College of Law Alumni Association. Edelman has tried more than 50 cases in state and federal courts and has argued more than 35 cases to the Kentucky Court of Appeals, Kentucky Supreme Court, and the U.S. Court of Appeals for the Sixth District.

THE HONORABLE THOMAS B. RUSSELL, Senior Judge, United States District Court, Western District of Kentucky, began his career in private practice in Paducah, Ky., at Whitlow, Roberts, Houston & Russell. After 24 years in private practice, Judge Russell was appointed to his current seat on the court. He served as Chief Judge from 2008-2011.

His judicial appointments include Advisory Committee on Civil Rules for the U.S. Judicial Conference, where he served as co-chair of the Committee to Restyle the Federal Rules of Civil Procedure (2003-2007). He served on the Committee on the Administration of the Magistrate Judges System – Judicial Conference of the U. S. from 2008-2014, and currently serves as the Sixth Circuit District Judges Representative to the Judicial Conference of the United States, where he served as president from 2015-2017. He was appointed by the Chief Justice of the United States to the Foreign Intelligence Surveillance Court in 2014 for a seven-year term, as well as to the U.S. Alien Terrorist Removal Court in 2015 for a five-year term.

Judge Russell's honors include Judge of the Year (2005) in the Louisville Bar Association, Distinguished Jurist (2011) in the University of Kentucky Law Alumni Association, and Distinguished Judge of the Year (2017) in the Kentucky Bar Association.

SHERYL G. SNYDER is a managing associate with Frost Brown Todd LLC, where he has practiced for 24 years, and has served on the Executive Committee, and as chair of the litigation department and appellate practice group. Prior to joining Frost Brown Todd LLC, he was Executive Vice President and General Counsel of ICH Corporation, an insurance holding company. He is a 1971 graduate of the University of Kentucky College of Law, graduating first in his class, and serving as editor-in-chief of the Kentucky Law Journal.

He began his career clerking for the Hon. M.C. Matthes, Chief Judge, United States Court of Appeals for the Eighth Circuit. Additionally, he has practiced at Wyatt, Grafton & Sloss and Brown Todd & Heyburn PLLC, and served on the Executive Committee of Wyatt, Tarrant & Combs LLP.

Snyder is a Fellow of the American Academy of Appellate Lawyers and is "the state's premier appellate lawyer" according to Chambers USA®. He co-authors *Appellate Practice*, Volume 19, in the *Kentucky Practice* series published by Thomson West.

Snyder has represented several governors of Kentucky, of both political parties, in significant litigation. He is co-author of The Separation of Governmental Powers Under the Constitution of Kentucky: A Legal and Historical Analysis of LRC v. Brown, 73 KY. L.J. 165 (1984).

Snyder served as treasurer of the committee that secured passage of the Gubernatorial Succession Amendment. He was a member of the six-person Strategy Committee that secured passage of the Louisville-Jefferson County merger. He also received the Louisville Bar Association's Distinguished Service Award in 1982 as a founder of the Judicial Evaluation program.

Snyder is a past president of both the Kentucky and Louisville Bar Associations. He has served on the boards of the Louisville Zoo Foundation, Actors Theatre, the Louisville Orchestra, Leadership Kentucky and Metro United Way.

The three Hall of Fame honorees join the esteemed group of 71 other inductees honored since the Hall of Fame was established in 1996. The inductees expressed gratitude for the honor bestowed upon them, the foundation provided by UK College of Law, and for the people who have supported them during law school and throughout their careers.

The UK Law Alumni Association Board of Directors also established five awards to honor graduates who have distinguished themselves by contributions to the practice of law and service to communities. Honorees recognized at the reception include Lou Anna Red Corn ('84), Professional Achievement; J. Tanner Watkins ('08), Young Professional; Hugh B. Hall, Jr. ('67), Community Service; The Honorable Glenn Earl Acree ('85), Distinguished Jurist; and Norma Boster Adams ('53), Legacy Award.

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NKU CHASE COLLEGE OF LAW

CHASE SHOWS HOW TO Apply the Law IN A High-Tech World

*Some things in law school never change:
Everyone learns how to brief a case.*

Others change: In addition to learning how to brief a case, Salmon P. Chase College of Law students can learn how to design law-related apps and websites that incorporate legal doctrines and forms for use by lawyers and non-lawyers.

Students in the Law, Business & Entrepreneurship course of the W. Bruce Lunsford Academy for Law, Business + Technology at Chase are not doing computer programming. That is for Northern Kentucky University computer students or outside coders. What they are doing is utilizing their law school experience to identify what an app or website needs to accomplish, and the information and navigation it must have to be useful. In many ways, the process is a high-tech version of the thinking that goes into briefing a case.

“The first thing they have to do is identify the legal issues that go along with the app,” says academy director Robert Furnier, who teaches the course. “For example, for a disability access app that was being planned, they had to understand the current state of the law for accessibility, and the same for a domestic violence app that is being developed. That understanding, in the case of the domestic violence app, could involve how to get a birth certificate with minimal

or no information, and how to create an identity a landlord and others will accept. All of this involves legal issues.”

Current and former students have designed, or are designing, three apps, or software that performs specific tasks on a computer or mobile device, and two websites.

IN DEVELOPMENT: The domestic violence app, named ID Redo, began as a spring project for Legal Aid of the Bluegrass to help domestic violence victims who flee without identification or documents. A website accessibility project evolved from an app concept for lawyers and others with disabilities to evaluate accessibility of law-related websites.

IN FIELD TESTING: An app named Startover Kentucky that students created for Legal Aid of the Bluegrass helps lawyers and others expedite expungement proceedings. (Another app for Legal Aid of the Bluegrass was part of a grant proposal for recruiting volunteer lawyers.)

WHERE LAW AND TECHNOLOGY MEET: A first step for students is to identify the legal issues or processes an app will address. For ID Redo, the domestic violence app, the initial hurdle is how to re-establish

identities for domestic violence victims who had to leave all of their papers behind. “We are looking at the legal requirements for obtaining those documents, as well as the potential for some alternatively acceptable identification during a period of waiting for replacement identifying documents,” says 3L Doug Rebok, who is involved with the app. “We also have to consider the risks of [digitally] accepting and storing sensitive personally identifying information.”

For Startover Kentucky, the expungement app, students created a checklist of issues to consider, says Charlotte Spencer, a 2017 graduate who worked on the app. Among them: “Was it a drug-based crime? These sometimes have special rules for expungement. Was it a sex crime or crime against a child? We can’t help people with those,” she says.

THINKING LIKE A (HIGH-TECH) LAWYER: “The process of brainstorming a technical solution to a real-world problem allows us to analyze the law to identify both where technology helps us to accomplish our goal and how it hinders the solution,” Mr. Rebok says. “Thinking like a lawyer means identifying the many different areas that are affected under one set of circumstances.”



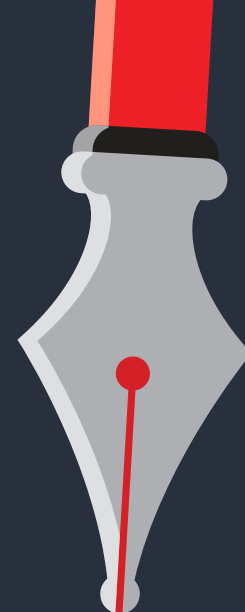
Robert Furnier, director of the W. Bruce Lunsford Academy for Law, Business + Technology at Chase College of Law, teaches a course in which students design law-related apps for smartphones and other devices.

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Embrace the Red Pen

Tips for substantive self-editing

By: Hollie Hopkins

One of my favorite books on writing is *Bird by Bird: Some Instructions on Writing and Life* by Anne Lamott.¹ A respected author of both novels and non-fiction, Lamott's engaging volume offers useful advice for all writers working to improve their craft.

Also an instructor, Lamott hears regularly, "But you can't *teach* writing."² To which she replies, "Who the hell are you, God's dean of admissions?"³

Having completed my first year of teaching at the Brandeis School of Law, I agree with the protestations, and I also agree with Lamott. You can't "teach writing," but you can teach *about* writing. No amount of classroom instruction will transform anyone into a master wordsmith. But education on fundamentals combined with practical advice can help put students on the path to proficiency.

Decades of writing in the legal, public policy, and political arenas (and a two-year stint as a food columnist) have taught me that one of the most difficult skills to cultivate is editing your own work. We all can get too wedded to our own prose. Even seasoned writers may resist wreaking the

necessary havoc on a brief or memo over which they have labored long. Substantive self-editing is an art, and every writer's objective assessment of his or her own work improves with time and practice, but the basic process doesn't change. Here are a few tips I shared with my Lawyering Skills class.

EDIT BEFORE YOU WRITE:

Although this sounds counterintuitive, steps you take before you ever put pen to paper or fingers to keyboard will reduce the amount of editing required later.

FOCUS ON YOUR INTENDED AUDIENCE

Your intended audience is never yourself, and only rarely is it your client. Your writing must be geared to the reader you want to inform or persuade. A research memo for your partner should have an objective voice. And, while both are persuasive documents, a motion to compel to the trial judge will have different tone than a Supreme Court brief. Your demand letter to opposing counsel requires yet another style. Approach your writing with your reader in mind.

ORGANIZE YOUR THOUGHTS

Everyone needs to do this, but everyone

doesn't need to do this the same way. Some writers make formal outlines. Others jot notes on index cards, or on the cases themselves, reshuffling them as their thinking evolves. Do whatever works best for you. The approach is irrelevant: the goal is to synthesize your research into a logical approach to your writing project.

ONCE YOU HAVE A DRAFT ON PAPER:

WRITE, READ, REWRITE, REREAD

A fully formed first draft is like a unicorn: it doesn't exist. Your first draft will be awful. It will be too long and too wordy and, despite your best efforts to organize your thoughts, often incoherent. You want to believe there's merit there, and there undoubtedly is – some. But the document will need multiple revisions to transform it into the quality product you want your reader to see.⁴

The more lengthy, important, or complex your document is, the more drafts it is likely to take. My students were highly skeptical when I emphasized the importance of multiple revisions, especially for major court

filings. And then my guest speakers – three top appellate advocates – described the stacks of drafts piled on their office floors. When pressed, one speaker estimated that she averaged “about 10” drafts per brief. I saw jaws drop.

BIG PICTURE: BE READY – AND WILLING – TO REORDER TEXT

Think of your text as a kaleidoscope: the pieces can fit together in many ways, each of which creates a different picture. Your initial idea for your picture may not best convey your message, but you can't know that until you get all your pieces down on paper.

Be open to the notion that a different structure may better serve your purpose. Computers make maneuvering text as simple as copy, cut and paste. Reorder your arguments into as many different document versions as you like until you hit on the best combination.

SMALL PICTURE: “TOO MANY WORDS!” “WORD CHOICE?”

I wrote those phrases on every student's work and for multiple reasons, including:

- 1 excessive use of passive voice, which always takes up more space and almost always is less effective than active voice for an advocate's purpose;
- 2 unnecessary use of introductory phrases, like “it is clear that” or “it will be noted that,” which add nothing of substance to your point;
- 3 use of multiple words where a single word suffices, like “in the event that” rather than “if;”
- 4 use of inaccurate, imprecise, or non-descriptive words or phrases to make a point.

Address immediately any small picture issues your editorial eye catches throughout your writing process. But once you've honed your message and are confident that your organizational structure best suits your purpose, make a merciless review of your

draft specifically to eliminate or replace any remaining unnecessary or inexact terms with concise, effective language.

STOP. Once started, good writers often can't stop editing. Fortunately, external deadlines will force you to put down the red pen. Ideally, you've finished all substantive editing on your draft in time to step away from it for at least a day before you give it a final spit and polish review. How do you know when to stop substantive editing? When you can't poke holes in your own arguments anymore. When a colleague not involved in your case has no questions about what you've written. When the prose flows to both your eye and your ear, without a jarring note. Then you can trust that your brief will be a stellar product.

BUT BE PREPARED: when you read that brief a year later, you may well think to yourself, “I could have said that better.”



M. HOLLIDAY (HOLLIE) HOPKINS

is a visiting assistant professor teaching Lawyering Skills and Legislation at the University of Louisville. She received her B.S. *cum laude* from Vanderbilt University, and her J.D. from the University of Kentucky College of Law.

Hopkins has practiced extensively in both the public and private sectors, most recently serving as general counsel to Kentucky Governor Steve Beshear. She was formerly a partner with Wyatt, Tarrant and Combs and counsel with Frost Brown Todd. She also spent more than a decade providing independent legal services and policy analysis to public, private, and non-profit organizations.

ENDNOTES

1. Anne Lamott, *Bird by Bird: Some Instructions on Writing and Life* (1994).
2. *Id.* at xxvii.
3. *Id.*
4. Lamott devotes an entertaining chapter to this topic. *Id.* at 20-27.

Address or e-mail changes?! Notify the Kentucky Bar Association

Over 18,000 attorneys are licensed to practice in the state of Kentucky. It is vitally important that you keep the Kentucky Bar Association (KBA) informed of your correct mailing address. Pursuant to rule SCR 3.175, all KBA members must maintain a current address at which he or she may be communicated, as well as a physical address if your mailing address is a Post Office address. If you move, you must notify the Executive Director of the KBA within 30 days. All roster changes must be in writing and must include your 5-digit KBA member identification number.

Members are also required by rule SCR 3.175 to maintain with the Director a valid email address and shall upon change of that address notify the Director within 30 days of the new address. Members who are classified as a “Senior Retired Inactive” or “Disabled Inactive” member are not required to maintain a valid email address on file.

There are several ways to update your address and/or email for your convenience.

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

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

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

SUMMARY OF MINUTES KBA BOARD OF GOVERNORS MEETING • MARCH 16, 2018

The Board of Governors met on Friday, March 16, 2018. Officers and Bar Governors in attendance were, *President W. Garmer; President-Elect D. Ballantine, Young Lawyers Division Chair E. Weihe and Young Lawyers Division Chair-Elect J. Overmann. Bar Governors 1st District – F. Schrock, V. Sims; 2nd District – J. Meyer, T. Kerrick, 3rd District – M. Dalton, H. Mann; 4th District – A. Cabbage, B. Simpson; 5th District – M. Barfield, E. O'Brien; 6th District – G. Sergeant, T. McMurtry; and 7th District – R. Blackburn, J. Vincent. Officers Vice President S. Smith and Immediate Past President M. Sullivan were absent.*

In Executive Session, the Board considered two (2) oral arguments and three (3) restoration cases. Judy McBrayer Campbell of Frankfort, Dr. Leon Mooneyhan of Shelbyville and Dottie Moore of Elizabethtown non-lawyer members serving on the Board pursuant to SCR 3.375, participated in the deliberations.

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

- Heard a status report from the Bar Leadership Conference Task Force and KYLAP Task Force.
- Approved proposed ethics opinion E-445 on information vs advice as a formal opinion. In addition approved having the KBA Ethics 2000 Committee report available on the KBA website.
- Office of Bar Counsel (OBC) Deputy Bar Counsel and Administrative Manager Robbie Clements presented a demo on JusticeWeb, an online portal for the Board to access confidential information.
- Approved hiring RFH Consultants to complete the 2018-2019 Audit for FY ending June 30, 2019.
- Approved the IRS 990 & 990T forms.
- Director of Accounting/Membership Michele Pogrosky reported on the status of the KBA's plan to withdraw from KERS.
- Young Lawyers Division (YLD) Chair Eric Weihe reported that the YLD recently sponsored the Legal Aid University in Lexington and Louisville. The Legal Aid University offers up to five CLE's on topics such as DVO's, expungement, divorces, etc. The program is free to participants who agree to take on two pro bono cases. Weihe also encouraged the Board to submit nomi-

nees for the YLD Awards that will be presented at their luncheon on June 14, 2018. Weihe reported the second Legal Food Frenzy began March 15th and will end April 2nd, with a goal of raising 800,000 pounds of food or the equivalent of \$100,000. Any money raised goes to support Kentucky Association Food Banks in the participating firm's area. At this time 120 organizations have registered to participate. Weihe reported that the ABA YLD Spring Conference is scheduled for May 10-12 in Louisville with 300-400 young lawyers from around the country expected to attend. The Board approved being a Silver Level sponsor in amount of \$5,000 in support of the event.

- Approved the 2018 Annual Convention expense reimbursement for the current and new Board members: lodging at the Hyatt Regency Hotel at a rate of \$155 single/double per night for a maximum of four nights and reimbursement for round trip mileage at the AOC approved current rate per mile and meal expenses incurred on Monday, June 11, and Tuesday, June 12, above and beyond group meal functions on those dates.
- Approved the waiver of the 2018 Annual Convention registration fee for Supreme Court, Court of Appeals, and AOC staff attorneys.
- Approved the request of the Department of Public Advocacy to send 100 attorneys to the annual convention Wednesday session at a discounted rate of \$75 each.
- President Garmer reported on the recent effort put forth to publicize the lack of funding of the judiciary. He requested ongoing effort and commitment to bring awareness to this issue be given from fellow Board members.
- Approved a resolution to be submitted to John Tilley, Secretary of the Justice & Public Safety Cabinet, supporting the continued funding for the KLEO Program.
- Approved the appointment of Immediate Past President R. Michael Sullivan to the Judicial Conduct Commission to fill the remainder of Kent Westberry's term ending on Dec. 31, 2019.
- Approved payment of an additional \$500 to be paid to the Kentucky Society of CPA's to complete an economic impact study concerning the taxation of professional services in Kentucky.

SUMMARY OF MINUTES KBA BOARD OF GOVERNORS MEETING • APRIL 25, 2018

The Board of Governors met on Wednesday, April 25, 2018, for a special meeting to discuss voluntarily withdrawing from the Kentucky Employees Retirement System (KERS), as well as establishing replacement retirement and health insurance plans for employees of the KBA.

Officers and Bar Governors in attendance were, *President* W. Garmer; *Vice President* S. Smith and *Immediate Past President* M.

Sullivan (via phone). *Bar Governors 1st District* – F. Schrock, V. Sims; *2nd District* – J. Meyer, *3rd District* – H. Mann (via phone); *4th District* – A. Cabbage, B. Simpson (via phone); *6th District* – G. Sergent; and *7th District* – J. Vincent. Officers and Bar Governors absent were: *President-Elect* Ballantine (recused), YLD Chair Eric Weihe (recused), M. Barfield, R. Blackburn, M. Dalton, T. Kerrick, E. O'Brien (recused) and T. McMurtry.

SUMMARY OF MINUTES KBA BOARD OF GOVERNORS MEETING • MAY 18, 2018

The Board of Governors met on Friday, May 18, 2018. Officers and Bar Governors in attendance were, *President* W. Garmer; *President-Elect* D. Ballantine, *Vice President* S. Smith; *Immediate Past President* M. Sullivan; *Young Lawyers Division Chair* E. Weihe and *Young Lawyers Division Chair-Elect* J. Overmann. *Bar Governors 1st District* – F. Schrock, V. Sims; *2nd District* – J. Meyer, *3rd District* – M. Dalton, H. Mann; *4th District* – A. Cabbage, B. Simpson; *5th District* – E. O'Brien; *6th District* – G. Sergent, T. McMurtry; and *7th District* – R. Blackburn. Bar Governors absent were: M. Barfield, T. Kerrick and J. Vincent.

In Executive Session, the Board considered two (2) oral arguments and two (2) restoration cases. Judy McBrayer Campbell of Frankfort, Mike Cherry of Princeton and Dr. Leon Mooneyhan of Shelbyville, non-lawyer members serving on the Board pursuant to SCR 3.375, participated in the deliberations.

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

- Heard a status report from the Bar Leadership Conference Task Force, KYLAP Task Force, Task Force on Judicial Evaluations, Rules Committee and discussed the withdrawal from KERS.
- Approved the concept of a Diversity Survey presented to the Board by Judge Ernesto Scorsone, Bruce Kleinschmidt and Maegan Pirtle, from the LGBT Section and supported by the KBA Diversity in the Profession Committee.

- Young Lawyers Division (YLD) Chair Eric Weihe expressed his thanks to the Board on behalf of the young lawyers who attended the Bar Leadership Conference which was well received by all in attendance. Weihe reported that the Legal Food Frenzy ran from March 15-April 2 and raised over \$63,000; the equivalent of 630,000 pounds of food or 530,000 meals. The winning firm was Frost Brown Todd of Lexington, and was awarded the Attorney General's Cup for raising 82,000 pounds of food. Weihe reported the following awards will be distributed during the YLD Annual Luncheon scheduled for Thursday, June 14, in conjunction with Annual Convention: Outstanding Young Lawyer Bradley C. Clark of Lexington; Young Lawyer Service to Community Award Cassie H. Chambers of Louisville; Service to Young Lawyers Award Christopher E. Schaefer of Louisville and the Nathaniel R. Harper Award Michelle T. Browning Coughlin of Louisville.
- President-Elect Douglas C. Ballantine reported that the Board of Governors Summer meeting will be held on July 19-21, at the Omni Hotel in Louisville.
- President Garmer reported that annual convention registrations are in excess of 1,000 attendees with an ultimate goal of 2,500.

Continued on the next page.

- President Garmer reported that on Thursday, June 14, in conjunction with the annual convention, a special CLE will be offered to train lawyers who are involved in the handling of Eric Conn cases. Garmer as well as others are encouraging lawyers to participate in this special training as the need for legal assistance is great as approximately 2,000 people have been severely affected by the case.
- Approved the appointment of J. Tanner Watkins of Louisville as the Kentucky Delegate on the ABA House of Delegates for a two year term concluding at the end of the ABA Annual Meeting in 2020.
- Approved the reappointment of Andrea P. Anderson of Bowling Green and Sarah H. Emery of Fort Wright to the Attorneys' Advertising Commission for a second three year term ending on June 30, 2021.
- Approved the submission of three nominees to the Supreme Court of Kentucky for selection of one person from each District to the CLE Commission for a three year term ending on June 30, 2021: 1st Supreme Court District – Jason F. Darnall of Benton, Dennis R. Foust of Benton and Richard B. Vasseur of Paducah; and 6th Supreme Court District – David B. Sloan of Coving-

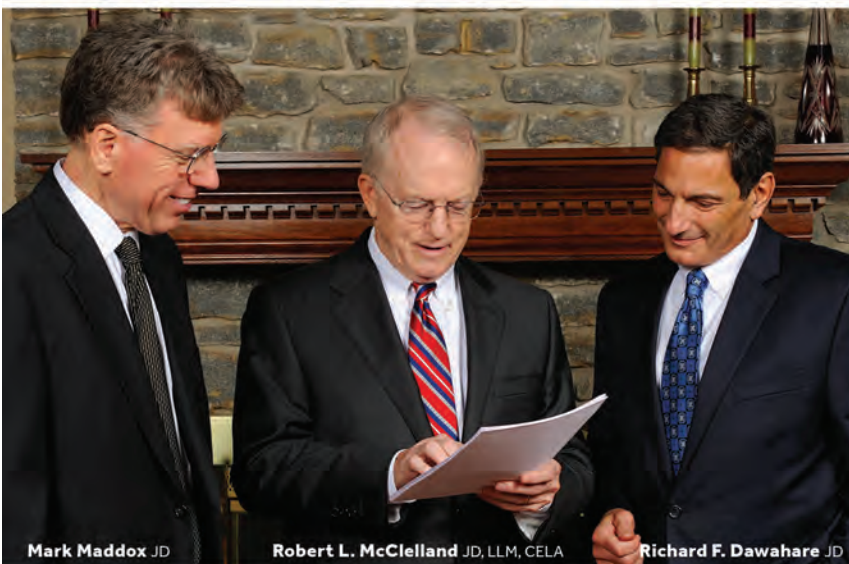
ton, Emily E. Walters of Florence and Ryan M. McLane of Crestview Hills.

- Approved the submission of three nominees to the Supreme Court of Kentucky for selection of one person from each district to the IOLTA Board of Trustees for a three year term ending on June 30, 2021: 3rd Supreme Court District – Amanda L. Hill of Corbin, Brittany N. Riley of London and Wanda A. White of Albany; and 4th Supreme Court District Benjamin W. Carter of Louisville, James R. Craig of Louisville and Rebecca A. Martin of Louisville.
- Approved the reappointment of Justice Mary C. Noble, (Ret.), of Lexington and Franklin Farris, Jr., of Louisville, non-lawyer representative, to the Clients' Security Fund for a three year term ending on June 30, 2021.
- Approved the following appointments and reappointments to the Kentucky Bar Foundation for three year terms ending on June 30, 2021: 3rd Supreme Court district – appointment of Julie R. Gillum of Somerset and Kelly K. Ridings of London; 4th Supreme Court District – appointment of Melinda T. Sunderland of Louisville; 5th Supreme Court District – appointment

Continued on the next page.

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Mark Maddox JD

Robert L. McClelland JD, LLM, CELA

Richard F. Dawahare JD

Attorney Robert L. McClelland holds a master's degree in Elder Law (LLM) and has been certified in ElderLaw (CELA) by the National Elder Law Foundation, the only agency authorized by the American Bar Association to certify Elder Law attorneys.

Attorneys Mark Maddox and Richard Dawahare are experienced members of the National Academy of Elder Law Attorneys who assist clients with medicaid planning, probate, guardianship and veterans benefits issues.

ElderLawLexington, the office of McClelland & Associates, PLLC, has assisted hundreds of families in preserving their resources and serves as Trustee for the Kentucky Guardianship Association, Inc. Pooled Special Needs Trusts.



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of Joshua E. Santana of Lexington; 6th Supreme Court District – reappointment of Delores W. Baker of Maysville and Robert E. Sanders of Covington and 7th Supreme Court District – reappointment of Rachel W. Kennedy of Pikeville.

- Approved the following reappointments to the KYLAP Commission for four year terms ending on June 30, 2022: 2nd Supreme Court District – Michael A. Breen of Bowling Green; 3rd Supreme Court District Arden Winter Huff of Monticello; 6th Supreme Court District – Benjamin G. Dusing of Cincinnati; 7th Supreme Court District Senator Robin L. Webb of Grayson and Non-Lawyer Citizen Members Leon Marrow and Reverend Terry Johnson.
- Executive Director John Meyers provided an update on bar litigation matters.
- Approved one (1) member for disabled inactive status pursuant to SCR 3.030(5)(a).
- Approved the change to ethics opinion E-444 Part-Time Prosecutors to correct a scrivener's error.
- Approved the recommendation of the Investment Committee that the Board ratify the temporary movement of equity positions into fixed investments due to market volatility and the upcoming need for funds to pay for withdrawal from KERS.

- Approved the recommendation of the Kentucky Bar Foundation Board of Directors to dissolve the KBA Diversity Fund Advisory Committee in order to increase efficiency and to eliminate potential conflict of interest. The KBF Board of Directors will still consider letters of support from KBA accompanying a request for funding from the Diversity Fund.
- Approved adding the question to the dues statement and online dues payment forms to comply with SCR 3.023 which requires all non-exempt members to report whether or not they have professional liability coverage in certain amounts.
- Meyers reported that the Kentucky Bar Association's name and trademark has now been formally registered.
- Meyers reported that the Supreme Court approved the KBA and IOLTA Budgets for FY 2018-2019. The Supreme Court also approved, via blanket order, RFH Consultants of Lexington to perform their second audit of the KBA for FY 2017-2018, said order authorizing their continued employment as long as the annual cost is under \$20,000.
- Bar Governor J.D. Meyer reported that he is a member of the Civil Justice Reform Task Force which recently visited Little Rock, Ark., in May where a Civil Justice Reform Conference was held. Meyer reported that the goal of the conference was to further analyze the current civil justice system and declining number of jury trials.

BENCH & BAR AVAILABLE THROUGH KY NFB-NEWSLINE®

The Kentucky Bar Association continues to present the *Bench & Bar* magazine in audio version through the KY NFB-NEWSLINE®. The KY NFB-NEWSLINE® audio information service is available to eligible subscribers by dialing a toll-free telephone or local call number on a touch-tone telephone; Newsline Mobile App on your i-Device; or on the web at www.nfbnewslineonline.org. Eligible individuals include those who cannot use conventional print because of a visual impairment; learning disability; physical impairment restricting the use of fingers, hands or arms; or other conditions causing limited access to print information.

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TO KBA MEMBERS

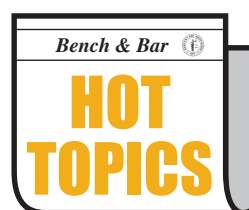
Do you have a matter to discuss with the KBA's Board of Governors? Board meetings are scheduled on:

September 14-15, 2018

November 9-10, 2018

To schedule a time on the Board's agenda at one of these meetings, please contact John Meyers or Melissa Blackwell at (502) 564-3795.

ADDITIONAL ARTICLE



**"I'll Expect a W.P.A. Check in the Morning":
The Path of the University of Louisville
School of Law to Belknap Campus"**

BY MARCUS WALKER

This article has been placed on the [KBA website](#) under the [Hot Topics](#) page.

Judge Clayton Sworn In as Chief Judge of Kentucky Court of Appeals on June 20

BY: JAMIE NEAL, PUBLIC INFORMATION SPECIALIST, ADMINISTRATIVE OFFICE OF THE COURTS



Judge Denise G. Clayton poses next to the name plate reflecting her new position as chief judge of the Kentucky Court of Appeals. The photo was taken in the Appellate Courtroom of the Jefferson County Judicial Center on the day of her swearing-in ceremony June 20.

Judge Denise G. Clayton is sworn in as chief judge of the Kentucky Court of Appeals by Chief Justice of Kentucky John D. Minton Jr. at a ceremony June 20 in Louisville. She is the first black judge to serve as the court's chief judge.

*Photo Credit: Jim Hoffmann,
AOC Office of Public Information*

JUDGE DENISE G. CLAYTON of Jefferson County was sworn in as chief judge of the Kentucky Court of Appeals at a ceremony June 20 at the Jefferson County Judicial Center in Louisville. Chief Justice of Kentucky John D. Minton Jr. performed the swearing in, administering the oath of office to Judge Clayton.

Judge Clayton was officially sworn in as chief judge June 1 in Louisville and her term began that day. Deputy Chief Justice Lisabeth T. Hughes of the Supreme Court of Kentucky, who also serves Jefferson County, performed the official swearing in and served as master of ceremonies at the ceremonial event June 20. Court of Appeals Judge Joy A. Kramer, whom Judge Clayton succeeds as chief judge, provided remarks, as did Jefferson Chief Circuit Court Judge Brian C. Edwards. Judge Clayton also addressed attendees.

Judge Clayton was elected by her fellow Court of Appeals judges to be chief judge and will serve in the role for two years. The chief judge provides administrative oversight to the Court of Appeals. She is the first black judge to serve as the chief judge of the Kentucky Court of Appeals. She became the first black woman on the Court of Appeals when she took the bench in October 2007. She was appointed and subsequently elected to serve the 2nd Division of Kentucky's 4th Appellate District, which is Jefferson County.





KERRY D. SMITH of Paducah, right, was recognized for his service to the KBA's Attorneys' Advertising Commission (AAC) from 2012-18 and as AAC Chair from 2015-18 during the AAC's June 22nd annual meeting. Making the presentation was Steven Pulliam, deputy bar counsel, on the left.

The Alternative Dispute Resolution Section recognizes and appreciates the lawyer/mediators who have provided volunteer mediator services to their communities and Kentucky courts.

- | | |
|----------------------|-------------------------------|
| Joy Anna Anderson | Delores Baker |
| Estill Banks | Judge Jerry Bowles |
| Frances Catron Cadle | Shea Conley |
| George Cox | Judge Roger Crittenden (Ret.) |
| Harry Dadds | Jackie Duncan |
| Jon Fannin | Professor Bill Fortune |
| Josh Hicks | Meg Hicks |
| John E. Hinkel II | Robert Houlihan |
| Michael Hurter | Fred Irtz |
| James Kruer | Daniel Mack |
| Craig McCloud | Scotty McFarlan |
| Joseph McGee | Kim O'Donnell |
| Steve Olshewsky | David Owen |
| Joe Passalacqua | Tracy Pollard |
| Marcus Roland | Steve Rouse |
| Erin Sammons | Alex Scutchfield |
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| Mary Tate | Jennifer Todd |
| David Treacy | Mike Troop |
| Raven Turner | Solomon Van Meter |

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Kentucky Bar Association members are able to quickly and conveniently pay their 2018-19 membership dues online with a debit or credit card. Visit www.kybar.org/membership to access the bar dues payment link. An administrative fee will be assessed. The membership cycle runs July 1 - June 30 of each year. Payments are due this year on or before September 1, 2018. After that date, a late fee payment of \$50 will be assessed. A notice of delinquency will be mailed after October 15 with an additional cost of \$50 if dues are still unpaid. We hope you enjoy this online service! If you have questions, please contact the KBA Membership Department at (502) 564-3795.

COMMONWEALTH OF KENTUCKY JUDICIAL CONDUCT COMMISSION

IN RE THE MATTER OF:

TIMOTHY A. LANGFORD, CIRCUIT COURT JUDGE
1ST JUDICIAL CIRCUIT

AGREED ORDER OF SUSPENSION

Timothy A. Langford (“Judge Langford”) is a Circuit Court Judge for Kentucky’s 1st Judicial Circuit, consisting of Ballard, Carlisle, Fulton, and Hickman Counties. Prior to the commencement of the final hearing, the parties reached an agreement to resolve the matter. Judge Langford has waived formal proceedings and Judge Langford, the Judicial Conduct Commission (the “Commission”) and the Commission’s Counsel have agreed to the entry of this Order.

The Commission received Complaints and other information, conducted preliminary and subsequent investigations, and filed a Notice of Formal Proceedings and Charges (the “Original Notice”) and an Amended Notice of Formal Proceedings and Charges (the Original Notice and Amended Notice referred to collectively as the “Notices”) against Judge Langford alleging he violated the Canons of the Kentucky Code of Judicial Conduct. The Notices asserted nine (9) charges against Judge Langford. Judge Langford timely filed an Answer to the Notices

Judge Langford and the Commission’s Counsel, reached agreement on a resolution of this matter, as described below. The Commission’s Counsel recommended that the Commission accept the agreement reached with Judge Langford, and the Commission, by a vote of 5-0 approved the agreement, resulting in this Agreed Order of Suspension:

1. Judge Langford agrees that he will not retaliate against any witness, complainant or person involved in these proceedings regarding their statements, actions or other conduct prior to the date of this Agreed Order of Suspension, and further agrees that if he does commit any such acts of retaliation as to such prior statements, acts or conduct, it will constitute a breach of this Agreed Order of Suspension.
2. Judge Langford agrees that any statements made by him or by others under his direction disavowing the contents or the specific admissions in this Agreed Order shall constitute a breach of this Agreed Order which shall result in a reinstatement of the charges and may subject Judge Langford to additional discipline up to and including removal from office.
3. Judge Langford agrees no individual employed in his judicial office shall maintain employment or compensation by any third-party entity administering or providing court-approved probation monitoring

services while at the same time working for Judge Langford.

4. Judge Langford agrees that he will withdraw as a member of the Board of Directors of the First Judicial Circuit Corrections Board, Inc. He further agrees that he will not hold any subsequent leadership, management, or other administrative position with a third-party administrator or provider of a court-approved probation monitoring program while he is a Judge.
5. This Agreed Order of Suspension resolves all pending claims and charges brought against Judge Langford by the Commission as set forth in the Notices.
6. By entering into this Agreed Order of Suspension, Judge Langford recognizes and admits that he violated provisions of the Code of Judicial Conduct. Judge Langford maintains that these violations were not made intentionally.
7. As it relates to the Counts in the Notices, Judge Langford agrees to, as follows:
 - a. As to Count I of the Notices, Judge Langford denies requesting the use of inmates at the Fulton County Detention Center to perform work during the reconstruction of the West Hickman Baptist Church. Judge Langford does acknowledge that inmates unloaded materials at the church and that the Commission has witnesses who would testify consistent with the allegations set forth in Count I.
 - b. As to Count II of the Notices, Judge Langford denies requesting the use of publicly-owned equipment for use during the reconstruction of the West Hickman Baptist Church. Judge Langford does acknowledge that publicly-owned equipment may have been utilized during the reconstruction of the church and that the Commission has a witness who would testify consistent with the allegations set forth in Count II.
 - c. As to Count III of the Notices, Judge Langford admits that his legal assistant informed probationers of opportunities to perform work at the West Hickman Baptist Church and provided transportation to probationers to perform community service work at the West Hickman Baptist Church and that these acts constitute a violation of the Canons 1 and 2A of the Kentucky Code of Judicial Conduct.

- d. As to Count IV of the Notices, Judge Langford admits that he committed the acts set forth therein and that these acts constitute a violation of the Canons 1, 2A, and 3B(7) of the Kentucky Code of Judicial Conduct.
- e. As to Count V of the Notices, the Commission clarifies that Judge Langford's legal assistant did not receive compensation above and beyond his approved salary for work with the First Judicial Circuit Corrections Cabinet, Inc. With that clarification, Judge Langford admits that he committed the acts set forth in Count V and that these acts constitute a violation of the Canons 1, 2A, and 2D of the Kentucky Code of Judicial Conduct.
- f. As to Count VI of the Notices, Judge Langford denies engaging in any ex parte communication regarding Fulton Circuit Court Case No. 09-CR-00061 and further notes that the issues referenced in Count VI were discussed on the record in open court. Judge Langford acknowledges that the Commission has a witness who would testify consistent with the allegations set forth in Count VI.
- g. As to Count VII of the Notices, the Commission recognizes that Judge Langford initially ruled on a motion for relief from ankle monitoring on September 24, 2012. As to the remaining allegations, Judge Langford admits that he committed the acts set forth therein and that these acts constitute a violation of the Canons 1, 2A, and 3B(8) of the Kentucky Code of Judicial Conduct.
- h. As to Count VIII of the Notices, Judge Langford admits that he committed the acts set forth therein and that these acts constitute a violation of the Canons 1, and 2A of the Kentucky Code of Judicial Conduct.
- i. As to Count IX of the Notices, Judge Langford contends that taking a motion under advisement constitutes a ruling under KRS 439.265. Nevertheless, he recognizes that

the Commission interprets KRS 439.265 as requiring a ruling granting or denying a motion. Judge Langford admits the factual allegations contained in Count VIII and further admits that these acts constitute a violation of the Canons 1, 2A, and 3B(8) of the Kentucky Code of Judicial Conduct.

Therefore, in light of the foregoing, Judge Langford is hereby suspended from his duties as Circuit Court Judge, without pay, for a period of sixty (60) days, beginning April 18, 2018 and ending June 16, 2018. During his suspension, Judge Langford shall refrain from performing the duties of his office, shall not access or utilize court resources, and shall not appear at the Ballard, Carlisle, Fulton, and Hickman Courthouses. In entering this Order with the agreement of Judge Langford, the Commission has duly considered that Judge Langford fully cooperated in the Commission's investigation and procedures.

Judge Jeff S. Taylor, Judge Eddy Coleman, Judge David P. Bowles, Mr. Michael A. Noftsgger, and Mr. Stephen D. Wolnitzek, sitting.

Date: 4/2/18 _____ /s/
Stephen D. Wolnitzek, Chair

Agreed to: _____ /s/
Hon. Timothy A. Langford, Judge

_____ /s/
Jeffrey C. Mando, Counsel for the Commission

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COMMONWEALTH OF KENTUCKY JUDICIAL CONDUCT COMMISSION

IN RE THE MATTER OF:

SANDRA L. MCLAUGHLIN, DISTRICT COURT JUDGE
30TH JUDICIAL CIRCUIT

AGREED ORDER PUBLIC REPRIMAND

Sandra L. McLaughlin is a District Court Judge for Kentucky's 30th Judicial Circuit consisting of Jefferson County. Judge McLaughlin has waived formal proceedings and has agreed to this disposition.

The Commission received information during a preliminary investigation that Judge McLaughlin maintains a social media account on Facebook which is entitled "Judge Sandra McLaughlin." On August 3, 2017, Judge McLaughlin shared a news story on this account regarding Jefferson District Court Case No. 17-F-009237, with the comment: "This murder suspect was RELEASED FROM JAIL just hours after killing a man and confessing to police."

The Commission concludes that Judge McLaughlin's conduct violated SCR 4.020(1)(b)(i) by engaging in misconduct in office. The Commission further concludes that Judge McLaughlin violated SCR 4.300 and the relevant portions of the following Canons of the Code of Judicial Conduct:

Canon 1 which requires judges to maintain high standards of conduct and uphold the integrity and independence of the Judiciary.

Canon 2A which requires judges to respect and comply with the law and act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

Canon 3B(9) which prohibits judges from making public comments on matters pending in any court which might reasonably be expected to affect its outcome or impair its fairness.

Based on the foregoing conduct, Judge McLaughlin is hereby publicly reprimanded. In making the disposition in this Order, the Commission duly considered that Judge McLaughlin fully cooperated in the matter.

Date: 6/12/18

_____/s/_____
STEPHEN D. WOLNITZEK, CHAIR

Judge David Bowles recused from any consideration of this matter.

Agreed to:

_____/s/_____
Hon. Sandra L. McLaughlin

_____/s/_____
Brian Butler, Esq.
Counsel for Judge McLaughlin

COMMONWEALTH OF KENTUCKY JUDICIAL CONDUCT COMMISSION

IN RE THE MATTER OF:

CHARLES L. CUNNINGHAM, CIRCUIT COURT JUDGE
30TH JUDICIAL CIRCUIT

PUBLIC REPRIMAND

Charles L. Cunningham is a Circuit Court Judge for Kentucky's 30th Judicial Circuit consisting of Jefferson County. Judge Cunningham has waived formal proceedings and has agreed to this disposition.

Judge Cunningham self-reported to the Commission potential violations of the Kentucky Code of Judicial Conduct following the Kentucky Court of Appeals' decision in case number 2016-CA-001178-MR, styled, *Commonwealth v. Cambron*. In the Opinion, the Court of Appeals determined that Judge Cunningham violated Canon 3B(7) of the Kentucky Code of Judicial Conduct on at least twenty-nine occasions. The Court found that Judge Cunningham had entered numerous ex parte orders to produce Mr. Cambron's records to his public defender in the underlying case (Jefferson Circuit Court, Case No. 14-CR-2628) without notifying the Commonwealth. It further found that Judge Cunningham conversed with the defendant's public defender on multiple occasions without the Commonwealth's knowledge.

The Commission concludes that Judge Cunningham's conduct violated SCR 4.020(1)(b)(i) by engaging in misconduct in office. The Commission further concludes that Judge Cunningham violated SCR 4.300 and the relevant portions of the following Canons of the Code of Judicial Conduct:¹

Canon 1 which requires judges to maintain high standards of conduct and uphold the integrity and independence of the Judiciary.

Canon 2A which requires judges to respect and comply with the law and act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

Canon 3B(7) which prohibits judges from initiating or considering ex parte communications with parties, except in designated circumstances that do not deal with substantive matters or issues on the merits.

Based on the foregoing conduct, Judge Cunningham is hereby publicly reprimanded. In making the disposition in this Order, the Commission duly considered that Judge Cunningham self-reported the violations and fully cooperated in the matter.

Date: 5/22/18

_____/s/
STEPHEN D. WOLNITZEK, CHAIR

Judge Glenn E. Acree and Judge Mitch Perry recused from any consideration of this matter.

Agreed to:

_____/s/
Hon. Charles L. Cunningham

Terms Expire on the KBA Board of Governors

On June 30 of each year, terms expire for seven (7) of the fourteen (14) Bar Governors on the KBA Board of Governors. SCR 3.080 provides that notice of the expiration of the terms of the Bar Governors shall be carried in the *Bench & Bar*. SCR 3.080 also provides that a Board member may serve three consecutive two-year terms. Requirements for being nominated to run for the Board of Governors are contained in Section 4 of the KBA By-Laws and the requirements include filing a written petition signed by not less than twenty (20) KBA members in good standing who are residents of the candidate's Supreme Court District. Board policy provides that "No member of the Board of Governors or Inquiry Commission, nor their respective firms, shall represent an attorney in a discipline matter." **In addition any member of the Bar who is considering seeking or plans to seek election to the Board of Governors or to a position as an Officer of the KBA will, if elected, be required to sign a limited waiver of confidentiality regarding any private discipline he or she may have received.** Any such petition must be received by the KBA Executive Director at the Kentucky Bar Center in Frankfort prior to the close of business on the last business day in October.

The Current Terms of the Following Board Members Will Expire on June 30, 2019:

1st District
Van F. Sims Paducah

2nd District
J. D. Meyer Owensboro

3rd District
Howard O. Mann Corbin

4th District
Amy D. Cubbage Louisville

5th District
Mindy G. Barfield Lexington

6th District
Todd V. McMurtry Ft. Mitchell

7th District
Rhonda Jennings Blackburn Pikeville

1. The Canons cited by the Court of Appeals and by the Commission herein were the versions in effect at the time of the violation. The provisions within the cited Canons are now contained in Rules 1.1, 1.2 and 2.9.

Sure you're
smart enough,
 but are you *mentally fit* to practice?

By: Yvette Hourigan KYLAP DIRECTOR

Significant attention has been given to the high levels of distress and the growing mental health crisis occurring within the legal profession.¹ The practice of law, with its soaring rates of anxiety, depression, addiction, and other mental illness, was deemed an unsustainable profession. The ABA/Commission on Lawyer Assistance Program Well-Being Task Force was formed to give guidance on how to right the ship and improve lawyer well-being.²

Out of desperation comes willingness. More and more lawyers are becoming less willing to sacrifice their families and their health for the practice of law. They're embracing healthier lifestyles and recognizing that incorporating certain practices into their daily habits will improve their personal and professional lives and also help them avoid the deadly consequences of maintaining the *status quo*.

There are some fairly simple practices and habits you can commence that will improve your physical and mental health. Making a few changes now may minimize your risk of reaching a personal or professional crisis due to depression, anxiety, or addiction. In this and in coming issues of the Bench & Bar we'll discuss "the 3Ms": movement, mindfulness and meditation. We'll explore the benefits of incorporating these practices into your daily routine, including heightened resilience; reduction of your anxiety and stress levels; and improved complex decision-making.

IS THE STRESS OF PRACTICING LAW REALLY THAT BAD?

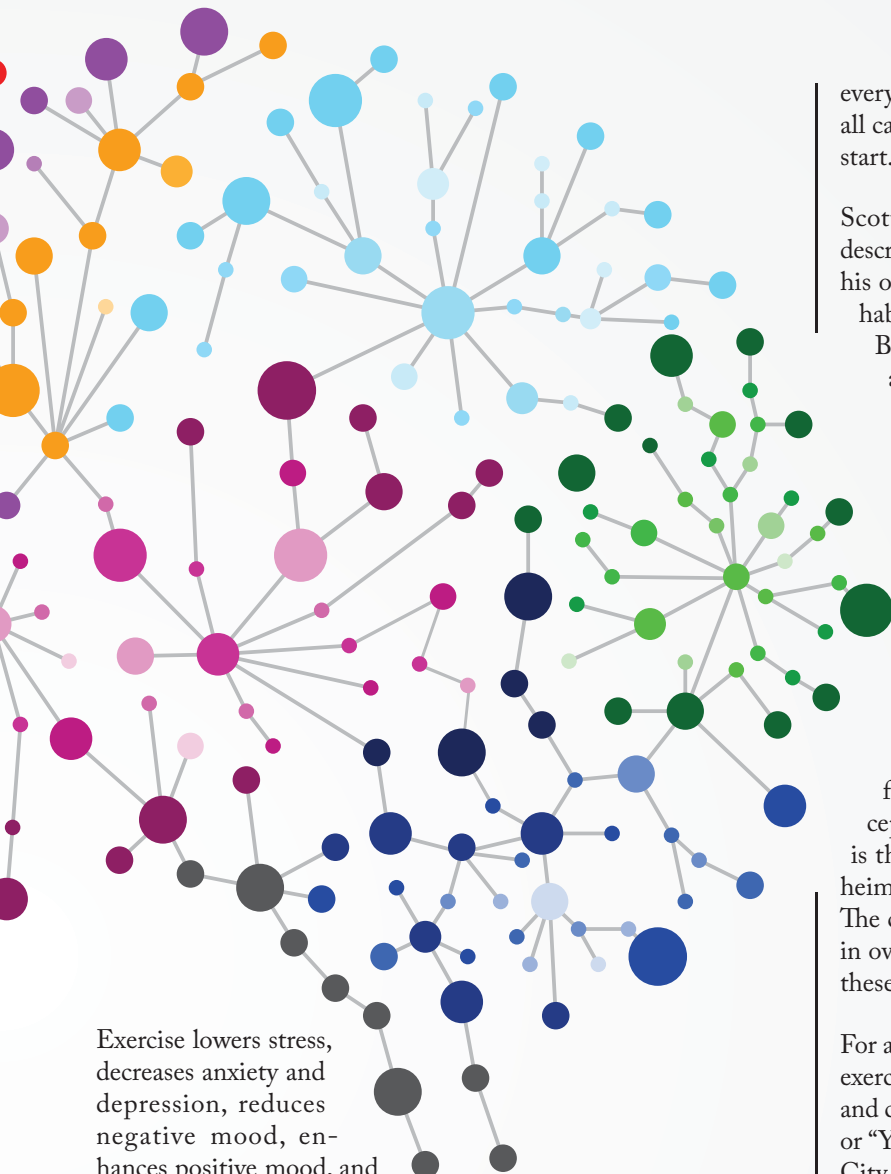
In a nutshell, conflict-based stress is bad for you. Very bad. It causes the brain to secrete hormones that harm the areas of the brain where depression and other mental health issues originate. The long-term effect? "If stress is chronic, repeated challenges may demand repeated bursts of vigilance. At some point the vigilance

becomes overgeneralized leading us to conclude that we must always be on guard—even in the absence of stress. And thus the realm of anxiety is entered." Dr. Robert Sapolsky, *Lawyers with Depression, The Stress Depression Connection*, May 11, 2008, www.lawyerswithdepression.com.

There are basic changes we can make in our lifestyles *at any age*, which can be transformative for us, and can result in tremendous improvements in our mental, physical, and brain health. It's not just for younger lawyers, either. Middle-aged lawyers, those "baby boomers" who are quickly aging into the "silver tsunami" are following suit. They're doing so not just to improve physical health, but also to maintain mental acuity—and the conversation of how to improve the quality of our lives as lawyers and return to the time when we actually *enjoyed* the practice of law is expanding. All of the research and scientific studies indicate that we will perform better when we incorporate the 3M's into our lifestyle: **MOVEMENT**, **MINDFULNESS**, and **MEDITATION**. In this edition of the Bench & Bar, our focus is on movement. Why? Because exercise makes you smarter.

The Harvard Health Blog reports that regular exercise changes the brain to improve memory and thinking skills. In a study done at the University of British Columbia, researchers found that regular aerobic exercise, the kind that gets your heart and sweat glands pumping; appears to boost the size of the hippocampus, the area of the brain involved in verbal memory and learning. The hippocampus and the amygdala are the areas of the brain damaged by chronic stress due to the over-secretion of hormones. It's proven that exercise helps reverse that damage, and helps maintain better brain health.





Exercise lowers stress, decreases anxiety and depression, reduces negative mood, enhances positive mood, and decreases the likelihood of developing depression and diabetes. It can decrease high blood pressure and even helps people quit smoking. Physical exercise, in and of itself, is stress relief. Physical exercise increases the brain's concentrations of norepinephrine, a chemical that can moderate the brain's response to stress.

Biologically, exercise seems to give the body a chance to practice dealing with stress. It forces the body's physiological systems—all of which are involved in the stress response—to communicate much more closely than usual: The cardiovascular system communicates with the renal system, which communicates with the muscular system. And all of these are controlled by the central and sympathetic nervous systems, which also must communicate with each other. This workout of the body's communication system may be the true value of exercise because the more sedentary we get, the less efficient our bodies become in responding to stress.

Must we exercise at the 90 percent heart-rate level required for an OrangeTheory or HIIT (high-intensity interval training) class? Is that the only way to benefit from exercise? As perfectionists, lawyers naturally think that we *begin* (everything) somewhere near

everyone else's finish line, but it's just not true. Any movement at all can help save your life. Just persevere, no matter how slow the start. **THE KEY IS TO START.**

Scottsdale real estate and tax attorney Stanley Bronstein (who described himself as “a heart attack waiting to happen”) wrote about his own journey of life-threatening habits while practicing law – habits which resulted in his weighing 367 pounds. At age 50, Bronstein decided to reinvent himself. It all started by taking a walk. Now six-years later and half of his original weight, Bronstein promotes walking, (not running) for lawyers. Slow walking. Bronstein says “I'm as steady as a snail.” The movement itself is the key, says Bronstein.

Need another reason to exercise? Not only does it make you physically healthier and mentally stronger, it may also stave off brain disorders like Alzheimer's and dementia. In 2014, Finnish scientists published data proving that being physically active during middle-age can prevent the onset of dementia later. The scientists involved in this study suggest that leisure-time physical activity (LTPA) performed at least twice a week yielded maximum neuroprotective effects for people across ages, sex, and varying degrees of genetic susceptibility. The cognitive benefits of LTPA in mid-life subjects is that they have a lower risk of developing dementia and Alzheimer's disease in their old age than those who do not exercise. The cognitive benefits of LTPA in mid-life were most prominent in overweight and obese persons. It can be assumed that most of these individuals led sedentary lives up until then.

For a more scientific (and interesting) explanation of how and why exercise makes us smarter, staves off degenerative brain disorders, and causes us to live longer, pick up a copy of “Younger Next Year,”³ or “Younger Next Year for Women,”⁴ both written by a New York City trial lawyer in his 70s and his cardiologist, who was in his 50s at the time.⁵ They're both great reads and will inspire you to look at your body, your longevity, and your quality of life in a completely new way. And they will make you want to move.

Are you “fit” to practice? Physical exercise will improve your physical and mental health in a host of ways. Physical exercise helps reduce the impact of stress on your body, allows you to manage anxiety better, lower your blood pressure, and improves a number of other stress-related psychosomatic symptoms. There are so many benefits that physical exercise gifts to your legal mind, it may be negligent not to do it. And remember, when it comes to exercise, slow and steady is just fine.

Eckhart Tolle said “It is not uncommon for people to spend their whole life waiting to start living.” You work hard for your clients and your families. Work hard for yourself, too. Don't wait to take care of your physical and mental health “when things lighten up” or when “they get easier.” It doesn't lighten up or get easier. It only gets different. Most of our work stressors today will be our same stressors tomorrow, but we can learn to manage them better. We must begin to live in the now, and take care of these amazing vessels (our bodies and brains) that have served us so well thus far.

In doing so, we will be better lawyers, better family members, and better community members.

Life is a series of choices. Every day we choose whether we will improve ourselves and our lives or whether we will accept the status quo that most lawyers before us have accepted, with its by-products of increased rates of alcoholism, depression, suicide, and an overall discontent with our careers and our lives. You have the power to re-write the narrative of your life and your law practice, today. **AND IT ALL STARTS WITH A LITTLE MOVEMENT.**



YVETTE HOURIGAN is the director of the Kentucky Lawyer Assistance Program (KYLAP). KYLAP provides assistance to all Kentucky law students, lawyers and judges with mental health issues and impairments including depression, substance or alcohol addictions, process addictions and chronic anxiety disorders. Hourigan is a graduate of the University of Kentucky College of Law, and practiced

in all areas of civil litigation in Lexington before she was appointed as the KYLAP Director. In 2014, Hourigan was awarded the Dave Nee Foundation's *Uncommon Counselor Award* which is given to a member of the legal profession who exhibits "extraordinary compassion and concern for co-workers, family, friends, and community." You may contact Hourigan at yhourigan@kylap.org and (502) 226-9373.

ENDNOTES

1. https://journals.lww.com/journaladdictionmedicine/Fulltext/2016/02000/The_Prevalence_of_Substance_Use_and_Other_Mental.8.aspx
2. <http://lawyerwellbeing.net/>
3. Crowley, Chris, and Lodge, Henry S., *Younger Next Year*, Workman Pub., NY, 2007.
4. Crowley, Chris, and Lodge, Henry S., *Younger Next Year for Women*, Workman Pub., NY 2007.
5. *Id.*

Thank you

The Kentucky Lawyer Assistance Program Foundation, Inc., offers financial assistance through forgivable loans to the Kentucky legal community to assist with treatment expenses for all mental health issues.

On behalf of the individual law students, lawyers and judges whose lives these funds will change, the KYLAP Foundation expresses its sincerest gratitude to the following groups for their generous contributions.

Friends of Billy Hoge
In Honor of His Retirement
Hardin County Bar Association

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**NORTHERN KY
& LEXINGTON**



The Kentucky Lawyer Assistance Program offers weekly open recovery meetings for lawyers, law students and judges in Northern Kentucky and Lexington. **The Northern Kentucky Lawyers in Recovery meeting is held at 5:00 p.m., on Tuesdays at 510 Washington Avenue, Newport, KY 41071.** Please bring your own coffee. **The Lexington Kentucky Lawyers in Recovery meeting is held at 7:30 a.m. on Wednesdays at the Alano Club downtown, 370 East Second Street, Lexington, KY 40508.**

All meetings are open to law students, lawyers and judges who are already involved or who are interested in a 12-step program of recovery, including but not limited to Alcoholics Anonymous, Narcotics Anonymous, Overeaters Anonymous and Al-Anon. Come meet other attorneys and network. All meetings and contacts are confidential. SCR 3.990.

For additional information, please contact us.
web: www.kylap.org • call: (502) 226-9373
email: abeitz@kylap.org



Contact **KYLAP DIRECTOR YVETTE HOURIGAN** for more information about the **KYLAP FOUNDATION, INC., FORGIVABLE LOAN PROGRAM.**

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- **Improv for Attorneys** with Tommy Galan
- **Design Thinking** with Josh Kubicki and Kim Craig

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Kentucky Bar Foundation

The Kentucky Bar Foundation (KBF) awarded \$250,000 in 2018 grants at its annual Fellows and Partners for Justice Society Luncheon on June 14, 2018. Thanks to the generosity of Kentucky attorneys and judges, the 2018 KBF grants will support 33 nonprofit organizations as they work to provide access to justice and law-related education across the Commonwealth. At the luncheon, the Bar Foundation also recognized 18 new KBF Life Fellows, 7 new KBF Fellows, and 2 new Partners for Justice Society members whose generosity helped make this year's grants and those in the future possible.



*Kentucky Bar Foundation President
Harvey Johnston*



Justice Mary Noble and Judge Sheila Isaac



*Justice William S. Cooper accepting an
award from Chief Justice John Minton
in honor of his \$75,000 contribution to
the Kentucky Bar Foundation*



*Emily Jones from grant recipient organization Kentucky Refugee Ministries
offered the featured presentation*



Dan Key and Justice Bill Cunningham



*Stephanie Willis of the Legal Aid Society accepting a
\$15,000 check for veterans legal services from Ken-
tucky Bar Foundation Past President David Porter*

Photo Credit: Britney Howard Photography



2018 Grants

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As the nonprofit, charitable arm of Kentucky's legal community, the Kentucky Bar Foundation provides a way for Kentucky lawyers and judges to unite and make a big difference across our Commonwealth. On your KBA dues statement, you will have the option to support the Kentucky Bar Foundation by making a \$30 Sustainer Contribution. Last year, nearly 5,000 attorneys collectively contributed over \$143,000, which helped make this year's grants possible.

Want to share what you are doing in your community?

Contact KBF Executive Director Guion Johnstone at gjohnstone@kybar.org to be featured in an upcoming issue of the *Bench & Bar* in the Kentucky Attorneys Doing Good segment.

Catholic Charities, Statewide <i>Immigration Legal Assistance Project and Bakhita Labor Trafficking Conference</i>	\$ 8,000
Children's Advocacy Center of the Bluegrass, Central Kentucky <i>Children's Advocacy Center Multidisciplinary Team Coordination</i>	\$ 5,000
Community Foundation of Louisville, Jefferson County <i>Family Drug Treatment Court</i>	\$10,000
Credit Abuse Resistance Education (CARE) Programs, Statewide	\$13,500
Family & Children's Place, Jefferson County <i>Kosair Charities Child Advocacy Center & F&CP's Response to Increase in Translation Services</i>	\$ 5,000
The Healing Place, Inc., Statewide <i>The Healing Place Peer Mentor Program</i>	\$ 5,000
Holly Hill Child & Family Solutions, Northern Kentucky <i>Supervised Visitation Support</i>	\$ 5,000
The International Center, Western Kentucky <i>New Life Project – Enhancing Compliance with the Law and Supporting the Vulnerable in the Refugee & Immigrant Communities</i>	\$ 8,000
Kentucky Equal Justice Center, Statewide <i>Maxwell Street Legal Clinic: Ensuring Security, Completing the Journey</i>	\$ 8,000
Kentucky High School Mock Trial Association, Inc., Statewide <i>Kentucky High School Mock Trial Program</i>	\$ 5,000
Kentucky Legal Aid, South Central/Western Kentucky <i>Kentucky Legal Aid Website Design</i>	\$15,000
Kentucky Refugee Ministries, Inc., Central Kentucky <i>KRM Immigration Legal Services Fee Subsidies</i>	\$ 8,000
Kentucky Resources Council, Statewide <i>Enhancing Access to Environmental Legal Services for Low-Income Individuals and Communities</i>	\$10,000
Kentucky YMCA Youth Association, Statewide <i>Kentucky Supreme Court, International Court of Justice and National Judicial Competition</i>	\$15,000
La Casita Center, Inc., Louisville Metro <i>Legal Services and Outreach</i>	\$ 4,000
Legal Aid Society, Inc., Statewide <i>Veterans Legal Services</i>	\$15,000
Lexington Leadership Foundation <i>Amachi Mentoring Support</i>	\$ 5,000
Mentoring Plus, Northern Kentucky <i>Mentoring Plus</i>	\$10,000
Merryman House Domestic Crisis Center, Western Kentucky <i>Legal Links</i>	\$10,000
The Nest-Center for Women, Children & Families, Central Kentucky <i>The Nest's Interpersonal Violence Legal Project</i>	\$10,000
NKY Regional Mental Health Community Corrections Program, Inc., Northern Kentucky <i>Mental Health Recovery Support Services</i>	\$10,000
Nursing Home Ombudsman Agency of the Bluegrass, Inc., Central Kentucky <i>Production of Updated Collateral in Support of Residents of Long-Term Care Facilities</i>	\$ 5,000
Prodigal Ministries, Inc., Statewide <i>Client Advocacy and Support</i>	\$ 5,000
Purchase Area Sexual Assault & Child Advocacy Center, Western Kentucky <i>Court Preparation Program</i>	\$ 2,000
Second Hope Ministries, Jefferson County <i>Second Hope House</i>	\$ 6,000
University of Louisville Brandeis School of Law, Louisville <i>Central High School Law and Government Magnet Program Enhancement</i>	\$ 5,000
University of Pikeville, Eastern Kentucky <i>Judicial Speaker Series</i>	\$ 2,500
Uspiritus, Inc., Statewide <i>Improving Child Welfare and Court Collaboration</i>	\$ 6,000
KBF Law School Scholarships <i>(Chase College of Law \$10,000; UK College of Law \$10,000; U of L School of Law \$10,000)</i>	\$30,000
KBA Distinguished Judge Award on behalf of Judge Brian C. Edwards, Louisville <i>Louisville Bar Center's Summer Internship Program in Partnership with Central High School Law Magnet</i>	\$ 2,000
KBA Distinguished Lawyer Award on behalf of Richard W. Hay, Somerset <i>Appalachian Research & Defense Fund of Kentucky, Inc.</i>	\$ 2,000
TOTAL AWARDS - \$250,000	

KBA PUBLICATIONS &
PROGRAM COORDINATOR

Dianna Moore

RETIRES AFTER **32 Years**

BY: MARY BETH CUTTER, DIRECTOR FOR CLE

Although it is often a member of the CLE Commission who writes the CLE article for the Bench & Bar, I requested the privilege this edition. I did not ask to write this article because I am a frustrated author, although that is often my story when I am trying to seem interesting. But rather, I asked for this opportunity to pay tribute to a long time employee and devoted staff member who retired June 30, 2018. I had the honor of presenting a tribute and gift to Dianna Moore at the 2018 KBA Annual Convention during our awards banquet Thursday, June 14th. Below is a transcript of my speech, sans the emotion and ad libbing which so often accompany a general lack of preparedness due to denial (among other things, including a lack of preparation generally):

Many of you know Dianna Moore. She has been the continuing legal education coordinator for the KBA Annual Convention for years. What you may not know is that she plans to retire at the end of this month after more than 30-years with the Kentucky Bar Association.

Dianna began working for the Bar in her infancy; no really, she was an actual baby. She was remarkable from the start, typing over 120 words per minute by age seven. At 11, she developed the annual convention planning grid tool she named the Rubik's cube. What few realize is that the invention was a contemporary of the actual original Rubik's cube. She worked for the KBA before there was a Bar Center. She worked for each department before they were more than functions, but she found her home in continuing legal education.

Dianna has been integral to the development and, dare I say, success—yes, I think I dare—of each program we offer. She has served the lawyers of Kentucky and the mission of the Bar for 32-years, with love, humor, creativity, dignity, and sheer excellence. She has worked under every CLE director the Bar has had, but I am the one who must face her retirement. Just my luck. I have the daunting task of attempting to replace the irreplaceable.

Dianna is the epitome of grace under pressure. While we panic when the unthinkable happens, she has already thought of it and just fixes it. She has plans B, C, D, and E perfected while most of us did not even realize there was a plan A. She never turns a hair.

Dianna, I will miss you as a coworker and I will miss seeing my friend on a daily basis. So, George Bailey, here is your travel case. Use it often and well. Go and see all the places you could not visit before because of your devotion to us.

We at the Kentucky Bar Association CLE Department and CLE Commission would like to wish Dianna much love and happiness in her retirement.



ABOUT THE AUTHOR

MARY BETH CUTTER

serves as the Kentucky Bar Association's Director for Continuing Legal Education. Cutter received her

B.A. with distinction from Centre College, and her Juris Doctorate from the University of Kentucky College of Law. Following her admission to the Kentucky Bar, she was engaged in private practice, focusing primarily in the areas of health care, civil litigation, employment, real estate, and domestic law. She has been with the Kentucky Bar Association since November of 2008.



2017-2018 CLE COMMISSION MEMBERS



The 2017-18 CLE Commission: Back Row: Mary Beth Cutter, Director for CLE; J. Tanner Watkins of Louisville (4th S.Ct. District); David B. Sloan of Covington (6th S.Ct. District); Graham C. Trimble of Corbin (3rd S.Ct. District); F. Hampton Moore III of Bowling Green (2nd S.Ct. District); Leigh Gross Latherow of Ashland (7th S.Ct. District); Jason F. Darnall of Benton, Chair (1st S.Ct. District) and LaToi D. Mayo of Lexington (5th S.Ct. District). Not pictured: Justice Laurance B. VanMeter of Lexington (Supreme Court Liaison).

Jason F. Darnall, Chair
First District Representative
jason@bedlaw.com

Frank Hampton Moore III
Second District Representative
mooreiii@coleandmoore.com

Graham C. Trimble
Third District Representative
gtrimblelaw@gmail.com

J. Tanner Watkins
Fourth District Representative
tanner.watkins@dinsmore.com

LaToi D. Mayo
Fifth District Representative
lmayo@littler.com

David B. Sloan
Sixth District Representative
dsloan@ortlaw.com

Leigh Gross Latherow
Seventh District Representative
llatherow@vanattys.com

Justice Laurance B. VanMeter
Supreme Court Liaison

INTERESTED IN ASSISTING WITH A CLE? HAVE IDEAS FOR A PROGRAM?
Contact Mary Beth Cutter, KBA Director for CLE at mcutter@kybar.org, or any member of the Continuing Legal Education Commission.



DON'T FORGET...

The deadline to **report** your CLE credits timely earned for the 2017-2018 educational year is **AUGUST 10, 2018**.

You must have a total of 12.0 CLE credits including 2.0 ethics credits by June 30, 2018, to have met the annual requirement.

Check your CLE record online at www.kybar.org.

MARK YOUR CALENDARS FOR



The annual Kentucky Law Update (KLU) is just around the corner. The KLU program series is an exceptional benefit of KBA membership and Kentucky is the only mandatory CLE state that provides its members a way of meeting the annual CLE requirement at no additional cost. **Registration is now available online.** For more information and to register visit <https://www.kybar.org/page/KLUDatesandlocations>.

2018 KENTUCKY LAW UPDATE DATES & LOCATIONS

BOWLING GREEN
HOLIDAY INN UNIVERSITY
PLAZA & SLOAN CONVEN-
TION CENTER
August 23-24 (TH/F)

LONDON
LONDON COMMUNITY CENTER
September 13-14 (TH/F)

ASHLAND
BELLEFONTE PAVILION
September 27-28 (TH/F)

PIKEVILLE
EASTERN KY EXPO CENTER
October 4-5 (TH/F)

LOUISVILLE
KY INTERNATIONAL
CONVENTION CENTER
October 17-18 (W/TH)

PADUCAH
JULIAN CARROLL
CONVENTION CENTER
October 31- November 1 (W/TH)

OWENSBORO
OWENSBORO
CONVENTION CENTER
November 15-16 (TH/F)

LEXINGTON
LEXINGTON
CONVENTION CENTER
November 29-30 (TH/F)

COVINGTON
NORTHERN KENTUCKY
CONVENTION CENTER
December 13-14 (TH/F)

THANK YOU

to those individuals whose contribution of time and expertise helped make the **June 2018 New Lawyer Program** A GREAT SUCCESS!

Moderators, Speakers
and Contributing Authors:

William R. Garmer **Ashley L. Chilton**
David N. Shearon **Ashleigh N. Bailey**
Guion L. Johnstone **Ruth H. Baxter**
Jason F. Darnall **M. Andrew Haile, Jr.**
Eric M. Weihe

2018 New Lawyer Program
Essential Fundamentals for the Professional and Ethical Practice of Law

In Memoriam

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

NAME	CITY	STATE	DATE DECEASED
Daniel Michael Alvarez	Louisville	KY	May 23, 2018
Christopher Duncan Bryant	La Grange	KY	May 1, 2018
Charline V. Dale	Greenwich	CT	March 9, 2018
Robert T. Gallagher	Lexington	KY	April 18, 2018
Leon Harvath Jr.	Gainesville	FL	February 18, 2018
William P. Hurley Jr.	Memphis	IN	May 9, 2018
Mark Edward Kearney	Lexington	KY	May 2, 2018
Thomas P. Lewis	Lexington	KY	March 7, 2018
James E. McDaniel	Owensboro	KY	October 6, 2017
Guy F. Ormsby Jr.	Paris	KY	May 14, 2018
Georganne Brown Taylor	Johnson City	TN	March 2, 2018
William Thomas Warner	Myrtle Beach	SC	May 20, 2018
Sidney N. White	Lexington	KY	February 13, 2018



THE HONORABLE SAMUEL HUSTON MONARCH, JR., age 72, passed away surrounded by friends and family on Thursday, Nov. 23, 2017. He was a retired 46th Judicial District Circuit Court Judge. Judge Monarch is survived by his wife Alice Burke Monarch of Hardinsburg, Ky., son Ed Monarch (Katie) of Louisville, two grandsons Thomas and Clayton Monarch, two brothers Charles Monarch (Peggy) and Miller Monarch (Alice) of Hardinsburg. Funeral services were held at St. Romuald Catholic Church in Hardinsburg.

The preceding memoriam for Judge Samuel H. Monarch, Jr., is based upon information obtained from the Courier-Journal, which published the obituary on Nov. 26, 2017. To access the obituary in its entirety, visit: <https://www.legacy.com/obituaries/louisville/obituary.aspx?page=lifestory&pid=187342511>.



KBA members Jamie Neal and Doug Farnsley joined Danny Alvarez (center) at an April 27, 2018, event to benefit Legal Aid of Louisville.

DANIEL “DANNY” MICHAEL ALVAREZ was born on March 27, 1975, in Queens New York. He returned to the Lord on May 23, 2018.

He dedicated his life and career to public service. He began his legal career as a public defender protecting the rights of the indigent. He opened his private practice in 2003, in order to expand his advocacy to include helping immigrants, defending the accused, and assisting people from all walks of life in their time of need. He was a leader in the legal community, recognized for his talent, integrity, ethics, and pro bono service.

Alvarez was honored that on May 22nd, the citizens of this community voted overwhelmingly for him to serve as the first Latino Judge in Kentucky. He spent his last day with friends and family, feeling joyful about his historic win.

He is survived by his wife, Therese, and his three children Gabriela, Benedict, and Isabela, along with his parents Maria and Ernesto Alvarez, his brother and sister, David and Susan, five nieces and nephews and close friends throughout the community.

The preceding memoriam for Daniel “Danny” Michael Alvarez is based upon information obtained from the Courier-Journal, which published the obituary on May 27, 2018. To access the obituary in its entirety, visit: <https://www.legacy.com/obituaries/louisville/obituary.aspx?page=lifestory&pid=189116551>.

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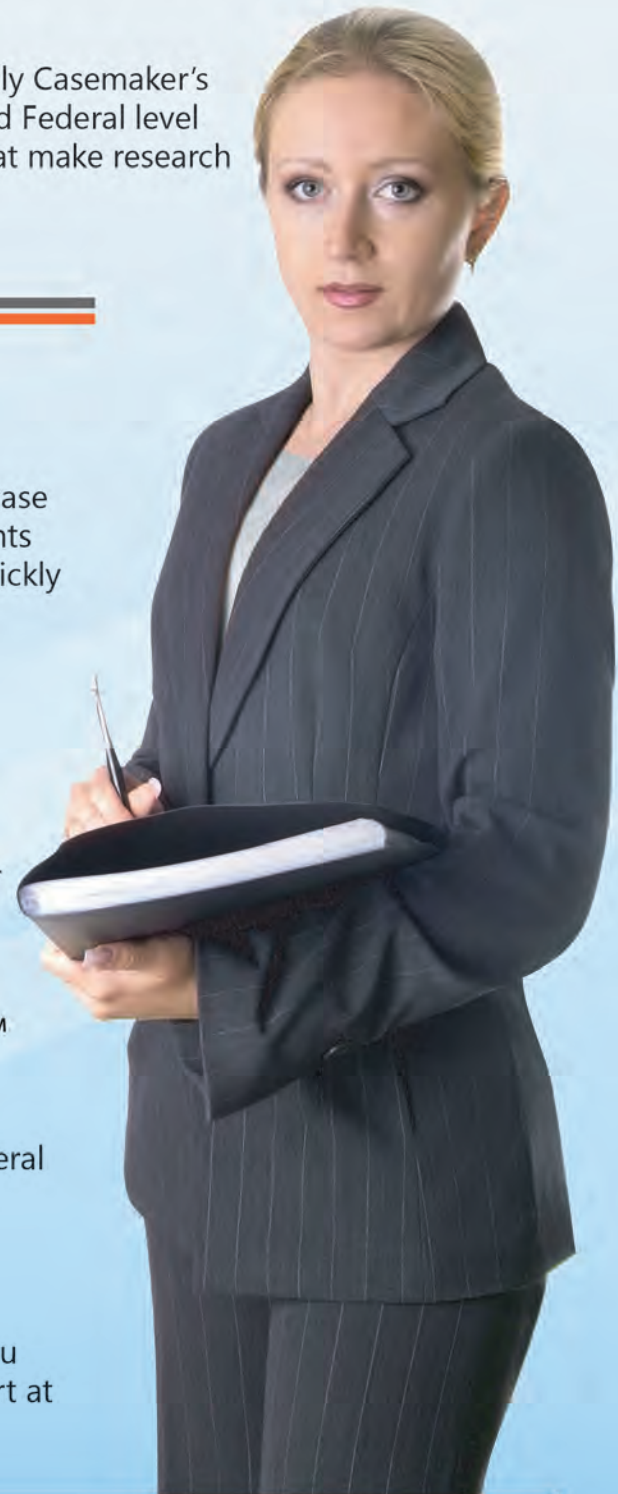
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Have an item for **Who, What, When & Where**? The *Bench & Bar* welcomes brief announcements about member placements, promotions, relocations and honors. Notices are printed at no cost and must be submitted in writing to: Managing Editor, *Bench &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

Billings Law Firm, PLLC, (BLF), is pleased to announce that **Zach Cato** has joined the firm as an associate attorney. Cato received his B.A. from the University of Evansville in business administration, his Masters of Business Administration from the University of Kentucky, and his J.D. from the University of Kentucky College of Law. After law school, he served as a law clerk to the Honorable C. René Williams, of the Webster Circuit Court. Cato's practice at BLF will focus on real estate, business, and commercial litigation.



Fowler Bell PLLC announces the selection of attorney **Guy R. Colson** as the 2018 recipient of the Fayette County Bar Association Henry T. Duncan Award. The Henry T. Duncan Award was created in 1960 to honor a member of the association who had made an outstanding contribution to the community. The award is presented to an attorney whose integrity and professional conduct serves to exemplify the high ethical and professional standards that benefit the community.

Wyatt, Tarrant & Combs, LLP, is pleased to welcome **Jonathon P. Nunley** to its Lexington office. Nunley concentrates his practice in real estate and corporate law. Prior to joining Wyatt, he was a judicial law clerk to Chief Justice John D. Minton Jr. of the Kentucky Supreme Court from 2016-2018. He earned his J.D., *cum laude*, from the University of Kentucky College of Law and his B.S., *magna cum laude*, from the University of Kentucky.



Middleton Reutlinger recently announced that Director **Elisabeth S. Gray** has been named chair of the firm's litigation group. She leads a litigation team that handles client disputes in a wide variety of subject areas, including commercial, intellectual property, professional liability, real estate, and employment among others. Gray is a litigator, whose practice focuses on unfair competition,

including disclosure of trade secrets and enforcing non-competition and non-solicitation agreements. Gray has a range of experience including prosecuting and defending jurisdictional litigation, IP litigation, complex contractual disputes, real estate litigation, bankruptcy court adversary proceedings, and other general commercial litigation. Gray is a graduate of Vanderbilt University Law School, and earned her bachelor's degree from the University of Oregon.

Charles C. Mihalek, P.S.C., is pleased to announce that effective July 1, 2018, their office relocated from 180 North Mill Street, Lexington, to 99 Windhaven Drive, Suite 4, Nicholasville, KY 40356.

Roetzel & Andress LPA is pleased to announce that **Laura E. Salzman** has joined the firm's transportation and logistics team as an associate in the Cincinnati office. Salzman's experience in civil litigation has taken her to over 50 counties in Kentucky and Ohio, where she has defended a litany of cases, ranging from motor vehicle accidents and premises liability matters to commercial trucking, products liability, employment, and medical malpractice cases. She earned her J.D. from the University of Kentucky College of Law, graduating *cum laude*. She is also a graduate of Northern Kentucky University, garnering a B.A. in political science and earning *summa cum laude* honors. Salzman is a Court Appointed Special Advocate and volunteers with both the Northern Kentucky Women's Crisis Center and the Brighton Center (Northern Kentucky Scholar House). She is a member of the Ohio, Northern Kentucky, Kentucky, and Cincinnati Bar associations.



The American Institute of Criminal Law Attorneys has selected **Faruki Ireland Cox Rhinehart & Dusing PLL** partner **Benjamin Dusing** to be named as one of the "10 Best Attorneys" in Ohio for client satisfaction in the practice area of criminal law. This is a significant accomplishment, as each awarded attorney must be formally nominated, have attained the highest degree of professional achievement in their field, and have an impeccable

client satisfaction rating. Dusing is best known as a high-profile white collar criminal defense lawyer with a track record of recognized success. He has established himself as a “go-to” criminal and civil litigator doggedly committed to defending the rights of individuals and corporations in criminal and regulatory investigations, prosecutions and enforcement matters. Dusing serves on the board of directors for several nonprofit organizations and foundations, including Transitions, Inc., the Kentucky Lawyer Assistance Program, HealthPoint, Inc. Foundation, The Gateway Foundation and the Jovante Woods Foundation.

McBrayer welcomes back **Virginia “Ginny”**

Lawson to their real estate practice. Lawson has been in private practice since 1984, spending most of that time as the owner of a small law firm. She also spent time working in two local firms, one of which was McBrayer, and she is a hard-hitting addition to their real estate team, which includes **Mary Estes Haggin, Chris Richardson, Brittany Roethemeier,** and **Jacob Walbourn.** Lawson began her career as a REALTOR®, and later moved into the practice of law. In addition to representing real estate brokers and their companies, she practices in the areas of creditor’s rights and professional liability defense, as well as estate settlement and probate. She also serves as a mediator.



Kopka Pinkus Dolin is pleased to announce the opening of a Lexington office. This experienced team of insurance defense attorneys, led by Managing Partner **Bradly E. Moore,** focuses on representing clients in the practice areas of transportation, professional liability, premises liability, construction, product liability, automobile, coverage, bad faith litigation, employment

law, medical malpractice, large loss, complex commercial disputes, workers’ compensation and much more.

Fowler Bell PLLC is

pleased to announce the election of attorney **Taft McKinstry** as the 2018-2020 secretary of the Board of Directors of the American College of Bankruptcy. The newly elected leadership was voted in at the College’s recent annual meeting held this spring in Washington, D.C. The American College of Bankruptcy is an honorary public service association of bankruptcy and insolvency professionals who are invited to join as Fellows based on a proven record of the highest standards of professionalism plus service to the profession and their communities.



Wyatt, Tarrant & Combs, LLP, is pleased to announce that **Michael N. Fine** has been selected by Louisville Business First for its “Forty Under 40” Award. According to Business First, “Forty Under 40 is a select group of up-and-comers who are on the leading edge in their occupations and share their time and talents in community service.” Fine was one of only two lawyers from

major law firms who received this award. Fine is a partner in the firm’s health care service team. He joined Wyatt in 2015 after serving as co-chair of the tax exemption affinity group at McDermott Will & Emery, LLP, in its Chicago and Washington D.C. offices. His practice spans the full range of nonprofit and tax-exempt organization legal issues, advising public charities, private foundations, boards and donors. Fine serves as chair of the American Health Lawyers Association’s Tax & Finance Practice Group, is a graduate of the Leadership Louisville Center’s Bingham Fellows Class of 2017 and co-created Live In Lou’s City Champs Ambassador Program.

VanAntwerp Attorneys, LLP, is pleased to

announce that **Olivia Holbrook** has joined the firm. Holbrook is a member of the Kentucky Bar and a December 2017 graduate of Salmon P. Chase College of Law. She is from Allen, Ky., and graduated *summa cum laude* in 2015 from the University of Pikeville with a Bachelor of Science degree in biology. While there, she contributed to research projects and was vice-president of the Pre-Professional Club. As a native of eastern Kentucky, she is excited to join and contribute to the Ashland area.



Taft Stettinius & Hollister LLP congratulates its partner **John B. Nalbandian** on his confirmation by the United States Senate as

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a Judge for the Sixth Circuit Court of Appeals. Nalbandian was nominated to the Sixth Circuit by President Donald J. Trump. The Sixth Circuit Court of Appeals is a federal court with appellate jurisdiction over the United States District Courts in Kentucky, Ohio, Michigan, and Tennessee. Nalbandian has concentrated his practice on appellate and complex litigation in state and federal courts within a wide range of areas, including antitrust, products liability, intellectual property, environmental, employment, white collar crime and class actions. He also has extensive experience in administrative and international law. Nalbandian, a 1994 graduate of the University of Virginia School of Law, is an Ohio State Bar Association Board Certified Specialist in Appellate Law. He has also served as a Special Justice on the Kentucky Supreme Court.



Managing Intellectual Property magazine has named several **Stites & Harbison, PLLC**, attorneys to the 2018 “IP Stars” list. The publication recognizes the most highly regarded intellectual property attorneys in the U.S. The star attorneys are nominated by their peers and in-house counsel. “IP Stars” further separates honorees into two categories: Trademark Stars and Patent Stars. Stites & Harbison has been recommended for Intellectual Property in Kentucky, Tennessee and Virginia since the inception of the “IP Stars” list in 2013. The following is a listing of Stites & Harbison’s Trademark Stars and Patent Stars who are members of the Kentucky Bar Association: Kentucky (Patent Stars): **Joel T. Beres, Mandy Wilson Decker** and **David W. Nagle, Jr.** Kentucky (Trademark Stars): Joel T. Beres and David W. Nagle,



Jr. Managing Intellectual Property magazine also recently selected Decker to the 2018 edition of Managing Intellectual Property’s “Top 250 Women in IP.” The “Top 250 Women in IP” list recognizes the leading women IP lawyers at the international level.

The Cincinnati law firm of **Keating Muething & Klekamp PLL** welcomes attorney **James C. Kezele** as an associate with the firm’s real estate and environmental groups. Kezele represents public and private companies and municipalities to ensure their compliance with state and federal environmental laws and regulations. Kezele also advises clients on mineral leasing. Kezele earned his law degree from the University of Dayton School of Law in 2012. He earned his B.A. degree from Claremont McKenna College.

Sturgill, Turner, Barker & Moloney, PLLC, is proud to announce that attorney **L. Scott Miller** has been selected for the Leadership Kentucky Class of 2018. Miller, a retired trooper and legal counsel for the Kentucky State Police, now helps police departments and police officers by defending them against claims of excessive use of force, malicious prosecution, unlawful search and seizure, and other federal civil rights actions. He also provides expert review of police policies and makes recommendations for best practices. As a member of Leadership Kentucky, Miller is one of a select group of 55 professionals from across the states that possess a broad variety of leadership abilities, career accomplishments, and volunteer activities. He is a 1994 graduate of Tusculum College and a 2005 graduate of the Salmon P. Chase College of Law at Northern Kentucky University.



The Lawrence Firm, PSC, is proud to announce that attorney, **Lindsay Lawrence**, has been selected to participate in the prestigious Leadership Academy of the American Association for Justice. Lawrence was one of 16 attorneys chosen to participate in the 2018 Leadership Academy – Class 6. Lawrence is licensed in Ohio and Kentucky and focuses her practice on representing individuals and their families in the areas of personal injury and medical malpractice.

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Sitlinger & Theiler announces that **Christopher N. Snead** has joined the firm as an associate with his practice focusing on civil and insurance defense litigation. Snead graduated from Vanderbilt University Law School in 2005.

June 14, 2018 marks the 60th year of practicing law for **Wilbert L. Ziegler**, founding and senior partner of **Ziegler & Schneider, P.S.C.**, in Crescent Springs, Ky. Well known as general counsel for the Kenton County Airport Board, he began serving in this position on Nov. 20, 1967 when TWA flight 128 crashed at what was then, the Greater Cincinnati Airport, killing, among others, Ziegler's partner, Andrew Clark, who was then the airport's general counsel. For the next 50 years, he would serve at the helm of the legal matters at the airport. He served as general counsel to the airport longer than any other attorney in the United States. Also notable in his career is the 25 years he served as general counsel of The Bank of Kentucky, Inc. Ziegler currently serves as a member of the Northern Kentucky Independent District Board of Health as a designee for the Kenton County Judge Executive, a Trustee of Thomas More College, a Trustee of the University of Cincinnati Foundation, Inc., and a member of the Board of Advisors of U.C. College of Law. He holds degrees from Thomas More College (A.B.), University of Cincinnati College of Law (LL.B.) and the University of Michigan Law School (S.J.D.).

Dinsmore partners **Barbara B. Edelman** and **J. Tanner Watkins**, both graduates of the University of Kentucky College of Law, were recognized for their contributions to the legal profession at a reception in June. Edelman was inducted into the college's hall of fame, while Watkins received the 2018 Young Professional award. Six other alumni were also honored at the event, which is hosted annually by the college's alumni association. Edelman is a member of Dinsmore's board of directors and executive committee. She focuses her practice on commercial litigation and business disputes, including fiduciary duty claims, lender liability, fraud and negligent misrepresentation. A member of the firm's litigation department, Watkins has experience in state and federal courts, having represented a variety of companies, including banks, financial advisors and trust companies in fiduciary litigation matters. He also represents a number of transportation companies and product manufacturers in personal injury, mass tort, and general tort matters, and his experience spans both trial courts and appellate courts.



Kopka Pinkus Dolin is pleased to announce the addition of a Louisville office, led by Managing Partner **S. Rob Hickey**. Hickey has over 28 years of litigation experience, and a thriving practice defending and resolving a variety of liability claims, including property damage, personal injury, wrongful death, and large loss trucking liability claims. He joins the Kentucky team of Kopka Pinkus Dolin insurance defense attorneys, representing

clients in the practice areas of transportation, professional liability, premises liability, construction, product liability, automobile, coverage, bad faith litigation, employment law, medical malpractice, large loss, complex commercial disputes, workers' compensation and much more.

Fisher Phillips announced that 42 attorneys nationwide are featured in Chambers USA 2018. Chambers USA publishes a list of the top law firms and attorneys across the United States each year. The organization determines rankings through thousands of in-depth interviews with randomly selected attorneys, clients, and businesses. The Fisher Phillips lawyers who are featured in Chambers USA 2018 and are members of the Kentucky Bar Association are noted here. Louisville: **Thomas J. Birchfield, Laurel Cornell, Cynthia Blevins Doll, Raymond Haley III** and **Jeffrey A. Savarise**.

Taft Stettinius & Hollister LLP is pleased to announce that **Robert K. McBride** has joined the firm as a partner in the corporate compliance and white collar criminal defense practice. McBride will work out of Taft's Northern Kentucky office. McBride is a senior trial attorney with experience in prosecuting cases related to national security and critical infrastructure, complex financial frauds, income tax violations, money launderings, and violent crimes arising from narcotics trafficking, firearms violations and the exploitation of children. He also has experience in litigating various habeas actions and complex civil forfeiture matters, preparing briefs and arguing cases before the Sixth Circuit Court of Appeals. McBride is a mentor coordinator for the Northern Kentucky Veterans Treatment Center and a member of the Disabled Veterans of America, Navy League and has been nominated by the FBI for the Attorney General's Award. McBride earned his J.D. from University of Dayton School of Law and received his B.A. in political science from Miami University.



Middleton Reutlinger is pleased to announce that **Julie Ray** has been recognized by The BTI Consulting Group, Wellesley, Mass., as a BTI Client Service All-Star. Ray is one of only two lawyers recognized in Kentucky and one of only two women recognized in the United States with the primary practice of Intellectual Property in 2018. Ray is an attorney in the Middleton's Intellectual Property Group, concentrating in the areas of trademark prosecution, litigation involving trademark infringement, unfair competition and copyright law. Her practice includes both trademark clearance and registration, as well as the maintenance and licensing of intellectual property. Ray's practice involves both foreign and domestic trademark clientele and she manages several intellectual property portfolios with global properties. Ray also advises clients on issues involving the Rights of Privacy and Publicity, intellectual property issues pertaining to social media and website development.

The American Institute of Criminal Law Attorneys (AIOCLA) has recognized the exceptional performance of attorney **J. Clark Baird** as 2018 10 Best Criminal Law Attorneys for Client Satisfaction.

AIOCLA is a third-party attorney rating organization that publishes an annual list of the Top 10 Criminal Law attorneys in each state. Attorneys who are selected to the “10 Best” list must pass AIOCLA’s rigorous selection process, which is based on client and/or peer nominations, thorough research, and AIOCLA’s independent evaluation.

Frost Brown Todd (FBT) Member **Greg Dutton** has been recognized as a member of the 2018 “Forty Under 40” class by Louisville Business First. The signature awards program honors local professionals in Louisville, under the age of 40, who are successful in their careers while also contributing extensively to their community. Dutton focuses his practice in environmental compliance and litigation, utility regulation and energy law. He has represented clients in federal and state litigation and administrative matters involving the Clean Water Act (CWA), Clean Air Act (CAA), and the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), and has practiced extensively before the Kentucky Public Service Commission (PSC). While holding an appointed position within the Kentucky Attorney General’s Office, Dutton represented the state in numerous federal lawsuits concerning environmental issues, as well as before the PSC on utility matters. He earned his J.D. and a Certificate in Environmental Law at Pace Law School in White Plains, N.Y.


Mark J.A. Demian, a founding member of **Rathbone Group, LLC (RG)**, has been named to the Board of Directors of the National Association of Subrogation Professionals (NASP). His significant contributions to the organization include presentations on various subrogation topics at NASP conferences, submission of expert articles for the organization’s magazine, and serving as the Ohio Chapter chair. NASP’s mission is to enhance the stature and effectiveness of subrogation and recovery professionals through education, advocacy, and the exchange of information. NASP has nearly 3,000 members nationwide.

Ross Ewing is pleased to announce the opening of his own firm in Lexington. Ewing practices in the areas of family law, estate planning, and mediation. He is a graduate of the University of Kentucky College of Law, and in 2017 he earned an advanced certificate in Divorce and Family Mediation from Northwestern University. In his 10 years in practice, Ewing has served in several leadership roles in the Kentucky and Fayette County Bar associations. He currently chairs the Board of Trustees of the Carnegie Center for Literacy and Learning and also serves as KYLAP volunteer.

In 2017, **Steven Blaine** joined the new Louisville office of the **Hogan Lovells US LLP** international law firm. A registered patent attorney, he focuses his practice on the drafting and prosecution of utility and design patent applications for software and computer-related inventions, representing innovative clients such as the world’s largest online retailer and a familiar producer of wearable fitness-tracking technology. He previously was in-house intellectual property counsel at a NASDAQ-listed, global telecom software company, after working at Barnes & Thornburg LLP and Frost Brown Todd LLC. He earned his J.D. from the University of Dayton School of Law and his B.A. from Bellarmine University.




Jennifer S. Scutchfield has joined the **Kentucky State Board of Elections** as the assistant director and general counsel. Immediately prior to accepting the position, Scutchfield was elected 7th District Council Member for the Lexington-Fayette Urban County Government and founded **Scutchfield Law PLLC** with her husband, Alex L. Scutchfield. She is a 1995 graduate of the University of Kentucky and a 1998 graduate of the University of Kentucky College of Law. The Kentucky State Board of Elections is responsible for administration of the election laws and supervising the registration and removal of voters within the state.




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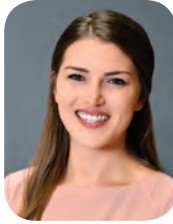
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Hicks & Funfsinn, PLLC, is pleased to announce the addition of attorney **Shannon H. Church**, whose practice focuses on all areas of immigration law. Church attended the University of North Carolina at Chapel Hill where she graduated with a B.A. in political science and English literature. She earned her J.D. from the University of Kentucky College of Law where she was an articles editor for the Kentucky Law Journal.



Bob Hoffer, a partner with **DBL Law**, has been recognized by the Kenton County Fiscal Court as one of its 2018 Pioneer Award honorees. The Kenton County Pioneer Award was established in 2017 to honor living residents of Kenton County who have a record of outstanding service to the community and who exemplify the highest standards of personal integrity. The Pioneer Award honors those who demonstrate servant leadership combined with awareness of the needs of fellow residents. Hoffer heads the firm's employment law division, representing employers of all sizes, including some of the largest throughout Kentucky and Greater Cincinnati. He has represented hospitals and physicians for over 30-years on employment and medical negligence issues. He is chair of the St. Elizabeth Foundation and a member of the St. Elizabeth Healthcare Board of Trustees.



Debra L. Broz, Attorneys at Law, PLC, announces that Partner **Darren K. Mexic** was recently presented with the Pro Bono Award. The award was presented by Lawyers Care Volunteer Attorney Program of Warren County. Mexic heads the bankruptcy and litigation sections in the firm.



Robert C. Cummings, III, has joined **Frost Brown Todd's** Louisville office as an associate in the finance and real estate practice group and a member of the firm's multifamily industry team. Cummings represents owners, investors, and lenders in a wide range of commercial real estate transactions. He has extensive experience working with U.S. Department of Housing and Urban Development financing and representing lenders in Federal Housing Administration insured transactions for multifamily and health care facilities. Prior to earning his law degree at Northern Kentucky University Salmon P. Chase School of Law in 2013, Cummings spent more than 25-years in the aviation industry as a pilot, instructor, check airman and designated examiner.

Bixler W. Howland announces that he has moved his personal injury/civil litigation and mediation practice to 2721 Taylorsville Road, Louisville, KY 40205. His offices are available for on-site mediations.



True, Guarnieri & Ayer, LLP, is pleased to announce that **Philip Coleman Lawson** has joined the firm. Lawson received his undergraduate degree in history and government from Centre College in 2007. In 2011, he earned his J.D. from the University of Louisville – Brandeis School of Law. Lawson's practice is dedicated to litigation, with a focus in state and federal criminal litigation, business litigation, administrative law, personal injury, and general civil litigation.

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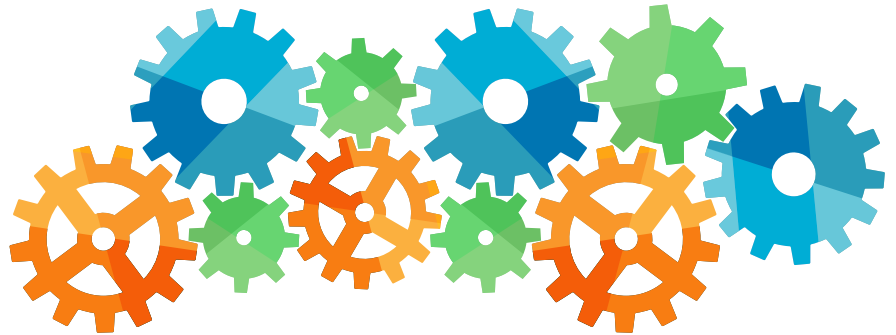
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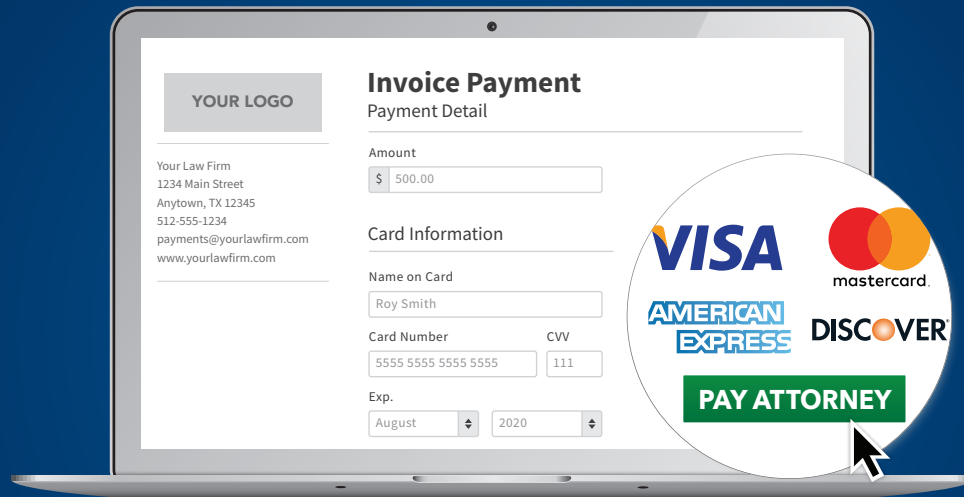
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