Passion with Respect
2019 KBA Annual Convention

6.12-14.2019
Galt House Hotel
Louisville
Individual Own Occupation Disability Coverage for Kentucky Attorneys

Affordable KBA Rates from Metlife

KBA Member Semiannual Rates

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✓ No Medical Exam (Under Age 50)
✓ No Tax Returns
✓ Apply for up to $10,000/month Coverage
✓ Residual Disability Coverage
✓ Industry Standard Disability Definition
✓ Easy Online Application

Visit www.NIAI.com/Attorneys for KBA quotes and application

Call or Email TODAY | 800.928.6421 | wrl@niai.com | www.NIAI.com
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Visit our website to check out the latest Hot Topics article.

Several inside graphics by ©istockphoto.com/JesiWithers
A lot of Kentucky lawyers understandably do not focus on the structure of our Kentucky Bar Association (KBA), or on the structure of other states’ bar associations. In the world of state bar associations, however, there are “mandatory” bar associations, also known as “integrated” or “unified” bar associations, and there are “voluntary” bar associations. As you might expect, non-mandatory bar associations are the ones called voluntary bar associations.

There are approximately 30 states that, like Kentucky, have mandatory bar associations. A mandatory bar association requires membership in order to practice within that particular state. Typically, mandatory bar associations are created either by the state’s legislature, or by the state’s Supreme Court. In the short space for this column, there is no way to discuss in detail all of the differences between mandatory and voluntary bar associations, but it is worth noting some of those differences, and some of the benefits we enjoy as members of a mandatory bar association state.

There are differences among virtually every mandatory bar and among virtually every voluntary bar. Generally, though, mandatory bars supervise the admission process, discipline, licensing, continuing legal education and other requirements of maintaining a license to practice law, and provide supportive services. In voluntary bar states, licensing fees are still required and paid, which typically would be used for discipline and regulatory matters; however, there are generally no supportive services provided under the licensing fees. Participation in a voluntary bar association is just that—voluntary. Typically, voluntary bars provide for the professional needs of their members, such as continuing education and networking opportunities, and lobbying on legislation and political issues that support the interests and purposes of the association.

The Kentucky Bar Association is established as an independent agency of the Supreme Court of Kentucky. Its authority to regulate the profession in Kentucky, delegated by the Kentucky Supreme Court through rules, is derived from Section 116 of the Kentucky Constitution, which states: “The Supreme Court shall have the power to prescribe rules governing its appellate jurisdiction, rules for the appointment of commissioners and other Court personnel, and rules of practice and procedure for the Court of Justice. The Supreme Court shall, by rule, govern admission to the Bar and the discipline of members of the Bar.”

SCR 3.025 sets out the mission and purpose of the KBA: “The mission and purpose of the association is to maintain a proper discipline of the members of the bar in accordance with these rules and with the principles of the legal profession as a public calling, to initiate and supervise, with the approval of the court, appropriate means to insure a continuing high standard of professional competence on the part of the members of the bar, and to bear a substantial and continuing responsibility for promoting the efficiency and improvement of the judicial system.”

As noted on the KBA’s website discussing the history of the KBA, the first meeting of lawyers from across Kentucky was held in 1871, during which a voluntary association was created. In 1934, the
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BY KENTUCKY LAWYERS. FOR KENTUCKY LAWYERS.
Kentucky General Assembly passed an act creating an all-inclusive bar association which authorized the Court of Appeals (now Supreme Court) to adopt and promulgate rules and regulations defining the practice of law and to establish a code of professional responsibility to govern the discipline of members of the bar. Since then, the Kentucky Bar Association has been the mandatory bar association of the Commonwealth of Kentucky.

SCR 3.030(1) states “All persons admitted to the practice of law in this state shall be, and they are, members of the [Kentucky Bar Association].”

Because the KBA is a mandatory bar, it is able to provide its members and the public a number of services that may not be provided by voluntary bar associations, such as:

**FREE USE OF KBA MEETING ROOMS** at the Bar Center’s headquarters in Frankfort.

Without getting down into the weeds, there have been several cases in the last few years that in some way or another challenge the existence of mandatory bars. The rub with some mandatory bars has been that the bar took a public position on a controversial political issue or legislative proposal, in the bar’s publication or other public forum. Because one or more members of the mandatory bar disagreed with the position the bar took, the member objected to having paid mandatory dues used to subsidize views with which the member disagreed.

The Kentucky Bar Association is very careful in its activities to observe the ruling of Keller. Indeed, as noted on the KBA’s website:

The programs of the Bar and its commissions and committees are used to accomplish its goals and mission. The Board is also cognizant of its responsibility to the lawyers of Kentucky as set forth in the requirements of the United States Supreme Court in *Keller v. State Bar of California*, 496 U.S. 1 (1990) and its progeny. The Board governs the KBA in a manner consistent with those limitations. The guiding standard is whether the program or expenditure of the KBA is necessarily or reasonably incurred for the purpose of regulating the legal profession or improving the quality of legal services available to the people of the Commonwealth.

KBA members occasionally ask why the KBA does not take a position on certain controversial issues. The answer is most often that, under the *Keller* decision, it would not be wise to do so. Because the KBA is a mandatory bar, it is very careful to stay within the boundaries of the *Keller* decision by focusing on the regulation of the legal profession or improving the quality of legal services available.

As a mandatory bar, the KBA is able to provide Kentucky lawyers a host of services and benefits that might not otherwise be available, and that improve the practice of law and ensure the highest ethical standards for our profession. Thus, although the status of the KBA as a mandatory bar may not be at the top of your mind, remember all of the services and benefits that we enjoy as members of a mandatory bar, and always let the KBA know how to improve upon those services and benefits.
Passion with Respect
2019 KBA Annual Convention
6.12-14.2019
Galt House Hotel
Louisville
2019 ANNUAL CONVENTION COMMITTEE

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KICK-OFF EVENT

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Dinsmore

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Dinsmore

OTHER

Supreme Court of Kentucky
American College of Trial Lawyers
KBA ADR Section
KBA Animal Law Section
KBA Appellate Advocacy Section
KBA Bankruptcy Law Section
KBA Business Law Section
KBA Elder Law Section
KBA Family Law Section
KBA Health Care Law Section
KBA Immigration & Nationality Law Section
KBA Labor & Employment Law Section
KBA Law Practice Task Force
KBA LGBT Law Section
KBA Military Law Committee
KBA Public Interest Law Section
KBA Young Lawyers Division
Kentucky Lawyer Assistance Program
Office of Kentucky State Treasurer Allison Ball
Each year, the Kentucky Bar Association’s Annual Convention Planning Committee identifies a public service project aimed at improving the lives of Kentuckians, with an emphasis often placed on those living within the host city. This year the committee selected The Reily Reentry Project.

**The Reily Reentry Project** is an expungement service program that facilitates the expungement process and covers most, if-not-all, related fees at no expense. In exchange, participants are asked to enroll in any Louisville Urban League program that will equip them with the tools they need to live productive lives.

**The Reily Reentry Project** will also have an exhibitor table during the convention. In addition to the booth, a CLE program will be held on **Wednesday, June 12, 2019**, from **2:25-3:25 PM** in the Carroll-Ford Room, entitled, “Criminal Justice Reform and Community Development.”

As you submit your registrations for our convention, **please consider donating $10 to this organization** or **stop by the CLE information booth or their exhibitor booth for more information on this program.**

---

**PUPPY PIT**

Join us at the KBA Convention for some well-being in the Puppy Pit!

Come in and de-stress! Enjoy the scientifically proven benefits that playing with a dog brings you! We will have several friendly, fun-loving dogs looking for their forever homes on site to share their unconditional love and affection with you.

Try it out and discover the benefits of having a companion animal for yourself!

*The Puppy Pit is brought to you by:*

- **Kentucky Bar Association Animal Law Section**
- **Lawyers Mutual**
- **University of Louisville Brandeis School of Law**
- **National Insurance Agency**
- **Young Lawyers Division**
**2019 ANNUAL CONVENTION SPEAKERS**

**DAY 1  WEDNESDAY 6.12.19**

**FEATURE**

**Paul Haynes and Billy Jensen**  
*Finding the Golden State Killer and Crime Solving in the Digital Age*

**OTHER TOPICS COVERED ON DAY 1:**
- Criminal Law  
- Lawyer Discipline  
- Family Law  
- Trial Practice  
- Workers’ Compensation Law  
- eFiling  
- Cybersecurity  
- Criminal Justice Reform

**SPOTLIGHT**

**“Survivor” Winner Nick Wilson**  
*Surviving the Elements: Battling Present Day Challenges as a Tribe*

**SPOTLIGHT**

**Professor Abbe Smith**  
*How Can You Represent Those People?!*

**DAY 2  THURSDAY 6.13.19**

**FEATURE**

**Tarana Burke**  
*‘me too.’ Movement - Where It’s Been and Where It’s Going*

**SPOTLIGHT**

**U.S. Deputy Attorney General Rod Rosenstein**

**SPOTLIGHT**

**Dana and Keith Cutler**  
*Real Talk: Implicit Bias and Microaggressions & Other Topical Lightning Rods*

**SPOTLIGHT**

**Sharon Muse**  
*From Zealous Representation to Threat Assessment: Identifying When a Client Becomes a Threat*

**SPOTLIGHT**

**Joe Rannazzissi**

**OTHER TOPICS COVERED ON DAY 2:**
- Business Law  
- Family Law  
- Law Practice Management  
- Probate Law  
- Employment Law  
- Bankruptcy Law  
- Real Estate Law  
- Tax Law  
- Social Media  
- Disability Law
**FEATURE**

Rachael Denhollander

An Afternoon with Rachael Denhollander

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**SPOTLIGHT**

Irin Carmon

I Dissent: How Ruth Bader Ginsburg Became the Notorious RBG

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**SPOTLIGHT**

Senator Rand Paul, Holly Harris, and Representative Jason Nemes

Criminal Justice Reform at the Federal and State Levels

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**OTHER TOPICS COVERED ON DAY 3:**

- Attorney Wellness
- Animal Law
- Immigration Law
- Trial Practice
- Cybersecurity
- Criminal Law
- Business Courts
- Agriculture Law

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**ATTR ACTIONS AROUND LOUISVILLE**

- **Muhammad Ali Center**
  - Tuesday - Saturday: 9:30AM - 5PM
  - Sunday: Noon - 5PM
  - Last admission is at 4:15PM each day.
  - http://alicenter.org/

- **Louisville Slugger Museum**
  - Monday - Saturday: 9AM - 5PM
  - Sunday: 11AM - 5PM
  - http://www.sluggermuseum.com/

- **Frazier History Museum**
  - Monday - Saturday: 9AM - 5PM
  - Sunday: Noon - 5PM
  - http://fraziermuseum.org/

- **Churchill Downs Racing Schedule**
  - Racing Thursday, June 13th - First Race at 5PM
  - Friday, June 14th - First Race at 12:45PM
  - www.churchilldowns.com/calendar/2019-06

- **Big Four Walking Bridge**
  - Open 24/7
  - www.louisvillewaterfront.com/projects/big_four

- **Louisville Mega Caverns**
  - Variety of events (zip line, ropes course, tour, BMX Bike track)
  - www.louisvillemegacavern.com

- **Evan Williams Bourbon Experience**
  - Tours every hour starting at 11AM
  - Last tour at 4:30 p.m. (20 per tour)
  - www.evanwilliams.com/visit.php

- **Peerless Distillery**
  - Tours Monday - Saturday
  - Every hour; first tour 10:30 a.m.
  - Last tour 3:30 p.m.
  - www.kentuckypeerless.com

- **Copper and Kings Brandy**
  - Sunday - Thursday: 11AM - 5PM
  - Friday: 11AM - 7PM
  - Saturday: 11AM - 4PM
  - Tours daily on the hour.
  - Last tour one hour before close.
  - www.copperandkings.com

- **Speed Art Museum**
  - Wednesday, Thursday, Saturday: 10AM - 5PM
  - Friday: 10AM - 8PM
  - Sunday: 12PM - 5PM
  - Monday & Tuesday: Closed
  - www.speedmuseum.org

For an expanded list of CLE programs to be held at the 2019 KBA Annual Convention, as well as program descriptions, please visit kybar.org/2019AC.
TUESDAY 6.11.19

3:30–4:30 PM  Memorial Service
Crescent Hill Baptist Church
2800 Frankfort Ave
Louisville, KY 40206

DAY 1
WEDNESDAY 6.12.19

5–7 PM  Kick-Off Event
Old Forester Distillery Company
119 W. Main Street
Louisville, KY 40202
Sponsor:

KBA Annual Banquet
Galt House Hotel
Grand Ballroom
$68.90 Per Person (Sales Tax Included)
Entertainment:
PAUL TAYLOR DANCE COMPANY (New York), performing an excerpt from Paul Taylor’s masterwork “Cloven Kingdom” (Featuring Louisville native and Paul Taylor Dance Company member, Alex Clayton)

DAY 2
THURSDAY 6.13.19

12:00–1:30 PM  Young Lawyers Division Luncheon
Galt House Hotel
$21.20 Per Person (Sales Tax Included)

6:30 PM  KBA Annual Banquet
Galt House Hotel  Grand Ballroom
$68.90 Per Person (Sales Tax Included)

Bench & Bar and Young Lawyers Division Joint Reception
Galt House Hotel

Alex Clayton, Louisville native and son of Kentucky Court of Appeals Chief Judge Denise M. Clayton, will return home this summer as a member of the dance troupe, Paul Taylor Dance Company, which will provide the entertainment during our annual banquet.

Photo Credit: Whitney Browne
Let the tributes begin! We’ll honor the recipients of the KBA’s Annual Bruce K. Davis Bar Service Award; Donated Legal Services Award; and Nathaniel R. Harper Award during this traditional luncheon hosted on the convention’s closing day. We’ll also recognize past KBA presidents, present our annual Law Day Awards, and honor the many Senior Counselors who achieved this special status in 2019.

$31.80 Per Person (Sales Tax Included)

Archibald-Rivue Tower
**WAYS TO REGISTER**

**ONLINE:**
Visit our website at www.kybar.org and click on Annual Convention for full registration details.

**MAIL:**
Mail the attached registration form(s) with payment to:
Kentucky Bar Association
Attn: Accounting Department
514 West Main Street
Frankfort, KY 40601-1812

**CONFIRMATIONS:**
Confirmations for registrations received by mail will be emailed to the email address provided or the Official KBA Roster Address.

**EARLY REGISTRATION DISCOUNT**
Register by May 15, 2019 and receive $100.00 off the on-site registration fee! This discount does not apply to the Law Student/Paralegal and One Day/Half Day attendance fees and is not valid with any other discount.

**SPECIAL REQUESTS:**
If you need special accommodations to fully participate or are purchasing meal tickets and have dietary restrictions, please contact the Membership Department at (502) 564-3795.

**OPTIONAL EVENT TICKETS:**
Advance reservations for all optional events are recommended.

**CANCELLATION OF REGISTRATION:**
Cancellation of 2019 Annual Kentucky Bar Association Convention Registration must be in writing and received by the Kentucky Bar Association by May 31, 2019, to receive a full refund. Cancellations received between June 1, 2019, and June 7, 2019, will be charged a $50 administrative fee. There will be no refunds on cancellations received after June 7, 2019. Event tickets will not be refunded after June 7, 2019. Email cancellation notifications to kcobb@kybar.org.

**REGISTRATION CENTER:**
Upon arrival, all registrants should check in at the KBA Registration Desk located in Second Floor Ballroom Level in the Suite Tower.

**Registration Center Hours**
Wednesday (6.12) & Thursday (6.13): 7 am - 5 pm
Friday (6.14): 7:30 am - 2 pm

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**Galt House Hotel**
140 North Fourth Street, Louisville, KY 40202

**SUITE TOWER (EXECUTIVE SUITE)**

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<th>SINGLE/DOUBLE</th>
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To receive the Convention Rate, all room reservations must be made directly with the hotel by **May 10, 2019**.

**ONLINE:**
https://book.passkey.com/go/KyBARAssn19

**PHONE:**
(800) The-Galt or (502) 589-5200 Ask for the KBA 2019 Annual Convention group rate.

**GENERAL PARKING:**
The Galt House Hotel has 3,200 on-site parking spaces available in their attached covered parking garage. Parking is complimentary for convention overnight guests. Convention attendees driving in will receive a discounted rate of $9 per day. Valet parking is also available for $18 per day.

**ACCESSIBLE PARKING:**
Designated parking accommodations for guests with disabilities are marked throughout the Galt House Hotel parking garage.

**PARKING FOR HOTEL GUESTS:**
The Galt House Hotel offers free covered self-parking for overnight hotel guests in their parking garage. Overnight valet charge is $18 per night.
By registering for the Kentucky Bar Association’s Annual Convention, all attendees, instructors and exhibitors acknowledge they may be photographed during the convention. Please be aware these photos are for the KBA’s use only, and may appear in the Bar’s programs, publications, e-newsletter, website, and other materials. Your attendance constitutes permission and consent for this photography and subsequent usage.

For information about how the KBA uses, collects, and shares your information, see the KBA Privacy Policy at www.kybar.org/privacypolicy.
Kentucky attorney Nick Wilson was named the sole survivor for season 37 of CBS’ hit show, “Survivor,” on Wednesday, Dec. 19, 2018. Wilson, an attorney from Williamsburg, Ky., spent several months in Fiji filming the season titled, “David vs. Goliath.” We were provided an opportunity to catch up with Wilson and discuss his game play and how his legal training and education impacted his time on the show, as well as what the future has in store for him.

Can you tell us a little bit about yourself and your legal background?
I graduated from Whitley County High School in 2009, University of Kentucky with a Bachelor of Arts in Political Science in 2013, University of Alabama School of Law in 2016. I finished classes a semester early, took the bar in February 2016 and swore into the Kentucky Bar on April 26, 2016.

I worked in private practice the first seven months of my career practicing in immigration and criminal defense. I started with the public defender’s office on Jan 1, 2017. Now, I am Assistant Commonwealth Attorney in the 34th Judicial District of Whitley and McCreary Counties. I began this job on Jan 1, 2019.

Do you think that your legal education and training helped prepare you for the show? If so, how?
My legal training definitely prepared me for the show. It has taught me patience, understanding, and that you can’t win every battle. On the island, I had to choose my battles wisely and be very flexible. Flexibility and adaptability were the two most important qualities to have while playing Survivor. That is extremely similar to a courtroom.

Also my argument to the jury at the final tribal council was praised by the jury. I was able to argue my case effectively and persuasively using skills I have developed as an attorney.

The season was titled “David vs. Goliath.” You originated on the David tribe. Did the theme of the season impact you or the way that you played the game?
The theme impacted my story greatly. There is a history of drug abuse in my family. I did not wish to disclose that to my castmates or on camera. However, the theme brought us together as we rallied around our past struggles. It helped me grow emotionally as a person which led to me connecting more with my tribemates.

What were the highs and lows of your time on the show?
My highs were when I found the hidden immunity idol, won the reward to have a cookout with my dad, and won the Final Four immunity challenge. When I won that challenge, I was certain I had won the game.
My lows were when it rained all night and I couldn’t sleep because I was cold and wet. We were hit with two cyclones in the first 15 days on the island. The rain was rough and the seas were worse. My worst experiences were on the boat rides from camp to challenges and to tribal council. On day three, the seas were worse than anyone on production had ever seen them. They were so bad that one of my tribemates was injured and had to be eliminated from the game. It took us over two hours to get back to camp, which is normally a 15 minute boat ride. Everyone on the boat got seasick—even though our stomachs were empty!

**How does tribal council compare to the courtroom?**

Tribal council is similar to the courtroom in that the best players are prepared at tribal council. They are thoughtful with their statements and answers.

However, tribal is very different from the courtroom. Lies and deception are expected and encouraged at tribal council. Advantages and idols can unexpectedly be whipped out at a moment’s notice and completely change the game. Paranoia and deceit is inherent in the gameplay. The practice of law is very ethical and honest. I would never imagine knowingly lying in a courtroom to opposing counsel or an “opponent.” This made Survivor very different from practicing law—and in a way, was a bit of a fun aspect of the game. But only because it was a game!

**You seemed at ease and prepared during the jury interrogation. Were you? Do you believe that your training helped to provide you with the confidence that you appeared to have during the interrogation?**

I was always at ease at tribal council, especially at the final tribal council. I think my legal experience gave me that confidence. In my young legal career, I have made many arguments in front of judges and juries. I know what it’s like to win and to lose. I knew I had a great case for the million at the end, so I was very confident.

**What do you think was your single best play of the game?**

I think my best play was splitting the minority vote to blindside John. My decision to vote out Christian instead of Alison was also crucial to me winning the game.

**Did anything that you experienced on the show help to change the way that you will approach legal work in the future?**

My time on the island made me understand what is truly important in life. When I was miserable from starvation and being wet, I wasn’t thinking about money, politics, or even fantasy baseball—my favorite hobby. I was thinking about my family and my relationship with God. In Fiji, I promised myself that I would never let work and other distractions outbalance the aspects of my life that are truly important.

**What is your favorite memory of your time on “Survivor?”**

My favorite memories are the early days on the David beach. It was so fun connecting with everyone on the tribe. I also loved when I was able to execute a huge blindside. Seeing jaws drop when John and Dan were voted out is one of my best memories ever.

**Now that you claimed the million-dollar prize, do you still plan to practice law?**

Absolutely! I feel like the money freed me to do the work I care about without focusing on what will bring me the biggest paycheck. Now, I work as a prosecutor and I am in a position where I can truly make a difference. I, especially, hope to lend a hand to addicts and intend to give them more chances at life.

Many thanks to Nick Wilson and the CBS “Survivor,” team in helping us feature this unique story in the pages of the *Bench & Bar* magazine!
Bourbon is all over the world, and the world has come to Kentucky to be of the bourbon world. Wild Turkey was owned by the French company Pernod Ricard S A until 2009, when it was acquired by the Italian concern, Davide Campari, Milano S.p.A. Four Roses is owned by Kirin Company, Ltd., a Japanese concern. Jim Beam was bought by Suntory in 2015 and the new entity is Beam Suntory. Takara Shuzo Company owns the Ancient Age brands produced by Sazerac-owned Buffalo Trace. The spirits giant Diageo, a British firm, owns the Bulleit brand, along with the Stitzel-Weller Distillery in Louisville.

Here to inform about the business and especially the law of bourbon is Brian F. Haara’s impeccably researched and sharply observed volume, “Bourbon Justice.”

Mr. Haara’s theory is that the thread of much of American commercial and intellectual property law runs through disputes involving bourbon.

He lifts the shroud of mystery and myth of whiskey-making, separates the significant from the silly; fact from legend, puffery, and outright mendacity. Each of the words in the expression “Kentucky Straight Bourbon Whiskey” has been legislated, regulated, or litigated, for example, and Mr. Haara shows how.

Agreed-upon facts are the stuff of history, observed Gore Vidal.

Mr. Haara’s theory of history is inspired: Facts revealed by lawsuits...
are unusually reliable because they have been tested by cross-examination and made to conform to the rules of evidence. Case reports were especially valuable to his project, Mr. Haara writes, because distillers' record-keeping is incomplete and because records were simply lost to Prohibition.7

He tells what bourbon is. Bourbon is a type of whiskey, but not all whiskey is bourbon. In order for it to be bourbon, whiskey must be made in the United States, and must meet strictly these criteria:

- Be made from fermented mash of at least 51 percent corn;
- Be distilled to not more than 80 percent alcohol by volume;
- Be stored at no more than 62.5 percent alcohol by volume;
- Be stored in new charred oak containers;
- Bottled at no less than 40 percent alcohol by volume.8

Bourbon need not be procured in Kentucky to be bourbon, although 95 percent of bourbon is produced here. Much of the rest comes from southeastern Indiana near Cincinnati. Grain percentages in the distiller's mash bill can vary, so long as at least 51 percent of the grain mixture is corn.9

There is no aging requirement, but if the bourbon has been aged for less than two years, its label must say so.

“Straight bourbon” is a term of art. Neither it nor any bourbon labeled “bottled in bond” can contain additional flavoring, coloring, or other additives. The Bottled in Bond Act of 1897 required that any spirit so labeled must adhere to similar product quality standards, and that it be aged in a federally-bonded warehouse under federal government supervision for at least four years.10, 11

Mr. Haara also separates bourbon fact from bourbon advertising hyperbole. The terms “small batch,” “single barrel,” “craft,” “finished,” and “handmade” are not legally defined.

“Handmade cannot mean that Maker's Mark employees break up the grain with their hands, stir the mixture by hand, distill and ferment the alcohol without the use of any machine, make … glass bottles by hand, fill each bottle by hand, and handwritten the labels on the bottles.”12

Mr. Haara queries, “Can bottom-shelf brands really call themselves “rare,” “finest,” or “very old” when they are probably none of these things.” Mr. Haara and the historical record say that to call Elijah Craig the “father of bourbon” is rather like calling Abner Doubleday the father of baseball, which is to say, not really.

BOURBON CASES ARE PROMINENT IN TRADEMARK LAW

Among the cases Mr. Haara uses to illustrate bourbon's role in trademark law involved a claim for infringement of Maker's Mark's distinctive red dripping sealing wax on its bottles. Maker's registered its waxing treatment in 1985. In 2001, Diageo, the world leader in the spirits business, began marketing its Jose Cuervo Reserva de la Familia tequila with the same red wax treatment.

In 2009, Maker's Mark sued Diageo for trademark infringement. It sought damages, expenses, fees, and injunctive relief.

After a six-week trial in federal court in Louisville, Maker's Mark won an injunction to enjoin Diageo from using its red dripping sealing wax, but not damages. Maker's, the court ruled, had not made its case that anyone had been deceived by Diageo's infringement.13

The decision was affirmed by the U.S. Sixth Circuit Court of Appeals. The reviewing court held that Maker's distinctive marking on its bottles was intellectual property it had the right to protect in court. The court presaged its course when it cited early a dissenting opinion of U.S. Supreme Court Justice Hugo Black:

“"I was brought up to believe that Scotch whiskey would need a tax preference to survive in a competition with Kentucky bourbon."14

As Mr. Haara notes, many other bourbon brands use wax seals, but none are red, and none use the dripping red tendrils streaming down the bottle's neck.

PROTECTABLE TYPOGRAPHY

An elaborate cursive type font the reader might associate with the signature of John Hancock on the Declaration of Independence and a word or two in that font was a hard property asset fought over in W.A. Gaines & Co. v. Turner-Looker.15

Gaines, a Frankfort distiller, touted one of its brands as “Hermitage” in this florid style. Turner-Looker sold a product it called “Golden Heritage” marked in a similar style. The court ruled that Turner-Looker's stratagem was “calculated to deceive the public, and to enable the palming off of its goods as those of Gaines.”

Gaines's cause, however, shipwrecked on the shoals of the defense of unclean hands. The company claimed on its bottles that Hermitage was made “in the sour mash fine copper way, being singled and doubled in copper stills over open wood fires.” Gaines actually boiled its mash first by steam-heat and then by closed furnace. These misstatements were found to be material enough to invoke the rule of unclean hands.16

“GIVE 'EM THE BIRD”

The world of the edgy double-entendre advertising idiom was taken up in Rare Breed Distilling LLC v. Jim Beam Brands Co.17

Wild Turkey claimed rights in the expression “Give 'em the bird” for its brand. In 2010, Beam applied to register as a trademark the same expression, for its Old Crow brand, intending to convey with the bird “a touch of outlaw spirit” in the “rough and tumble market for bourbon whiskey.”
The two iconic Kentucky distillers sued each other in federal court in Louisville and worked up their cases. But before the court could decide the matter, the parties dismissed their claims. Both were members of the Distilled Spirits Council of the U.S. [DISCUS] and they submitted the dispute to be decided according to the Council’s Code for Responsible Practices for Beverage Alcohol Advertising and Marketing.

The implicit vulgarity of each company’s ad campaigns did not “reflect generally accepted contemporary standards of good taste” and “should not contain any lewd or indecent images or language,” the court’s decision said.

The ‘Give ’em the bird’ ad campaigns were abandoned by both companies and the trademark issue went undecided.

THE TEMPERANCE MOVEMENT V. THE DISTILLERS

The forces of temperance set against the distillers and others in the chain of distribution has been a continuous condition in Kentucky and elsewhere since at least as far back as the late nineteenth century.18 With its patchwork of wet and dry territories sometimes within sight of each other, the grind of the temperance forces against whiskey has long been a fact of life in Kentucky. Mr. Haara devotes a chapter to Prohibition and describes cases in which bourbon shaped Kentucky law on the misbehavior of judges.

Before Prohibition was instituted in 1920, Henry H. Denhardt was elected county judge of Warren County by promising to put the whiskey business out of business in his jurisdiction. In office as administrative leader of the county, he began to revoke the licenses of several retailers. The court of appeals removed him.19

Mr. Haara’s book is not an arid legal treatise. Among its graces are thumbnail sketches of major brands, which capture what he calls “tasting notes,” strewn along the path of his narrative. Mr. Haara is bourbon epicure. For example,

“Woodford Reserve, Versailles, Kentucky. […] Age: Unstated. Proof: 90.4. Cost: $40.00 […] Woodford Reserve is at the front of the pack in fostering the resurgence of bourbon in the mid-1990s and to Brown Forman’s marketing credit, in helping to establish a premium segment. Woodford Reserve has a light nose and has mostly sweet flavors of corn, caramel, vanilla, and light fruit, but not a tremendous balance of earthy or oak flavors, making it best for sipping neat.”20

LAST TASTE

There might be more interesting stories about bourbon than are told in “Bourbon Justice,” but after spending some time with it, the reader might not be able to imagine what they are.

“Bourbon Justice” is probably already sine qua non in the life of bourbon litigants and bourbon executives. It can be read for pleasure, for the precision of its scholarship, and hailed as valuable history by any Kentucky lawyer. It will be of genuine interest to any Kentuckian interested in the face of the commonwealth bourbon shows the world. It is to be valued by any reader for the vivid quality of its characters and stories.

ABOUT THE AUTHOR

A regular contributor, JAMES P. DADY is editor of the Bench & Bar and chairman of the Communications and Publications Committee. He lives in Bellevue, where he is chairman of its Planning and Zoning Commission.

ENDNOTES

3. For more information on how bourbon’s renown has exploded worldwide in the past decade, the reader is recommended to consult “The Economic and Fiscal Impacts of the Distilling Industry in Kentucky,” prepared for the Kentucky Distillers’ Association by the Urban Studies Institute of the University of Louisville, 2019.
5. “Bourbon Justice,” Brian F. Haara, Potomac Books, an imprint of the University of Nebraska Press, P. 10. [Referred to hereinafter as ‘Text.’]
7. Text, P. 1.
8. 27 C.F.R. § 5.22(l)(1).
10. Mr. Haara advises that the bottled in bond restrictions have been loosened since 1897.
15. 204 F. 553. (6th Cir. 1913), appeal dismissed 231 U.S. 769.
16. By the doctrine of unclean hands, a claimant who has acted wrongly or in bad faith with regard to his claim cannot obtain equitable relief such as an injunction. Text P. 81.
17. No. 3:11-cv-00292-H (W.D. Ky.) (Complaint filed May 13, 2011.)
18. An excellent account of the subject cited by Mr. Haara is Daniel Okrent’s “Last Call,” Scribner’s, New York 2010. There is told again some of the story of George Remus, the Cincinnati lawyer and bootlegger, who exploited a loophole in the Volstead Act to obtain title to vast sums of warehoused Kentucky whiskey for use for medicinal purposes. “The historical record is that Remus engineered the hijacking of his own goods to obtain greater riches in the bootleg markets in the Midwest and Northeast. See also, “The Cornbread Mafia,” James Higdon, 2012, Lyons Press, Guilford, Connecticut.
20. Text at 140.

Brian Haara’s “Bourbon Justice” is available at your favorite bookstore and on Amazon.com.

It is also available through the publisher, Potomac Books, via their website at https://www.nebraskapress.unl.edu/potomac/.
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INFORMATION GOVERNANCE:
“Do You Actually Know What You Don’t Know?”

BY: SANDRA J. REEVES
As businesses of all size in every industry across the United States, Europe and Asia trend toward comprehensive Information Governance ("IG") so does the demand for competent attorneys capable of providing guidance and oversight to the IG implementation team. This new demand for legal counsel can be quite lucrative for those who are up to the task.

We in the legal community must come to terms with the realization that most of us are ill-equipped to respond to this demand as we have not, for the most part, mastered the concepts, standards, policies, guidelines and best practices required. As individual practitioners, we must assess our own preparedness.

When the opportunity presents itself to serve as a legal advisor to a newly formed Information Governance team, you must assess your qualifications, and decide whether you possess the requisite skills, and if not whether you can or even desire to acquire them to practice in this specialized discipline; or whether to decline the representation and refer the prospect to a lawyer better equipped for the task.

In the event you decide to undertake the role of legal representative and team member on the newly formed IG design and development team, you may soon discover that the team members who look to you for guidance often will not know enough about this quickly evolving discipline of Information Governance to properly frame their questions they need to ask of you. In assessing the prevailing knowledge base of your team members, you may find yourself sizing up each with the unspoken inquiry, "Do you even know what you don't know?"

While it may be expected that team members assembled for this task have no concept of just how much they don't know, the same cannot be said for you. In IG, you simply can’t get away with fabricating generic explanations, void of substance and sprinkled with misapplied legal terms, combined with a promise to do a little research and get back to your audience. That is, you cannot fake your expertise by expecting your team members to blindly accept that you know everything that they don't. Your professional reputation, and possibly your livelihood will depend on the clarity, relevance, accuracy, and completeness of your responses to your IG team. You must understand that inability on your part to rise to the task may put the organization at risk of loss of reputation and disaster recovery.

Therefore, before committing to the task you must engage in a process of self-examination that begins with a few initial inquiries.

**What is Information Governance and Its Function in Organization?**

A preliminary test of your readiness is whether you actually know what Information Governance is, and what it entails. That is, can you actually define or describe IG?

Stated in the most elementary way, Information Governance is a subset of corporate governance. Information Governance incorporates key concepts from data governance and information technology, but is synonymous with neither. It entails certain aspects of both records management and content management, but is distinct from both. It embodies characteristics of information security, data privacy and risk management, but is not limited by those characteristics. Significantly, it encompasses litigation readiness and regulatory compliance, as well as long-term digital preservation, and business intelligence. Under the umbrella of Information Governance are the related disciplines of document management (as distinguished from records management), knowledge management, business continuity, litigation readiness, and disaster recovery.

If you defined IG as an alternative term for, or the functional equivalent of, Information Technology ("IT"), then you are 0-for-1. Ask yourself “Do you even know what you don’t know?”

**What Will Be The Composition of the IG Team?**

Moving on to the second inquiry, “Who makes up the IG Team?” If your answer suggests that IG is comprised entirely of representatives from IT, or that IG and its associated functions are exclusively within the purview of the IT professionals, then you are 0-for-2. Ask yourself, “Do you even know what you don’t know?”

While you recognize that the IG team will undoubtedly include representatives from IT, networking, and security, you should also know that it includes representatives from other functional units, and that while many members of the IG team can be swapped in and out, there are two who cannot. Seared into the collective memory of every IG steering committee is the rule that regardless of the overall composition of the IG team there are two specific team representatives who may not be overlooked. One is a representative from executive management who must have bought into the concept of an enterprise wide program of Information Governance, and who will advocate for the necessary resources to implement IG across the organization. The other is the legal representative who possesses the skills necessary to integrate the different components of IG into an overall program capable of withstanding the most stringent legal scrutiny.

The remainder of the IG team will consist of a cross section from within the organization, and may include representatives from IT, IT security, senior records management, risk management, human resources, communications, various business units, corporate agency archivist, and business and financial analysis. While these team members are valuable for the insight that they bring to the table, none can relate to, or even imagine how their own functional unit(s) will impact, and be impacted by the legal aspects of the overall IG program. Nor are they expected to. After all, you are the team member whom the others will rely upon to ensure the legal requirements of Information Governance program are adhered to.

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1. For a more detailed list of the IG stakeholders, see sidebar.

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**Notes:**

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What Function/Role Will You Serve As An IG Team Member?

If you view your potential role on the IG team as primarily that of reviewing, interpreting, and drafting legal documents and contracts, you have missed the mark yet again. You are 0-for-3. As it is imperative you understand what your expected role entails before deciding whether to undertake the representation, you must first acquaint yourself with the holdings, other similar cases serve as valuable learning tools for your IG team, but you must first acquaint yourself with the holdings, and with their significance and application to IG.

(a) Your Ability to Engage in Risk Assessment: One of the first areas you will be called upon for input is risk assessment. In this context, risk assessment will involve familiarizing your team members with the various federal, state and local laws that will impact retention of information. If the organization has a presence in multiple jurisdictions, you must be familiar with compliance requirements for each. Privacy considerations and requirements, particularly with regard to personally identifiable information (PII) is relevant to risk assessment and will require your input. Security requirements in accordance with the federal, state and municipal laws must also be taken into consideration. Where your client is required to interact with government agencies, key consideration must be given to requests for information that are impacted by freedom of information laws. And, not only will you be involved in early risk assessment, but also in the development of the organization's risk mitigation plan.

(b) Proficiency with the revised 2006 Federal Rules of Civil Procedure as they relate to E-discovery.

Electronic discovery is another key area where your input will be required. The Federal Rules of Civil Procedure were amended in 2006 to accommodate modern practices for the discovery of electronically created records. You must be well acquainted with those amendments. In particular, you must be intimately familiar with each subsection of FRCP 26, “Duty to Disclose and General Provisions for Discovery,” particularly with rule 26(a)(1)(C) covering initial disclosure deadlines, rule 26(b)(2)(B) governing reasonably accessible ESI, rule 26(b)(5)(B) regarding procedures to follow after improper disclosure of ESI to unauthorized parties, rule 26(f) the “meet and confer rule”, and, with the rule 26(g) requirement for signing e-discovery requests, response and objections. Additionally, a good understanding of the significance of both FRCP 33, “Interrogatories,” and FRCP 37 “Failure to Make Disclosures, or to Cooperate in Discovery; Sanctions” is essential. Moreover, and a cornerstone for discussion with the IG team, is FRCP 34, “Production of Documents and Electronically Stored Information.”

Beyond your mastery of the Federal Rules of Civil Procedure covering electronic discovery, you should be familiar with the E-discovery Reference Model created by EDI RM.net, as well as the guidelines for e-discovery planning and the seven-step process contained therein, which when combined serve as a visual planning tool to assist in the identification and clarification of the stages of the e-discovery process.

(c) Be able to articulate the importance of proper integrity, preservation and admissibility of email and other electronically created data so as to avoid claims of spoliation of evidence, and related sanctions. You must impress upon your team the importance of preserving the integrity of electronic data. One of the most effective ways to do this is to share real world examples of the consequences of failure to comply, such as the holding of the landmark case of Zubulake v. UBS Warburg. Therein, Zubulake, who was fired by UBS Warburg, alleged wrongful termination as the result of gender discrimination, and in support of her claim sought access to email messages that she believed relevant. Zubulake’s former employer, UBS, denied her the emails, asserting that its employees had destroyed some, and that it was too burdensome and expensive to recover the rest. In that case, the Court applied the proportionality test of Rule 26(b)(2) in holding that traditional discovery rules should be applied to electronic data that is as accessible as other documentation. The Court gave the jury an adverse inference instruction against UBS, and so instructed the jury awarded Zubulake $29 million in compensatory and punitive damages. Zubulake v. UBS Warburg and other similar cases serve as valuable learning tools for your IG team, but you must first acquaint yourself with the holdings, and with their significance and application to IG.

(d) Oversee the Implementation of the Legal Hold Process.

You must impress upon your team that the legal hold process is a foundational element of IG. Ensure that at the very least the IG implementation plan provides for a legal hold notification process that insures that key employees are notified of litigation or pending litigation, and that those employees are advised of the set of documents that must be put on legal hold, and preserved in a legally defensible manner.

(e) Construct a Schedule for the Retention and Disposal of Electronic Information that is Legally Defensible.

It is necessary to provide your IG team with the foundation for a records management policy that provides for complete, current and documented records retention and destruction procedure. To that end, you must have a command of the legal limitations period for the retention of different classifications of records, as well as the special circumstances that will affect the limitations period of each.

(f) Have an appreciation for the value of specific key enabling technologies applicable to E-discovery, and for the need for oversight.

It is essential that you are comfortable with newer technologies that assist in E-discovery. These include technologies such as predictive coding that speed up the document review process and the ability to comply with discovery requests. This is accomplished by combining such technologies as machine learning, workflow software, and keyword or pattern searches in a way that reduces the
In the alternative, use the shortcut method. Ask yourself the same equipped to assume the role of legal advisor to the Information respond in the affirmative, then most likely you are not adequately actually know what you don’t know? Do you subject to engage in the conversation. That is, ask yourself, “Do you even know what you might otherwise ponder in a social setting when confronted with whether the questioner even knows enough about the subject to engage in the conversation. That is, ask yourself, “Do you actually know what you don’t know?” Unless you can unequivocally respond in the affirmative, then most likely you are not adequately equipped to assume the role of legal advisor to the Information Governance design, development and implementation team.

The Guiding Principles: Guiding principles for determining whether to accept a position on the IG Design, Development and Implementation Team should be to (1) use common sense, in SCR 3.130(1.1) governing professional conduct. In the alternative, use the shortcut method. Ask yourself the same question you might otherwise ponder in a social setting when confronted with whether the questioner even knows enough about the subject to engage in the conversation. That is, ask yourself, “Do you actually know what you don’t know?” Unless you can unequivocally respond in the affirmative, then most likely you are not adequately equipped to assume the role of legal advisor to the Information Governance design, development and implementation team.
As a law firm, getting hacked is bad enough. But one Pennsylvania law firm learned an even harder lesson when it sued Bank of America to recover client funds stolen by hackers. In *O’Neill v. Bank of America*, a federal judge dismissed a law firm’s claim that its bank bore ultimate responsibility after one of the firm’s shareholders unwittingly transferred $580,000 from the firm’s IOLTA account to computer hackers in Hong Kong. While the hackers were, “of course . . . the real culprit[s],” the court announced that “as between the law firm and the bank, the law firm must bear the loss.” The law firm’s hacking and the court’s decision in *O’Neill* present important lessons for Kentucky practitioners about cybersecurity.

But first, how could a lawyer wire $580,000 of his clients’ funds to computer hackers? In 2017, computer hackers gained access to the e-mail account of Gary Bragg, a shareholder of the law firm O’Neill, Bragg & Staffin, P.C. Using Bragg’s account, the hackers e-mailed Bragg’s partner, Alvin Staffin, and asked him to wire $580,000 from the firm’s IOLTA account held at Bank of America to a bank in Hong Kong. Posing as Bragg, the hackers claimed a client needed to quickly transfer its money to close a loan transaction, but that Bragg would be out of the office and unable to authorize the transfer himself. Staffin, then, instructed Bank of America to transfer the money. By the time Staffin and Bragg discovered the ruse, it was too late. Staffin asked Bank of America to stop the transfer, but Bank of America refused, stating it could only request that the Hong Kong bank recall the transfer once that bank received the funds. By the time the Hong Kong bank froze the hacker’s account, less than $24,000 remained in it.

Bragg, Staffin, and their firm sued Bank of America. They alleged the bank committed breach of contract and negligence, that the bank violated the Pennsylvania Commercial Code by refusing to halt the wire transfer. The court, however, dismissed these claims. It did so largely because Bank of America’s deposit agreement prohibited an account-holder from cancelling or amending a wire transfer request after Bank of America received it. Because Staffin had completed the wire transfer request, he “had no legal right to stop payment” of the clients’ funds. And because the relationship between Bank of America and Staffin’s firm was “purely contractual,” the court in *O’Neill* found that Bank of America upheld its “duty of ordinary care” in complying with the deposit agreement.
Pennsylvania’s Commercial Code did no more to shift the risk of loss to Bank of America. The court recognized the Pennsylvania Commercial Code’s “clear presumption” that cancellation of a wire transfer request is ineffective after the request is accepted by the receiving bank (here, Bank of America). Only if Bank of America had voluntarily agreed to halt the transfer, or if some other “funds-transfer system rule” otherwise allowed the cancellation would Staffin’s cancellation request have been effective. While it would certainly lead to “harsh results,” the court believed this presumption appropriately alleviated banks of responsibility and risk for wire transfers made “due to a mistake by the sender that could be neither known nor anticipated by the bank.”  

Even though this case was decided in Pennsylvania, the same result could very well occur in Kentucky. For one, hackers are targeting law firms—and their wealth of sensitive client data—at a growing rate. In 2017, 22 percent of firms surveyed by the American Bar Association reported experiencing a data breach, up from 14 percent in 2016. What’s more, the portion of Pennsylvania’s Commercial Code that protected Bank of America against the risk of loss in O’Neill mirrors Kentucky’s own provisions. As such, any Kentucky law firm with a similar deposit agreement risks shouldering the same responsibility should it fall victim to a similar scheme.

The lessons from O’Neill should be clear, but are worth repeating. First: computer hacking schemes are not always obvious. After all, it’s not like Staffin thought he was sending client funds to the deposed prince of Nigeria. Rather, Staffin responded to an e-mail from his partner’s actual e-mail account that concerned an actual client and referenced an actual IOLTA account number. In retrospect, the only red flag was that the hacker’s e-mail featured a noticeable number of typos and unusually poor grammar. Staffin’s example, then, reminds lawyers to scrutinize odd or suspicious requests, even when they appear to originate from real, known sources.

Second: talk on the phone. Staffin only learned that Bragg had not actually requested the wire transfer after he had called Bragg on the phone. Indeed, Staffin thwarted a second effort by the hackers to secure another, larger wire transfer when he offered a phone call to discuss the request. Deception like this over e-mail only works if the victim never stops to call the sender to confirm the validity of the request. Particularly when dealing with a client’s sensitive data or money, lawyers are well advised to confirm transactions like the one in O’Neill over the phone or in person.

Third: lawyers should review their IOLTA account deposit agreements. Staffin’s lawsuit failed mainly because Bank of America’s deposit agreement placed the risk of a mistaken wire transfer request on the firm and not the bank. That same agreement also permitted Bank of America to overdraft the IOLTA account to sufficiently fund the wire transfer. That meant that even though Bragg’s client had only deposited $1,900 in his firm’s IOLTA account, Bank of America used the funds of clients held in the same account to complete the transfer. Lawyers maintaining IOLTA accounts should carefully review the allocation of risk posed by their bank’s deposit agreement.

Finally, O’Neill gives lawyers reason to consider obtaining “cyber insurance.” Cyber insurance policies may cover liability for costs arising out of privacy breaches and cyber extortion. Indeed, the risk of a data breach or cyber-attack, despite a lawyer’s best efforts, may prove the warning by the American Bar Association’s Standing Committee on Ethics and Professional Responsibility that firms fall into two categories: “those that have been hacked and those that will be.” Kentucky firms should accordingly pause and take note to avoid what befell Bragg and Staffin in O’Neil.

ENDNOTES

3. Id. at *3-4.
4. Id. at *3-5. IOLTA accounts – or “Interest on Lawyers Trust Accounts” – are maintained by law firms and used to hold nominal or short-time client funds. See, e.g., Kentucky SCR 3.830.
5. Id. at *4-5.
6. Id. at *5-6.
7. Id. at *7.
8. Staffin, Bragg, and their law firm ultimately recovered just $58,730.11 from the hacker’s account after engaging Hong Kong counsel to recover the stolen funds. Id. at *8-9.
9. Id. at *10-28.
10. Id.
11. Id. at *11.
12. Id.
13. Id. at *25.
15. Id. at *20.
16. Id.
21. Id. at *4-5.
22. Id. at *6.
23. Id. at *8.
24. Id. at *11-13.
25. Id.
27. Formal Opinion 482: Lawyers’ Obligations After an Electronic Data Breach or Cyberattack, American Bar Association’s Standing Committee on Ethics and Professional Responsibility (Oct. 17, 2018), https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/aba_formal_op_483.pdf (last visited Jan. 16, 2019).
Much of the country’s attention was turned toward two sets of congressional hearings last year, when executives from Facebook and Twitter were questioned about their companies’ treatment of users’ personal data.

One of the core issues that came up during these sessions was the right to privacy. This issue is nothing new; indeed, our law school’s namesake, Justice Louis Brandeis, co-authored the 1890 Harvard Law Review article “The Right to Privacy” that is widely considered to be the first U.S. publication to advocate for the right to privacy.

But although Justice Brandeis raised this topic more than 100 years ago, the Supreme Court “is still struggling with these issues,” says Professor Russell Weaver, Distinguished University Scholar.

Professor Weaver is known across the country and abroad for his constitutional law scholarship, and especially for his work focusing on free speech and privacy. He spoke with me recently about a few of his observations about privacy regulation in the United States.

“The U.S. has a funny history in terms of privacy. We have the Fourth Amendment, which purports to protect privacy — it protects us against search and seizures, which of course implicitly includes privacy,” Weaver says.

“The people in the founding generation felt strongly about that, such that when the Constitution was drafted, the Framers made a conscious decision not to include a Bill of Rights and the people demanded a Bill of Rights as a condition of passage. And the Fourth Amendment was one of those rights that they demanded.

“It’s interesting because the U.S. isn’t terribly privacy protective otherwise. We don’t have data privacy commissions. We don’t have huge restrictions on what government or businesses can uncover about us.”

Weaver, who frequently travels abroad to lecture and teach, contrasts the U.S. approach to privacy with European models.

“There’s a big divide between Europe and the U.S. in terms of privacy. The Europeans are really into what they call data protection, so they have these data privacy commissions. And Europe now has what is called the GDPR: General Data Protection Regulation. GDPR has very substantial fines for violating peoples’ privacy, which is producing interesting results because when I’m in Europe, I can’t access some U.S. websites because they don’t want to be potentially subject to liability, so they just block Europeans.”

Weaver attributes the differences in approach to several cultural distinctions:
But “in one case now, the Court says that doesn’t extend to doing a full search through cell phones. So it’s beginning to put some limitations, but also made clear that it wasn’t overruling the third-party doctrine. What it all means, I don’t know. We’re going to have to wait for more decisions.”

While it’s not possible to predict what the Supreme Court will rule in the area of data privacy and information governance, it’s clear that these are topics that will only continue to prompt questions of regulation. As lawyers, we know that the law is always evolving, and that is certainly the case when it comes to the ever-expanding realm of technology.

“The U.S. tends to be less regulation-oriented than Europeans. Europeans by and large tend to be more likely to regard government as a solution to problems, whereas Americans tend to be more independent and much less inclined to look to government to solve their problems. And we’re much more free-market oriented than Europeans are.

“We generally leave it to the marketplace. If you don’t like what Facebook is doing with your data, your solution is, don’t use Facebook. The funny thing about it is, even though people say they care about privacy, I’m not entirely sure that they do,” Weaver says, noting that Google is widely used as a search engine although it stores data about user search terms and that more private search engines aren’t as popular.

The topic of privacy comes up in Weaver’s criminal procedure course, especially in the context of the third-party doctrine, which is the idea “that when you turn something over to a third party, you don’t have a reasonable expectation of privacy in what you turned over to them. The difficulty with that is that in a modern, technologically based society, almost everything is turned over to third parties.

“If you literally apply the third-party doctrine, it means that the Fourth Amendment just isn’t going to apply. I think the Court is struggling with that,” Weaver says.

Historically, he explains, the Court has ruled that if law enforcement conducts a search incident to a legal arrest, they have the right to search any containers the person has in his or her immediate control.
For some alumni, the career path after graduation from Chase College of Law loops back to a classroom in Nunn Hall, on the Northern Kentucky University campus. They are alumni the college invites to return as a Distinguished Guest Professor, to teach a class related to their area of expertise and to share their career experiences with students.

It is a program with good grades from students and alumni.

“I like the chance to hear about experiences of Chase alumni because it injects reality into what otherwise might be just the study of legal theory,” says first-year student Brian Rhame. This past calendar year he was among students who heard from Karen Meyers, a 1978 graduate who is a member of the Cincinnati firm of Little, Meyers & Associates, where she focuses on settlement strategies for individuals and class members in personal injury, wrongful death and mass-tort actions.

As a Distinguished Guest Professor, she taught a Remedies class and shared insights with small groups of students. “Ms. Meyers was especially interesting, because her work makes a significant difference in the lives of people,” student Rhame says.

For Ms. Meyers, the experience allowed her to reflect on her student years. “Chase did so much for me. I would not be doing what I am doing, and enjoying my career and my practice, and my involvement with other lawyers, with clients, with claimants and with courts, had I not gone to Chase,” she says.

For all Distinguished Guest Professors, career paths that began at Chase are marked by significant professional accomplishments. Joe Thomas, who was graduated in 1988 and is a partner in Ulmer & Berne, in Cincinnati, returned to teach about mass torts, class actions and multidistrict litigation. His expertise includes having been defense counsel for a pharmaceuticals company in a case that resulted in the Supreme Court of the United States adopting his theory that generic drug makers should be immune from state failure-to-warn lawsuits on the basis of federal preemption.

Michael F. Lyon, who was graduated in 1975 and is a partner in the Cincinnati firm of Lindhorst & Dreidame, has been a defense attorney in about 200 medical malpractice trials, so he knows what the professional standard is for zealous advocacy. And that is what he shared with students when he was a Distinguished Guest Professor. “The first ‘commandment,’ if you will, of being a zealous advocate is never to judge your client, no matter what the circumstances,” he said of his presentation to students.

As for Ms. Meyers, she wanted to give students a view of what could be ahead for them. “I hoped the students would take away an understanding that law is so diverse, and that there are so many different things you can do with it,” she says. “In my work as a settlement master, I am able to combine poverty and the law, trusts, damages, remedies. You don’t have to have a very narrow application of one type of law. You can do a combination, which is extremely rewarding.”

Other alumni who have participated in the Distinguished Guest Professor program are Judge Timothy Black, United States District Court for the Southern District of Ohio; Maria Longi, National War College, Washington, D.C.; Daniel Stratton and David Stratton, the Stratton Law Firm, Pikeville, Ky.; Terry Monnie, Terry Monnie Title Co., Fort Mitchell, Ky.; Tom Munninghoff, Munninghoff, Lange & Co., Covington, Ky.; and Henry Acciani, O’Conner, Acciani & Levy, Cincinnati.
The Kentucky Bar Association helps members save thousands of dollars on legal research every year.

Casemaker offers 50 state and Federal case law, statutes, regulations and more with free webinar training. Login to www.kybar.org and click the Casemaker logo to get started.
Nine UK Law alumni were recently admitted as members of the United States Supreme Court Bar. The alumni were joined by Dean David A. Brennen and his wife, Kimberly Brennen, who were also admitted. John McGarvey, a 1973 UK Law graduate, served as the movant for the group to be admitted to the Bar. Chief Justice Roberts presided over the proceeding before the full court, with the exception of Justice Ginsburg, and admitted the candidates to the Bar.

UK Law alumni who were admitted include: Angela Edwards, Charles English, Charles “Buzz” English, Jr., E. Edward Glasscock, LaToi Mayo, John McNeill, Russell Morgan, Lou Anna Red Corn and Steve Ruschell.

Additional UK Law alumni who traveled to D.C. and attended the ceremony to support those being admitted include: Luke Morgan, Melissa Moore Murphy, and Cassidy Rosenthal.

“It was an honor to share this milestone event with UK Law alumni, and a privilege to join them in representing the University of Kentucky College of Law in this capacity,” said Dean Brennen. “Admittance to the Supreme Court Bar indicates that these accomplished UK Law alumni have demonstrated the competence, experience and strong moral character to allow them to try cases before the highest court in the land.”

“It was a wonderful experience and we are all better for it,” said Lou Anna Red Corn, a 1984 graduate of UK Law.

Following the special recognition, the newly admitted members of the Bar and their guests had the privilege of remaining to hear two cases before the Court. In addition to having access to limited, preferred seating behind attorneys arguing a case in the Court, Bar members may try cases before the U.S. Supreme Court and have access to the Court’s library for research and study.

Five of the current Supreme Court Justices have visited the University of Kentucky College of Law within the past six years. This list includes: Chief Justice John G. Roberts and Associate Justices Clarence Thomas, Samuel A. Alito, Jr., Elena Kagan, and Neil M. Gorsuch.
While visiting the nation’s capital, the UK Law alumni were welcomed by 6th District Congressman Andy Barr, a 2001 UK Law graduate, and enjoyed a private tour of the Capitol that included a brief stop to see the office of Senate Majority Leader Mitch McConnell, a 1967 graduate of UK Law.

The University of Kentucky Alumni Association was a strong partner in coordinating this multi-event effort in Washington, D.C., with Associate Vice President for Alumni Engagement, Tim Walsh, and Alumni Engagement Coordinator, Nathan Darce, accompanying the group as well as UK Law staff and alumni, Danny Murphy, Assistant Dean of Community Engagement & Diversity, and Laurel Hostetter, Interim Director of Philanthropy.

In addition to the swearing-in ceremony, visit with Representative Barr, and tour of the Capitol, UK Law alumnus Raymond Stewart of Thompson Coburn LLP hosted a reception at his firm for D.C. area UK Law alumni. At the reception, Dean Brennen shared College of Law updates. He noted that this year UK Law welcomed one of its most diverse classes, whose members are collectively experiencing a strong start in their law school career. He highlighted the production of impactful scholarship by UK Law’s world-class faculty, which includes Cortney E. Lollar, James and Mary Lassiter Associate Professor of Law at UK Law, recently being cited in a U.S. Supreme Court decision in which Justice Gorsuch, joined by Justice Sotomayer, dissented from the majority’s denial of certiorari. Dean Brennen also shared an update on the progress of the Law Building construction project that remains on-budget and on-schedule for completion by July 2019.

Requirements for admission into the U.S. Supreme Court Bar include admittance to practice in the highest Court of a State, Commonwealth, Territory or Possession, or the District of Columbia for a period of at least three years immediately before the date of application. Candidates must have a clean disciplinary record during that three-year period, and the Court must be satisfied that candidates are of good moral and professional character. The Court requires a letter of good standing from the presiding judge, clerk or other official from the candidate’s home state’s highest Court, in addition to two sponsors who can attest that candidates meet the Court’s requirements. The sponsors must be current members of the Supreme Court Bar. Candidates must complete an application and pay a fee as well. “The admissions process and ceremony were fantastic experiences for those who were admitted to the Supreme Court Bar and those who joined us in D.C. for support,” said Dean Brennen. “We look forward to future opportunities to have more of our alumni admitted to the Supreme Court Bar and visit with our alumni in the D.C. area.”
Spring is a busy season for the YLD and we are very excited. We have various events and programs that are being planned and executed in the next few months. It is also the time of year we recognize achievements with our awards and start planning for the year ahead with elections and committee appointments.

LEGAL AID UNIVERSITY
For the past few years, the YLD has teamed up with the Access to Justice Commission and the Legal Aid Society to present Legal Aid University. This program offers a full day of CLEs in Lexington and Louisville. The purpose of Legal Aid University is two-fold. First, to offer our members nuts and bolts programming that is useful in their practice. Second, to connect our members with the Legal Aid organizations in order to foster a volunteer relationship that will hopefully last years. The CLE topics are areas of practice the Legal Aid organizations often need assistance with on a pro bono basis such as family law, evictions, expungements, landlord tenant law, etc. The program is offered to attendees for free if they agree to accept two pro bono cases in the upcoming year.

LAW SCHOOL OUTREACH
The YLD hosts a social gathering for law students at each of the three Kentucky law schools. The event may be a networking reception, sponsoring a graduation event, or a tailgate before Keeneland or another sporting event. The goal is to engage with future members and show the law students all that the KBA and YLD have to offer them once they are admitted to practice. The YLD also presents a program, “The Road Less Travelled,” at all three Kentucky law schools. The program consists of a panel of law school graduates who hold a J.D. but may not be practicing law in a traditional setting. Panel members may include executive directors for non-profits, law school administrators, politicians, etc. The program allows law students to hear about alternative paths they may take with their degree.
PUBLIC SERVICE
As mentioned in my last Bench & Bar article, the YLD is wrapping up our Legal Food Frenzy public service project for the year and will be presenting the winners with the Attorney General Cup trophy at our annual luncheon on the Thursday of convention. The YLD is sponsoring a new public service project this year at convention. The Home Safe Home program is an initiative of the ABA YLD which focuses on education and public service related to elder, interpersonal and animal abuse. The KBA YLD is doing its part by having a drive to collect items for local women’s crisis centers. The drive is planned to take place at convention. Attendees are encouraged to bring and donate items to be distributed to shelters throughout the state. Items may include toiletries, socks, diapers, etc. A list of needed and requested items will be posted on the YLD Facebook page, website, and Instagram. For more information please visit our website or email Colby Cowherd at ccowherd@tmsck.com.

As always, please follow us on twitter @KBAYLD, on Facebook www.facebook.com/KBAYLD/ or our new Instagram account KentuckyBarYLD to stay up to date on all things YLD and to get information on elections, awards, programs, and other YLD events.

AWARDS
YLD ANNUAL AWARDS
Every year, the YLD presents four awards to very deserving individuals or organizations. Additional information and application materials are available at https://www.kybar.org/page/yld or you may email Christopher Groeschen at cgroeschen@graydon.law with any questions. Deadline for the applications is Friday, April 5, 2019.

The OUTSTANDING YOUNG LAWYER AWARD honors a Kentucky attorney who has excelled in the practice of law and community service. Any Kentucky lawyer who, as of July 1, 2019, has been engaged in the practice of law for 10 years or less, or who is 40 years old or younger, is eligible for nomination.

The NATHANIEL R. HARPER AWARD recognizes a person or organization that has demonstrated a commitment to changing the face of the Kentucky Bar by encouraging the inclusion of women, minorities, persons with disabilities, LGBT individuals, as well as promoting full and equal participation in the legal profession by all unrepresented or underrepresented groups.

The YOUNG LAWYER SERVICE TO COMMUNITY AWARD commends a member of the YLD for exemplary service to his or her community through volunteerism, service to non-profit organizations, and/or pro bono legal representation.

The SERVICE TO YOUNG LAWYERS AWARD acknowledges a lawyer, non-lawyer, or organization for exceptional contributions to the professional and personal advancement of mentorship of young lawyers in Kentucky.

LAW SCHOOL BAR STUDY SCHOLARSHIPS
Each year the YLD awards three–four bar study scholarships to recent graduates from the Kentucky law schools in order to help with the costs of studying for the bar. Additional information is on our website or you may email Kyle Bunnell at Kyle.bunnell@yahoo.com or Teresa McMahan at trmcmahan@lonnemanlaw.com.

THE FUTURE OF THE YLD
Spring is also the time of year where we begin looking forward to the next bar year. The YLD has many opportunities for members to get involved.

ELECTIONS
Any YLD member who wishes to be considered for election must notify YLD Secretary/Treasurer Megan Keane, at mkeane@goldbergsimpson.com, by April 1, 2019. The YLD has elections for district representatives and officers. There are seven district representatives on the YLD Executive Committee—one for each of the Supreme Court districts. There are four officers on the YLD Executive Committee—chair, chair-elect, vice chair, and secretary/treasurer. In order to run for an officer position, the nominee must have previously served on the YLD Executive Committee for at least one year and must be a member of the YLD and be in good standing.

OTHER LEADERSHIP OPPORTUNITIES
In addition to elections, the YLD Executive Committee has at-large appointments made by the Chair–Elect Zachary Horn, and also has numerous opportunities to serve on committees and teams in areas such as professional development, attorney wellness, public service, law student outreach, CLE planning, etc. If you are interested in getting involved with the YLD, please contact Zachary Horn at horn@kchfirm.com. Additional information will be sent out via email and will be posted on our website and on social media.
Strong topic sentences and topic paragraphs do the crucial job of organizing legal writing. Well organized legal writing follows a predictable pattern, satisfying the reader’s expectations in strong paragraphs and providing background and context for the lawyer’s legal analysis and arguments. Organized legal writing predictably describes procedural history when necessary, describes issue(s) before the court, recites relevant facts, analyzes relevant law, applies relevant law, and then reaches a resolution in the case, in that order.

To enhance clarity in your legal writing, place critical information near the beginning of all sections and paragraphs to provide the reader context for understanding. This can be accomplished through effective use of topic paragraphs and topic sentences. In writing topic sentences and testing whether they are doing their job, consider the following questions.

1. **What is a topic sentence?**
   A topic sentence states the main point of a paragraph. It is a mini-thesis for the paragraph, alerting your readers to the most important point you want to make in the paragraph. A good topic sentence is simple and promises the reader that the paragraph is devoted to only the topic in the paragraph’s first sentence. What follows in the rest of the paragraph is merely support for that point.

2. **Where are topic sentences placed?**
   At the top! Most topic sentences appear at the very beginning of paragraphs. From the first sentence of each paragraph, it should be clear whether the purpose of the paragraph is to identify the issue and procedural history, state the facts of the case, state a rule of law and explain it, analyze and apply the facts, or state a conclusion. A well written topic sentence for a paragraph will signal the reader about what is to come.

3. **When read together, do your topic sentences create a template for your entire written work and show the relationship between paragraphs through use of transitions?**
   Try highlighting the first sentence of each paragraph. Can you tell the purpose of each paragraph from the first sentence?

4. **Do your topic sentences include quotes?**
   If so, they probably do not capture the subject of your paragraphs. Remember that the topic sentence must reflect the contents of your paragraph. A quote is someone else’s past statement that will not reflect the subject of your own paragraph. Use the ICE method for paragraphs containing quotes; introduce the quote with your own topic sentence, cite, and explain.

5. **Do your topic sentences for rule paragraphs stating the law, begin with the word “in” or a case name?**
   Beginning a topic sentence with the word “in” or a case name deprives your sentence of purpose. It often prompts the writer to state the facts of a case first. It requires the reader to blindly read the entire paragraph to understand the rule. Avoid beginning a paragraph with the facts of a case, without giving any hint about the issue or rule that the facts illustrate.
Do your topic sentences for a paragraph applying the facts to the rule make the analogy explicit and obvious?
Consider the following examples of topic sentences for paragraphs containing an argument by analogy.

MOST EFFECTIVE: Like the police in King, who knocked on the door and announced their presence, here the police officer knocked on defendant’s door and asked defendant to allow him to enter. (Here, the analogy to the King case is clear. In both cases, the police knocked on the door and announced their presence).

INEFFECTIVE: Like King, here the officer knocked on defendant’s door. (Here, the writer says his or her case is like the King case, but we do not know why the cases are alike.)

LEAST EFFECTIVE: Here, the police officer knocked on the door. (Here, we do not know the significance of the sentence at all.)

Does each section discussing an issue or sub-issue, end with a topic paragraph or sentence that states a conclusion and then briefly explains it?
I find the word “because” very powerful in a conclusion topic sentence because it forces me to provide the reason for my conclusion.

Topic sentences in legal writing are the most important sentences that you will write. Topic sentences at the beginning of a paragraph not only focus your reader on the paragraph’s main premise but also guide the reader through your overall organization.

ENDNOTES
What do Kentucky lawyers say they most need from a practice management standpoint? Apparently—and, on reflection, understandably—it’s form resources. A place to turn to in order to access good, reliable forms to efficiently and competently do their jobs.

A little over two years ago, the Kentucky Bar Association created a Law Practice Task Force to look at how the KBA might better serve the law practice management needs of its members. The Task Force composed of Amy Cubbage (Louisville), Hailey Bonham (London), Michael Losavio (Louisville), Jeff Sallee (Alexandria), Pashens Fitzpatrick (Louisville), John Meyers (Frankfort), Bob Young (Louisville) and yours truly (Louisville) as chair, has been working toward providing the resources that you really want and need. It dawned on us that one way to figure out what you needed was to ask.

So, we assembled a short survey and distributed it at several of the Kentucky Law Update sessions last year. We received some 347 total responses to our questions and some of you even took the time to add thoughtful and insightful comments. We were amazed and humbled by the interest you showed.

We asked you to rank among some 13 potential resources what three you thought you most needed. Here are the 13 resource choices:

- Firm Management Resources
- Billing and Collection Resources
- Financial Management and Accounting Resources
- Time Management Resources
- Marketing Resources
- Technology Resources
- Career Planning Resources
- Form Resources
- Ethical Resources
- Escrow Related Resources
- Diversity Resources
- Disaster Recovery Resources
- Practice Related Training Resources

We weren't exactly sure what we would get in response to be honest.

Some of us thought technology resources would be the most needed (me), some thought financial, some ethical. What we didn't necessarily expect was that the winner would actually be form resources. But when we thought about it, it made sense. Most lawyers really enjoy being lawyers: thinking through problems, applying law to facts and issues, crafting arguments. What causes us pain is having to create documents and materials that others or even ourselves have done many times before but which we just can't put our hands on. Enter the need for a resource of forms that we could all tap into and eliminate the friction of reinventing the wheel when we want to do something. And most of us realize that we really can't and shouldn’t charge our clients to create and do something that has been done countless times before.

The results suggest an obvious preference for resources to help solve here and now practical problems that confront Kentucky practitioners on a daily basis. That’s not to say some of the lower vote getters aren’t important: there is little doubt that improving the diversity of the profession is a goal few can dispute and upon which our future in large part depends. But its not something that hits many of us on a day to day, get the work out the door basis. Perhaps it should, but it just doesn’t.

Where do we go from here? Creating an all-encompassing practice management...
SO, HERE’S HOW THE VOTING STACKED UP, IF YOU’RE CURIOUS:

<table>
<thead>
<tr>
<th>Resource</th>
<th>Votes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Form Resources</td>
<td>144</td>
</tr>
<tr>
<td>Technology Resources</td>
<td>133</td>
</tr>
<tr>
<td>Practice Related Training Resources</td>
<td>125</td>
</tr>
<tr>
<td>Time Management Resources</td>
<td>116</td>
</tr>
<tr>
<td>Billing &amp; Collection Resources</td>
<td>99</td>
</tr>
<tr>
<td>Marketing Resources</td>
<td>74</td>
</tr>
<tr>
<td>Career Planning &amp; Advancement Resources</td>
<td>69</td>
</tr>
<tr>
<td>Ethical Resources</td>
<td>66</td>
</tr>
<tr>
<td>Firm Management Resources</td>
<td>61</td>
</tr>
<tr>
<td>Financial Management Resources</td>
<td>56</td>
</tr>
<tr>
<td>Diversity Resources</td>
<td>23</td>
</tr>
<tr>
<td>Escrow Resources</td>
<td>19</td>
</tr>
<tr>
<td>Disaster Recovery Resources</td>
<td>18</td>
</tr>
</tbody>
</table>

resource can’t be done in one day, one month or one year. As the Survey shows there are many types of resources you, as the practitioners, want and need. But we are making efforts to create at the outset some sort of form bank or resource. Once we have this up and running, we hope to move forward with creating other resources you have indicated you want and need in order of the priority you placed on them.

We are attempting to gather forms we think you needed but of course could use your help. You are the best source of the materials you know you need, and we think crowdsourcing this project makes some sense. If you have an idea for a form or have a form you are willing to share, drop me a line at sembry@embrylaw.net or contact any of the other Task Force members. We would appreciate it!

PS in the meantime, the Law Practice Division has a good source of forms on its website. Here’s the link: https://www.americanbar.org/groups/law_practice/resources/forms_bank/

ABOUT THE AUTHOR

STEPHEN E. EMBRY is a frequent speaker, blogger and writer. He is publisher of TechLaw Crossroads, a blog devoted to the examination of the tension between technology, the law and the practice of law. He is also co-author of a book entitled, “Mass Tort Claims Resolution Facilities,” and the 2017 and 2016 editions of the American Bar Association’s “TechReports.” Formerly a member of Frost Brown Todd LLC and the firm’s class action, privacy and mass tort groups, he is a national litigator and advisor who is experienced in developing solutions to complex litigation and corporate problems. He was recently recognized by Best Lawyers In America in the areas of Mass Tort/Class Actions. He now practices with his own firm, embryLaw LLC.

Jest Is For All

BY ARNIE GLICK

“Always remember the first rule of settlement negotiations: If a really good offer is made, don’t wag your tail!”
Computational Lawyering: How Computing, From Google to AI, Has and Will Change Lawyering

BY: MICHAEL LOSAVIO

We work with information and data. We find it, analyze it and present it. Lawyering today weaves traditional methods with increasingly powerful support from computational information and communication technologies (ICT), which we may or may not fully understand. We need to discuss these technologies—from Google Scholar to Artificial Intelligence systems—and examine where they can help us serve our clients and what dangers they may present to the unwary.

One of the KBA’s task forces on the practice of law will talk on this at the 2019 KBA Annual Convention. Amy Cubbage, Steve Embry, Jeff Sallee, Joe Davis, Mark Wettle and Laurie Dudgeon, director of AOC, will address this. And, they would like your thoughts on what you might like addressed.

Let’s consider simple things. And what’s simpler than going to Wikipedia? Although we shouldn’t use it as a source citation to authority, it is a good pointer. In this case, for our topic it points us to “informatics,” the study of the structure and properties of information, then “legal informatics,”1 that study as applied within the legal and juridical realms, and “computational law,”2 which it designates as “a branch of legal informatics concern with the mechanization of legal reasoning (whether done by humans or by computers).”

So, good enough. But before we do the drill down into the citations Wikipedia requires to authenticate its contents, shouldn’t we ask: why do we even need computational law? Isn’t a core aspect of the practice of law about people and relationships?

Yes, but helping those people and strengthening those relationships increasingly requires efficient use of computation in analyzing and producing. We won’t be soon be replaced (I don’t believe…) by “Artificial Intelligence,” yet the ability of AI/machine learning to speed up the things we need to do can very much impact our quality of service. And the cost to our clients in an ever more competitive legal market.
Possible mediated legal services can range from rapid, preliminary decisions on the evaluation and course of resolution to the speedy analysis of facts and law in a matter. And this can all be aggregated both within the firm as well as across global legal activity. This can help us anticipate issues that may impact our clients we could not have otherwise seen so quickly.

This may well flow down to the mainstay of civil life, the solo practitioner, and possibly empower those practitioners in new ways. That empowerment may further equalize services for the public. But what might go wrong? We’ve all seen the explosion in cyber breaches, and law firms are not immune. Confidential client data becomes a source for extortion, both for damage to clients, damage to the firm and ethical problems. And those with escrow accounts are certainly targets of cyber theft. It has become significant enough an issue that special insurance for cyber breaches for the professions, not just large corporations.

This is a huge area, so we invite your thoughts in preparation for the presentation this June. Please email your questions, observations, concerns and thoughts to michael.losavio@louisville.edu with the term "computational lawyering" in the subject line.

THE FUTURE IS SO BRIGHT...

ENDNOTES
The Board of Governors met on Friday, November 9, 2018. Officers and Bar Governors in attendance were, President D. Ballantine, President-Elect S. Smith, Vice President T. Kerrick, Immediate Past President W. Garmer, Young Lawyers Division Chair J. Overmann, and Young Lawyers Division Chair-Elect Z. Horn. Bar Governors 1st District – F. Schrock, V. Sims; 2nd District – M. Cook, J. Meyer; 3rd District M. Dalton; 4th District – A. Cubbage; 5th District – M. Barfield, E. O’Brien; 6th District – G. Sergent, T. McMurtry; and 7th District – R. Blackburn, J. Vincent. Bar Governors H. Mann and B. Simpson were absent.

In Executive Session, the Board of Governors considered nine (9) default disciplinary cases, involving two attorneys, one (1) reinstatement and three (3) restorations 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:

- Russell Ford, on behalf of the Real Property Law Section, presented a legislative proposal regarding remote online notaries and requested permission to present them to the Office of the Secretary of State Notary Task Force with the endorsement of the section in accordance with KBA Legislative Policies and Procedures.
- Kentucky Public Advocate Damon L. Preston delivered a report on Kentucky’s statewide public defense system on behalf of the Department of Public Advocacy.
- Young Lawyers Division (YLD) Chair Jennifer S. Overmann reported YLD will be conducting the Legal Food Frenzy public service project again to raise money and food donations for food pantries across the state. The campaign is scheduled for March 11-18, 2019. In addition, Overmann reported on the following activities of the YLD: joint receptions with the KBA president at each KLU location to continue the efforts for local bar outreach; YLD diversity and inclusion team is working on a Women in Law event, continuing the Road Less Traveled program and YLD liaison to join the various KBA sections.
- Approved the appointment of Margaret E. Keane to the Audit Committee for a three-year term ending on December 1, 2021.
- Approved the reappointment of Judge Denise Clayton of Louisville to the Bar Center Board of Trustees for a three-year term ending on December 1, 2021.
- Approved the appointments of Steve Crawford of Louisville and Tim Wiseman of Lexington to the Joint Local Federal Rules Commission for four-year terms ending on December 31, 2022.
- President Douglas Ballantine reported due to funding cuts from the legislature, there will not be enough funding to continue the KLEO program. In an effort to see this program continue, the Board has appointed a task force, co-chaired by KBA Past Presidents Charles E. “Buzz” English, Jr., and Douglass Farnsley, to examine the best way to resume and continue funding for the program.
- Approved issuing a Show Cause Notice to those bar members who had not paid their dues or were CLE non-compliant.
- Executive Director John D. Meyers reported there are several contested races for the coming year for the Board of Governors. Van Sims of Paducah in the 1st District and Susan Montalvo-Gesser of Owensboro in the 2nd District have no opposition. There is a vacancy in the 3rd District. The vacancy will be filled by a presidential appointment that will be approved by the Board. The following
Contested races are: 4th District - J. Tanner Watkins and Gregory S. Condra; 5th District - Mindy Barfield and John W. Hays; 6th District - Todd McMurtry and Michael Grabhorn and 7th District - Rhonda Jennings Blackburn and Tammy Howard. The election will be online through BallotBox Online. The email will be launched on December 15 and the election will close on January 15, 2019.

- Approved the 2019 KBA Holiday Schedule consistent with the Administrative Office of the Courts.
- Approved the request for the KBA’s Diversity in the Profession Committee to change the name of the committee to “Diversity Equity and Inclusion in the Profession Committee.”
- Approved the ABA conducting an audit of the KBA’s unauthorized practice of law staffing, processes and rules in comparison to other states.
- Meyers reported that the Access to Justice Commission received a grant of approximately $85,000 from the Open Society Foundation for which the KBA provided a letter of support. The grant will enable the Commission to do a baseline study of what legal services are being provided to underserved communities, identifying any gaps that exist and what can be done to fill those gaps. Meyers also reported that the ABA will hold their Equal Justice Conference in Louisville in May 2019.
- Meyers advised the Board that the KBA is waiting to hear from the Kentucky State Retirement System on what the unfunded liability obligation will be for the KBA. The KBA has secured financing in the form of $6 million in reserves and $4 million from the proceeds of the bond sale.
- Meyers provided an update on the HR services provided by Hanna Resource Group.
- Meyers reported that the new CLE database went live on November 1, 2018. The new database will allow members to report credit hours and seek approval of programs online. Sponsors will also be able to submit proposals online.
- Meyers reported that Edward W. Grout of Villa Hills and Katherine L. Stone of Lexington were reappointed for second two-year term to the Inquiry Commission by the Supreme Court. The Supreme Court also appointed Randall Teague of Madisonville to the Inquiry Commission and appointed Ann Toni Kereiakes as chair.

**TO KBA MEMBERS**

Do you have a matter to discuss with the KBA’s Board of Governors?

**BOARD MEETINGS ARE SCHEDULED ON**

May 17-18, 2019  
June 11, 2019

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.

**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 3.035, 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 10 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 3.035 to maintain with the Director a valid email address and shall upon change of that address notify the Director within 10 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](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.**
Justice Debra Hembree Lambert was formally sworn in as a justice of the Supreme Court of Kentucky on Feb. 4 at a ceremony at the state Capitol in Frankfort. Chief Justice of Kentucky John D. Minton Jr. administered the oath of office to the court’s newest justice, who was elected in November to serve the 27 counties of the 3rd Supreme Court District.

Justice Lambert is the first woman from the 3rd District to serve on the Supreme Court and on the Court of Appeals, where she was a judge for four years before being elected to the Supreme Court. She is also the first justice to have served as a Family Court judge.

“I am pleased that a person of Justice Lambert’s capability is joining this court,” Chief Justice Minton said at the investiture. “All of Kentucky—all of us—will benefit from her practical experience in Kentucky’s courtrooms and her pioneering spirit as she joins this court in a pivotal time, as we have the challenge of leading the Judicial Branch through the changing realities of American law. I am looking forward to the contributions you will make as a member of this court.”

Justice Lambert said she was a “proud, authentic mountain girl” and that her upbringing in the small Eastern Kentucky town of Greasy Creek made her passionate about justice and a level playing field for all people.

“I know each case file is more than just a number,” she said. “It contains the livelihood, and perhaps liberty, of real people.”

During the ceremony, Justice Lambert’s fellow justices offered advice and encouragement, with several complimenting her compassion and commenting that it would be positive to have the experience of a Family Court judge on the Supreme Court bench.

“Justice Lambert, you have earned your place on this court,” said Justice Daniel J. Venters (ret.), who Justice Lambert succeeded on the court following his retirement. “You have won the confidence, trust and affection of the people in our region.”

Justice Lambert was surrounded by friends and family at the event, including husband
Joseph Sharpe, sons Joseph Patrick and John Lambert, and stepdaughter Chelsea Sharpe Woolums and her husband, Evan Woolums. Joseph Lambert, who is an attorney, made the motion for her to take the oath of office and John held the Bible for his mother as she took the oath. The justice was initially sworn in prior to taking office Jan. 7.

Other speakers at the ceremony were Court of Appeals Judge Sara Walter Combs and attorney Stephen C. Cawood of Pineville. The Rev. David Gambrel, who is the Lincoln County property valuation administrator, provided the invocation, and Aden Amburgey, a Rockcastle County High School student, sang “My Old Kentucky Home.”

Prior to taking the appellate bench, Justice Lambert was a circuit judge/Family Court division for the 28th Judicial Circuit, composed of Lincoln, Pulaski and Rockcastle counties. She was appointed to that seat in 1999 by then-Governor Paul E. Patton. While a Family Court judge, she created the first Drug Court in the area. She was recognized for her efforts in 2002 when the National Association of Drug Court Professionals inducted her into the Stanley M. Goldstein Drug Court Hall of Fame. She also volunteered in area middle schools, working 10 weeks each semester with at-risk children and families in an effort to help them avoid truancy charges. Justice Lambert volunteers as a certified suicide prevention trainer, training others to properly intervene to prevent suicide.

Justice Lambert grew up in Bell County. She earned a bachelor’s degree from Eastern Kentucky University, where she graduated with distinction. She went on to graduate from the University of Kentucky College of Law in 1989. After completing a juris doctor, Justice Lambert practiced law in Mount Vernon. During that time, she also served as an assistant commonwealth’s attorney and city attorney for the city of Mount Vernon. In 2007, Justice Lambert resumed her private practice of law in Mount Vernon until her election to the Court of Appeals in 2014.
KENTUCKY BAR ASSOCIATION
STATEMENTS OF FINANCIAL POSITION
June 30,

Unaudited*

<table>
<thead>
<tr>
<th>ASSETS</th>
<th>2018</th>
<th>2017</th>
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</thead>
<tbody>
<tr>
<td>Current assets</td>
<td></td>
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<tr>
<td>Cash</td>
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<tr>
<td>Property, building and equipment, net</td>
<td>3,364,615</td>
<td>3,077,684</td>
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<tr>
<td>Total net property and equipment</td>
<td>3,364,615</td>
<td>3,077,684</td>
</tr>
<tr>
<td>Total assets</td>
<td>$15,764,875</td>
<td>$14,244,368</td>
</tr>
</tbody>
</table>

| LIABILITIES AND NET ASSETS | | |
|-----------------------------|-------------|
| Current liabilities |           |            |
| Accounts payable | $672,587   | $208,223   |
| Due to affiliate | -           | 422        |
| Accrued expenses | 12,893,422 | 336,641    |
| Total current liabilities | 13,566,009 | 685,286    |
| Deferred revenue | 11,179      | 12,330     |
| Total liabilities | 13,577,188 | 717,616    |
| Net assets |           |            |
| Unrestricted |           |            |
| Board designated | 320,279    | 285,471    |
| Undesignated | 1,867,408  | 13,241,281 |
| Total net assets | 2,187,687  | 13,526,752 |
| Total liabilities and net assets | $15,764,875 | $14,244,368 |

*Pursuant to SCR 3.120(8), there shall be an annual audit of the Kentucky Bar Association. The Audited Financial Statements and Report Can be found on the website at www.kybar.org/annualaudit*
William Roberts is District Judge for Kentucky’s 21st Judicial District consisting of Bath, Menifee, Montgomery, and Rowan Counties. Judge Roberts has waived formal proceedings and has agreed to entry of this Order.

During a preliminary investigation, the Commission received information that Judge Roberts engaged in the following conduct: He was involved in a vehicular accident on March 10, 2018 in Rowan County, Kentucky and then left the scene of the accident in violation of KRS § 189.580.

The Commission concludes that Judge Roberts’ conduct violates SCR 4.300, the Code of Judicial Conduct, Canon 1 by failing to maintain high standards of conduct and uphold the integrity and independence of the judiciary; Canon 2A by failing to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary; and Canon 3B(2) by failing to be faithful to the law.

Therefore, in light of Judge Roberts’ conduct, he is hereby suspended from his duties without pay for a period of seven (7) consecutive days beginning February 15, 2019 and ending February 22, 2019. During the suspension, Judge Roberts shall not use his judicial office at the Rowan County Justice Center, nor any other judicial offices he may have in other courthouses. Judge Roberts shall also forbear from using his secure courthouse access pass and shall turn in any access passes, keys, or credentials to court security while the suspension is in effect.

In entering this Order with the agreement of Judge Roberts, the Commission has duly considered that he fully cooperated in the Commission’s investigation and has taken appropriate steps to ensure that the offending conduct will not be repeated.

SO ORDERED this 17th day of January, 2019

/s/
STEPHEN D. WOLNITZEK, CHAIR

Have Seen and Agreed:

/s/   /s/
Anna Whites, Esq.   Jeffrey C. Mando, Esq.
LAW OFFICE OF ANNA WHITES   ADAMS, STEPNER,
327 Logan Street   WOLTERMANN & DUSING, PLLC
Frankfort, KY 40601   40 West Pike Street
annawhites@aol.com   Covington, KY 41011

Attorney for Hon. William W. Roberts   jmando@aswdlaw.com

/s/
Hon. William W. Roberts
Rowan County Judicial Center
700 West Main Street
Morehead, KY 40351

Judge Karen Thomas recused from any consideration of this matter.
SUBJECT: Disclosure of Information on Social Media

QUESTION #1: In a blog or other social media, may a lawyer reveal information relating to the representation of a current or former client without the client’s consent?

ANSWER: No

AUTHORITY: SCR 3.130 (1.9 (c)(2)) and comment 16; (1.6(a)) and comment 4; KBA E-253; Hudson, Client Consent is Key, May 2018 ABA Journal, p. 24; In re Smith, 991 N.E.2d 106 (Ind. 2013); Office of Lawyer Regulation v. Pershek, 798 N.W.2d 879 (Wis. 2011);

QUESTION #2: May an attorney reveal the identity of a current or former client in a blog or other social media without the client’s consent?

ANSWER: No. See opinion

AUTHORITY: KBA E-253.

QUESTION #3: Is there an exception to (1) or (2) for information contained in a public record?

ANSWER: No. See opinion.

AUTHORITY: SCR 3.130(1.6(a)) and comment 4; KBA E-253; Hudson, Client Consent is Key, May 2018 ABA Journal, p. 24.

DISCUSSION:
SCR 3.130(1.6(a)) defines confidential information as “information relating to the representation of a client,” a broader definition than is found in the ABA Model Code of Professional Responsibility and the Restatement of the Law Governing Lawyers. The Model Code (DR 4-101) and the Restatement (sec. 60) limit lawyers’ duty of non-disclosure to communications protected by the attorney-client privilege and information that might work to clients’ disadvantage. Rule 1.6(a) of the ABA Model Rules of Professional Conduct, on which SCR 3.130(1.6)(a) is based, is not so limited. Unless one of the exceptions in Rule 1.6(b) applies, Rule 1.6(a) requires a lawyer to obtain client consent before revealing any information relating to the client’s representation.

In KBA E-253, applying DR 4-101(C) of the Model Code of Professional Responsibility, the Committee opined that, absent consent, a lawyer may reveal names and addresses of clients only: 1) where the information is in the public record as a result of the attorney’s representation; or 2) where the circumstances make it obvious that the client does not expect confidentiality as to the existence of the attorney client relationship, or 3) where the client has specifically authorized in writing the release of the information.

In KBA E-253, the Committee opined that a lawyer may reveal a client’s name and address only if it is obvious that the client does not expect name and address to be confidential. Clients’ names and addresses should be presumed to be confidential. While decided under the old Code, KBA E-253 is sensible and, we believe, consistent with prevailing practice.

Without client consent, a lawyer may reveal names and addresses (and the nature of the representation) where necessary to facilitate a firm merger or lateral transfer (KBA E-443), and there may be other situations in which a lawyer should be permitted to reveal client information. As examples, in comment h to Section 60 of the Restatement, the American Law Institute cited cooperating with other lawyers with similar issues, for example personal injury lawyers with products liability claims, and “cooperating with reasonable efforts to obtain information about clients and law practice for public purposes such as historical research,” for example a biography of a deceased client.

However, there is no justification for revealing information, without consent, about past or present clients in a blog or other social media. In Office of Lawyer Regulation v. Pershek, 798 N.W.2d 879 (Wis. 2011), the lawyer was suspended for blogging about her clients; in In re Smith, 991 N.E.2d 106 (Ind. 2013), the lawyer was disbarred for writing a book about a former client. The disciplinary cases involve negative disclosures, but the rule against disclosure applies to all information, whether positive, neutral or negative.
Lawyers should be careful in using thinly disguised hypotheticals. “A violation of Rule 1.6(a) is not avoided by describing public commentary as a ‘hypothetical’ if there is a reasonable likelihood that a third party may ascertain the identity or situation of the client from the facts set forth in the hypothetical.” ABA Formal Op. 480.

A lawyer’s duty of confidentiality extends to both current and former clients. SCR 3.130(1.9)(c)(2) requires that a lawyer not reveal information relating to the lawyer’s representation of a client except as the Rules would permit or require with respect to a client. Hence, a lawyer may not reveal confidential client information even though such information may be contained in a public record. However, a lawyer may use information relating to the representation of a former client if the information has become “generally known.” See SCR 3.130(1.9)(c)(1) and ABA Formal Opinion 479.

NOTE TO READER
This ethics opinion has been formally adopted by the Board of Governors of the Kentucky Bar Association under the provisions of Kentucky Supreme Court Rule 3.530. This Rule provides that formal opinions are advisory only.
KYLAP HOSTS LAWYERS IN RECOVERY MEETINGS IN NORTHERN K Y AND LEXINGTON

The Kentucky Lawyer Assistance Program offers weekly open recovery meetings for lawyers, law students and judges in Northern Kentucky and Lexington. The Northern Kentucky Lawyers in Recovery meeting is held 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

You can now support the KYLAP Foundation, Inc., through AmazonSmile!

amazonSmile is a website operated by Amazon with the same products, prices, and shopping features as Amazon.com. The difference is that when you shop on AmazonSmile, the AmazonSmile Foundation will donate 0.5% of the purchase price of eligible products to the Kentucky Lawyer Assistance Program, Foundation, Inc., when you make it the charitable organization of your choice.

Visit www.amazon.com/smile, select Kentucky Lawyer Assistance Program Foundation, Inc., and start shopping now!

Contact KYLAP DIRECTOR YVETTE HOURIGAN for more information about the KYLAP FOUNDATION, INC., FORGIVABLE LOAN PROGRAM.
call: (502) 226-9373
email: yhourigan@kylap.org
To destabilize a government and sow societal discord, Shakespeare instructs us to first kill all the lawyers. This oft-quoted line from Henry VI Part 2 hits a bit close to home for most of us, but the point is well-taken. Regardless of our political beliefs, legal philosophy, background, or ideology, our shared profession is rooted in a core, foundational respect for the rule of law. Without lawyers, there is no one to ensure respect for the rule of law, to protect an independent judiciary, or to secure fundamental human rights. The Kentucky Bar Foundation seeks to fulfill this duty through its annual grants to agencies promoting justice and law-related education for Kentuckians.

A key focus of our grant-giving in 2018 was on organizations that educate citizens about the rule of law and our democratic system. A large grant was awarded to the Kentucky Youth Assembly, run by the YMCA Youth Association. This three-day experiential learning program affords middle and high school students the opportunity to travel to Frankfort as part of a model state government. The students represent and actively participate in all three branches of government, from drafting bills, to lobbying for initiatives, to defending cases on appeal before a mock judiciary. The diversity displayed at KYA conferences is astounding—students come from every part of the Commonwealth, representing a multitude of races, socio-economic backgrounds, religions, ethnicities, even languages. It is hard to imagine a program that more successfully immerses students in our democratic process, or that instills a better understanding for the rule of law.

Similar organizations like the Kentucky High School Mock Trial Association and Central High School Law and Government Magnet Program also received KBF grants in 2018 to assist in their efforts to promote civil discourse and an understanding of the rule of law. Participating students actively engage in our legal system through mock trial experiences and programs led by University of Louisville law students. The high school students leave not only with a better understanding of the legal system, but more information and foundation to become active future participants in the democratic process. The KBF’s mission extends beyond our youth to the newest members of our community. The International Center of Bowling Green helps resettle refugees so they may fully integrate and thrive in the United States. A key facet of successful assimilation is an understanding of our government and a desire to participate in our democracy. Through a grant from the KBF, The International Center is able to educate recent immigrants about our democratic system, and enhance compliance with state and federal laws.

The KBF is not able to support these and other impactful organizations in Kentucky without the support and participation of the Bar. As a charitable organization independent of the Kentucky Bar Association, we rely solely on the generosity of Kentucky lawyers. There are many ways to join the KBF in its mission—by becoming a KBF Fellow, by making a sustainer contribution on your annual dues statement, or by making a charitable donation. In addition, you can assist us by identifying organizations in your area that might benefit from a KBF grant and directing them to the KBF website. If you aren’t already familiar with the work and mission of the KBF, I encourage you to visit our website and learn more about the transformative power of a KBF grant.

ABOUT THE AUTHOR

REBEKKAH BRAVO RECHTER currently serves as the president of the Kentucky Bar Foundation. She has been a member of the Kentucky Workers’ Compensation Board since 2013.
By the time you are reading this article, the KBA Annual Convention will be just around the corner. The Galt House in downtown Louisville is the host for this year’s gathering which promises a wide-ranging lineup of interesting spotlight speakers. For more detail on some of these speakers, see pages 5-13 in this issue. The final tally includes nearly 70 distinct CLE programs. As always, the convention bill includes plenty of opportunities for ethics credits (8.0 this year) and updates on the standard staples of most practices such as family law, probate, bankruptcy, criminal defense, and real estate. If you attend all of the available programming, you could earn 18.5 credits, more than enough to satisfy the annual obligation. The cost of convention without early bird registration is less than $400, so that comes out to about 20 bucks per credit hour—A BARGAIN!

Since the convention is in the River City, there are plenty of things to see and do outside of CLE. The Louisville Bats are in town all three nights of convention with games against Pawtucket. Along those same lines, every true Kentucky lawyer needs a small, personalized wooden bat, so a visit to the Louisville Slugger Museum is a must. The Muhammad Ali Center features lots of great boxing memorabilia, exhibits, and video clips, as well as an art gallery on the third floor. Thursday night June 13th beginning at 5:00 pm, enjoy live thoroughbred racing at historic Churchill Downs with general admission tickets only five dollars. Finally, several different bourbon distilleries are just a short walk or drive away from downtown.

On top of all that, the convention is always a great place to socialize, reconnect, and network with colleagues from all corners of the state. And if you still aren’t convinced, don’t forget that the Supreme Court Rules Hearing is thrown in for free! So, on behalf of the rest of the CLE Commission and our fearless leader, Mary Beth Cutter, we hope to see you there in June!

JASON F. DARNALL, serves as chair of the CLE Commission. Darnall, a native of Marshall County, graduated from the University of Kentucky and graduated magna cum laude from Salmon P. Chase College of Law. He was elected Marshall County Attorney in November 2018 and currently serves in that capacity full time. Prior to taking elected office, Darnall served as assistant county attorney for 14 years and maintained a private law practice. He was first appointed to the CLE Commission in June of 2015 and has since served on numerous CLE planning and organizing committees.
The Kentucky Bar Association Continuing Legal Education Commission would like to extend our congratulations to the members who have received the 2018 CLE Award and the 2018 CLE Renewal Award.

The lists will appear in the April and May editions of our electronic newsletter, eNews, and will be published on our website. To see a complete list of award winners, please visit https://www.kybar.org/page/cleawards.

The CLE Commission applauds these members for their efforts to improve the legal profession through continuing legal education.

When you need to settle your case, don’t settle on your mediator.

The Sturgill Turner Mediation Center is equipped with experienced, AOC certified mediators and superior conference facilities, allowing us to provide prompt, quality mediation services. Located in Lexington and available for mediations statewide. Learn more about mediators Hank Jones, Pat Moloney and Steve Barker at STURGILLTURNERMEDIATIONCENTER.COM.
KBA ONLINE PROGRAMS

The KBA Online Catalog offers a great way to take CLE whenever and wherever you have access to the internet! Seminars featuring our highest rated speakers are delivered right to your desktop in streaming audio and video formats.

Visit kybar.inreachce.com/ for the latest program additions and ordering information. The catalog also includes audio programs you can download directly to your iPod/ mp3 player, for playback at your convenience.

MARK YOUR CALENDARS!

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 will become available on our website this summer. We look forward to seeing you in the fall!

2019 KENTUCKY LAW UPDATE DATES & LOCATIONS

OWENSBORO
OWENSBORO CONVENTION CENTER
August 29-30 (TH/F)

COVINGTON
NORTHERN KENTUCKY CONVENTION CENTER
September 12-13 (TH/F)

BOWLING GREEN
SLOAN CONVENTION CENTER
September 26-27 (TH/F)

PADUCAH
JULIAN CARROLL CONVENTION CENTER
October 2-3 (W/TH)

PIKEVILLE*
EASTERN KY EXPO CENTER
October 10-11 (TH/F)

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

LONDON
LONDON COMMUNITY CENTER
October 31 – Nov. 1 (TH/F)

ASHLAND
BELLEFONTE PAVILION
November 7-8 (TH/F)

LEXINGTON
LEXINGTON CONVENTION CENTER
December 5-6 (TH/F)

*TENTATIVE

LOOKING FOR UPCOMING KBA ACCREDITED CLE EVENTS?

LOOK NO FURTHER...CHECK OUT HTTP://WEB.KYBAR.ORG/CLESEARCH/LISTPROGRAMS.ASPX

This easy to use search engine contains up to date information on CLE events that have been accredited by the Kentucky Bar Association Continuing Legal Education Commission.

Users can search by program date, name or sponsor for information about future and past events. Program listings include sponsor contact information, approved CLE and ethics credits, and KBA activity codes for filling out the certificate of attendance (Form #3).

Programs are approved and added in the order in which they are received. It may take up to two weeks for processing of accreditation applications. If an upcoming or past event is not listed in the database, check with the program sponsor regarding the status of the accreditation application.

CHECK OUT THE KBA’S FACEBOOK PAGE BY SEARCHING KENTUCKY BAR ASSOCIATION.

MAKE SURE TO LIKE THE PAGE WHILE YOU ARE THERE!
We would like to thank those individuals and organizations whose contribution of time, expertise and funding helped make the January 2019 New Lawyer Program a success.

SPONSORS AND EXHIBITORS:

Kentucky Bar Association

Legal Aid of the Bluegrass

SPEAKERS, FACILITATORS AND CONTRIBUTING AUTHORS:

Roula Allouch
Eric E. Ashley
Ashleigh N. Bailey
Douglas C. Ballantine
Ruth H. Baxter
Kelli E. Brown
Ashley L. Chilton
Shannon H. Church
Colby B. Cowherd
Joshua B. Crabtree
Melissa H. Doss
Phillip H. Doty
Robert L. Elliott
Judge Douglas J. Grothaus
M. Andrew Haile
Demetrious O. Holloway
P. Yvette Hourigan
Thomas L. Lockridge
LaToi D. Mayo
Mark A. Ogle
Jennifer S. Overmann
Damon L. Preston
Julie R. Pugh
Samantha K. Rittgers
Richard G. Schmalzl
David N. Shearon
J. Stephen Smith
Judge Patricia M. Summe
Aaron W. Sutherland
Emily E. Walters

Thank you for supporting the New Lawyer Program.

For more information, visit kybar.org/page/nlpdatesandlocations

2019 KBA Annual Convention
Details on Page 5
IN MEMORIAM

LARRY DOUGLAS GARMON, 79, a native of Barren County, died at home on Jan. 20, 2019, after a brief illness. Born on May 3, 1939, in Glasgow, Ky., he was the son of the late Drury Valiant and Emily Gladys (Jolly) Garmon. Garmon was a life-long member of the Glasgow Baptist Church. He was a 1958 graduate of Glasgow High School and received his undergraduate degree in 1962 from the University of Kentucky and his law degree from the University of Kentucky College of Law in 1965. While at UK, he was member of Order of Coif and Phi Alpha Delta, as well as the Board of Editors of the Kentucky Law Journal, 1964-65. After completing his education in 1965, Garmon returned to Glasgow to enter the private practice of law with his father-in-law, Cecil C. Wilson, in the firm Wilson, Baker, Herbert & Garmon. He practiced law in Glasgow for more than 53 years, the last 30 of those years at Garmon & Goodman with his longtime law partner Charles A. Goodman, III. During that time, he served in several community positions, including as city prosecutor from 1970 to 1974 and as general counsel to the Glasgow-Barren County Chamber of Commerce for many years. He was named “Outstanding Citizen of the Year” by the Chamber in 1998. Mr. Garmon was known for his strong work ethic, his spirit of generosity and his commitment to his community.

The preceding memoriam for Larry Garmon is based upon information obtained from the Courier-Journal, which published the obituary on Jan. 23, 2019. To access the obituary in its entirety, visit: https://www.legacy.com/obituaries/louisville/obituary.aspx?n=larry-garmon&pid=191319456&fhid=16631.

NAME | CITY | STATE | DATE DECEASED
--- | --- | --- | ---
Patrick Thomas Alcorn | Louisville | KY | December 13, 2018
James G. Apple | Alexandria | VA | January 22, 2019
Charles E. Borie | Santa Rose Beach | FL | February 22, 2018
Robert Mark Brooks | Louisville | KY | January 21, 2019
Chester P. Care | Frankfort | KY | December 30, 2018
H. T. Carmichael | Lexington | VA | November 30, 2018
William H. Claxton | Morristown | NJ | January 27, 2019
Lothair Eugene Dickinson | Pinehurst | NC | March 14, 2017
William C. Fust | Louisville | KY | January 10, 2019
Paul Wesley Hoffman | Versailles | KY | December 11, 2018
Hobert C. Johnson | Pikeville | KY | February 1, 2018
John M. Keith Jr. | Versailles | KY | January 25, 2019
Ephraim K. Lawrence | Louisville | KY | December 27, 2018
Bernard S. Lewis | Louisville | KY | January 14, 2019
Wallis H. Manske | Loveland | CO | December 9, 2018
Gordon W. Moss | Lexington | KY | December 3, 2018
James E. Rogers Jr. | Charlotte | NC | December 17, 2018
M. Brooks Senn | Louisville | KY | September 28, 2018
Thomas L. Waller | Shepherdsville | KY | January 9, 2019
Joseph Sewell Yates Jr. | New Castle | KY | December 16, 2018
JAMES G. APPLE, 81, passed away peacefully on Jan. 22, 2019 with his children by his side after a courageous battle with heart disease. He was born in Huntington, W. Va., on Sept. 20, 1937, to Bernice Stewart and David French Apple Sr. He graduated from the University of Virginia with Honors, was a member of Phi Delta Theta Fraternity, the Raven Society, The Z Society, Omicron Delta Kappa, and the Editor-In-Chief of The Cavalier Daily. After college, he attended the University of Virginia School of Law, serving as managing editor of the Virginia Law Review and a member of the Order of the Coif. He had a successful law career with Stites & Harbison. After 20-years with the firm, he attended the University of Edinburgh, earning a Master of Laws (LL.M.) degree in international and comparative law. He then joined the Federal Judicial Center (FJC) in Washington, D.C., the education, training, research and development arm of the federal court system in the U.S., as special assistant and counsel to the director. After a decade with the FJC, he helped found and was president of the International Judicial Academy, until his semi-retirement in 2017. He was a member of the Kentucky, Louisville, Virginia and American Bar associations, having founded the Young Lawyers Section with the ABA.

The preceding memoriam for James G. Apple is based upon information obtained from the Courier-Journal, which published the obituary from Jan. 25 to Jan. 27, 2019. To access the obituary in its entirety, visit: https://www.legacy.com/obituaries/louisville/obituary.aspx?n=james-g-apple&pid=191351820&fhid=4753.

ROBERT M. BROOKS, 63, of Louisville, passed away unexpectedly on Monday, Jan. 21, 2019, at St. Elizabeth Hospital in Covington, Ky. He was born Jan. 20, 1956, in Louisville, a son to the late Walter Brooks, Jr., and Donnie Frances Willian Brooks. Robert attended the University of Kentucky, receiving his Bachelor’s degree in 1978 and graduated with a Juris Doctorate in 1981. Upon graduating, he joined Boehl Stopher & Graves, LLP, where he practiced in areas of civil litigation for over 37 years with an emphasis on commercial and construction law. He was a member of the Louisville, Kentucky, Louisville, Virginia and American Bar associations, having founded the Young Lawyers Section with the ABA.

The preceding memoriam for Robert M. Brooks is based upon information obtained from the Courier-Journal, which published the obituary on Jan. 25, 2019. To access the obituary in its entirety, visit: https://www.legacy.com/obituaries/louisville/obituary.aspx?n=robert-m-brooks&pid=191352502&fhid=4746.

Kentucky Bar Association member and Duke Energy’s former Chairman and CEO JIM ROGERS died unexpectedly on December 17, 2018. He was 71 years old.

To read more about the life and legacy of Mr. Rogers, visit: https://www.legacy.com/obituaries/nky/obituary.aspx?n=james-e-rogers&pid=191155754&fhid=40084.

WILLIAM CARL FUST, Sr., 89, a curious mind, sage advisor, generous benefactor, serious thinker, optimist, and model of equanimity died on Jan. 10, 2019. Carl was born on Oct. 3, 1929, in Louisville, Ky. Working as a paper carrier, and eventual manager of other carriers, for eight years allowed him to pay for his own tuition at St. Xavier High School, from which he graduated in 1948. His hard work, along with winning the Leroy Highbaugh six-year scholarship for undergraduate and law school, allowed him to earn his undergraduate degree from UofL in 1952. He entered the Naval Officer Candidate School in 1950 while an undergraduate, and served two years of active duty during the Korean conflict from 1952-54. He served an additional 20 years in the Naval Reserve, and retired as a Commander. Upon his return to Louisville in 1954, he completed law school at UofL in 1956, with the combination of the Highbaugh scholarship and the GI Bill, and thereafter embarked on a successful legal career of more than 40 years.

The preceding memoriam William C. Fust, Sr., is based upon information obtained from the Courier-Journal, which published the obituary on Jan. 13, 2019. To access the obituary in its entirety, visit: https://www.legacy.com/obituaries/louisville/obituary.aspx?n=william-c-fust&pid=191244385&fhid=4746.

ELIZABETH ANN HORWITZ, age 67, of Cincinnati, Ohio, passed away peacefully at home on November 13, surrounded by her family. Horwitz was preceded in death by her husband of 33 years, Bob Seaver, and her parents Eva and Israel Horwitz. She is survived by her children Kim Seaver (John Mehnert), Eric (Gwen) Seaver, and Kristen Seaver, and her grandchildren Jared and Alyssa Mehnert and Annika, Julia and Ella Seaver. She also leaves behind her younger brothers Tom (Nancy) Horwitz and Jim Horwitz (Renee Gottliebson), and nephews and nieces Josh, Katie, Brian, Ian, Austin and Abby Horwitz.

After graduating from the University of Cincinnati with a degree in Urban Planning, she worked at the Northern Kentucky Planning Commission. While working full time, she earned her law degree from Northern Kentucky University Chase College of Law. She started her law career in Chicago, but when Bob’s charms proved too great, they married in Scotland and settled in Cincinnati. She was the first woman attorney at Cors & Bassett in Cincinnati, too great, they married in Scotland and settled in Cincinnati. She started her law career in Chicago, but when Bob’s charms proved too great, they married in Scotland and settled in Cincinnati. She was the first woman attorney at Cors & Bassett in Cincinnati, where she practiced law for 22 years and was a mentor to many. She spent the remainder of her law career at Wood & Lamping.

The preceding memoriam for Elizabeth Horwitz is based upon information obtained from the Kentucky Enquirer, which published the obituary on Nov. 18, 2018. To access the obituary in its entirety, visit: https://www.legacy.com/obituaries/nky/obituary.aspx?n=elizabeth-horwitz&pid=190758955&fhid=39846.
The Construction Lawyers Society of America (CLSA) has elected Stites & Harbison, PLLC, attorney Cassidy Rosenthal as a fellow in its organization. The CLSA is an invitation-only international honorary society composed of preeminent lawyers practicing in all areas of construction law. Membership is limited to 1,200 fellows. Rosenthal is a member (partner) of Stites & Harbison and based in the Lexington office where she is the Lexington office executive member. Her practice focuses on advising clients throughout all phases of construction projects including planning, contract drafting and negotiation, and project administration. Rosenthal serves on the Board of Directors of Commerce Lexington and the Downtown Lexington Corporation.

Graydon is proud to announce the addition of two attorneys to the Downtown Cincinnati and Northern Kentucky offices. Frank M. Schultz joins the firm’s litigation group and will work out of the firm’s Northern Kentucky office. Shutlz’s practice consists primarily of commercial and intellectual property litigation. He earned his J.D. from the University of Notre Dame Law School, and his B.A. in political science from Miami University. Loren V. Wolff joins the firm’s real estate group and will work out of the firm’s Northern Kentucky office. Wolff’s practice focuses on assisting companies and individuals on the acquisition, sale, and development of their commercial and residential properties. She earned her J.D. from The John Marshall Law School, and her B.A. in political science and history from Indiana University.

Embry Merritt Shaffar Womack, PLLC, announces the addition of James “Jim” Fenwick and his 19 years of legal experience to its growing practice. Fenwick joins the firm as of counsel in the Lexington office. He will concentrate his practice in the areas of workers’ compensation, estate planning, and probate. He is a graduate of Miami of Ohio University and the University of Louisville Louis D. Brandeis School of Law.

Dinsmore & Shohl LLP has elected attorney Graham N. Morgan to their board of directors. Morgan is a partner in the firm’s Lexington office and focuses his practice on complex business litigation. Morgan represents corporations, financial institutions, and individuals in breach of fiduciary duty matters, shareholder disputes, breach of contract claims, mineral and energy litigation, and class actions. He also advises clients in non-litigation matters, such as the negotiation and preparation of business contracts and due diligence for business ventures.
The law firm of Ackerson & Yann, PLLC, is pleased to announce that it has moved to its new downtown Louisville location. The firm’s offices are now located at 734 West Main Street, Suite 200, Louisville, KY 40202. The firm’s telephone and fax numbers, email addresses and website, www.ackersonlegal.com, remain the same.

Wyatt, Tarrant & Combs, LLP, is pleased to announce that Mike Fine and Tad Myre received the 2019 Nonprofit Advocacy Partner Award from the Kentucky Nonprofit Network (“KNN”). The award recognized Fine and Myre for their work in helping KNN clarify language and educational resources relating to new legislation governing Kentucky’s nonprofit organizations. Fine is a partner in the firm’s health care service team. His practice spans the full range of nonprofit and tax-exempt organizations’ legal issues, advising public charities, private foundations, boards, and donors. Myre concentrates his practice in the areas of health care, nonprofit organizations, taxation and general business laws. He is currently an adjunct professor of health law at the University of Louisville Louis D. Brandeis School of Law. He served as chair of the KBA Health Law Section and as president and board member of the Kentucky Academy of Hospital Attorneys.

Kopka Pinkus Dolin welcomes Kristin M. Lomond as a senior attorney to their Louisville office. Lomond is an experienced litigator having represented clients in a variety of insurance defense matters, including appeals, nursing home defense, insurance coverage disputes, as well as bad faith claims. She represents 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, and workers’ compensation.

O’Bryan, Brown & Toner is pleased to announce that its senior partner, Gerald R. Toner, was recently sworn in as the 2019 Louisville Bar Association president. Toner has spent his 40-year career focused on medical malpractice defense and general casualty insurance matters. Previously, he served on the National Board of Directors of DRI (The Voice of the Defense Bar) as well as Kentucky Defense Counsel. He currently serves on the board of the Kentucky Pediatric Foundation, the U of L Pediatric Endowment Fund and has, for over 35 years, served on the Communications and Publications Committee of the Kentucky Bar Association (KBA). Toner initiated the Kentucky Oral History project of the KBA and was editor-in-chief of Kentucky Lawyers Speak—the published volume culminating the Oral History Project. Toner graduated from Harvard College and Vanderbilt University Law School.

Stites & Harbison, PLLC, recently announced two attorneys have been promoted within the law firm effective January 2019. The new member (partner) is Ashley Owens Hopkins from the Lexington office—employment law service group. Hopkins is an experienced litigator and counselor on employment law issues, in addition to years of practice in tort and insurance defense. She has trial experience in employment cases involving discrimination and retaliation under several federal statutes, including the ADA, FMLA and FLSA. The new counsel is J. Brittany Cross Carlson from the Louisville, Ky., office—torts & insurance practice service group. Carlson’s practice focuses on drug and medical device litigation, product liability, medical malpractice and personal injury. She defends multiple international medical device and product manufacturers in federal and state courts across the nation, and acts as Kentucky counsel for a national retailer, handling personal injury, contract and property-related litigation.

Blank Rome LLP is pleased to announce that William L. Purtell has joined the firm’s Cincinnati office as an associate in the consumer finance litigation group. He represents mortgage lenders in all aspects of trial and appellate litigation, both residential and commercial. As a member of the consumer financial services team, he regularly represents lenders and financial institutions in a variety of consumer finance litigation matters, including disputes under TILA, RESPA, FCRA, ECOA, FDCPA, state law UDAP claims, and a variety of common law claims. Admitted to practice in Ohio and Kentucky, Purtell received his J.D. from the University of Cincinnati College of Law and his B.A. in history from Thomas More College.

Louisville Mayor Greg Fischer has appointed Donald Vish to a seat on the board of the Louisville Metro Criminal Justice Commission effective Jan. 1, 2019. The mission of the Criminal Justice Commission is to improve the administration of justice and promote public safety through planning, research, education, and system-wide coordination of criminal justice and public safety initiatives.
Bell, Orr, Ayers & Moore, P.S.C., is pleased to announce that Lucas Humble has been named as a shareholder. Humble joined the firm in 2012 and since that time has focused his practice on corporate law matters, including initial entity organization and corporate mergers and acquisitions. He graduated Order of the Coif from University of Kentucky College of Law in 2012, where he served on the Kentucky Law Journal. Prior to law school, he attended Western Kentucky University, obtaining his bachelor's degree in 2009. Humble has served on the boards of various nonprofit entities and presently serves as a director and the vice president of the Friends of Lost River.

Clark Law Office, Inc., is pleased to announce that Ed Clark’s play about gun law reform, SHAME BOMB, has been selected for production by Antagonist Productions. The play will premiere at the Stagebox Theatre in Lexington, Ky., on April 19-21 and April 25-28. The play has also been selected for a staged reading at the Fifth Third Theater in Cincinnati on April 16 by the Cincinnati Playwrights Initiative. Clark represents victims of gun violence as a part of his personal injury practice. He is a graduate of the University of Kentucky College of Law and a member of the Kentucky Justice Association. He also has a Master of Arts in literary studies from the University of Iowa. SHAME BOMB is his first play.

Kopka Pinkus Dolin welcomes Heather M. McCollum as a senior attorney to their Lexington office. McCollum has a diverse background in civil defense litigation, insurance coverage disputes and bad faith litigation, premises liability, fraud and arson investigations, mineral liability, construction claims, commercial trucking, professional liability, and personal injury. She has represented clients in large loss and complex civil cases in state, federal and appellate courts. She represents 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, and workers’ compensation.

Wyatt, Tarrant & Combs, LLP, is pleased to announce that four of its lawyers have been recognized in the 2019 edition of Benchmark Litigation as “Litigation Stars” and one as a “Future Star” in Kentucky. Recognition is based on in-depth interviews with litigators and their clients to identify leading litigators and firms. Wyatt honorees include the following from Kentucky: Litigation Stars: Byron Leet: general commercial; Cornelius Coryell: general commercial – product liability; Virginia Hamilton Snell: appellate – general commercial – health care – labor & employment; and K. Gregory Haynes: general commercial – securities. Future Star: Christopher Brooker.

LaToi Mayo, a shareholder in the Lexington office of Littler, has been appointed to the 2019 Commerce Lexington (CLX) Board of Directors. CLX seeks to promote economic development, job creation and overall business growth in Lexington and its neighboring communities. Mayo has advised, counseled...
and defended employers in regard to labor and employment matters for over 18 years. Mayo routinely assists employers with respect to diversity, discrimination and leave issues. She works frequently with hospitality and service-related groups, manufacturers, healthcare facilities, financial institutions and local city governments. Mayo earned her J.D. and her B.A., cum laude, from the University of Kentucky.

John D. Ryan was recently named deputy counsel for Stock Yards Bank. He previously managed credit administration for Stock Yards. His previous positions include director of development with Churchill Downs and a member of the Capital Markets Group at Stites & Harbison, PLLC. He has a B.B.A. and M.B.A from the University of Kentucky and a J.D. from Brandeis School of Law. Ryan is also a member of the CLE Faculty at the University of Kentucky where he serves as chair of the annual Financial Institutions Law Conference.

Jessica Winters Law Office LLC has changed its name to The Winters Law Group LLC. Attorneys Anwar Malik, and Lisa von Wiegen have associated with the firm as of-counsel.

Gwin Steinmetz & Baird PLLC is pleased to announce that J. Maxwell Gosman has joined the firm as an associate. Gosman focuses his practice in insurance defense litigation.

Graf Coyne Co., LPA, is pleased to announce that Kacey Marr Vaught has been named as a partner. Vaught joined the firm in 2014 after serving as a law clerk for the Honorable Eugene E. Siler, Jr., United States Court of Appeals for the Sixth Circuit. Vaught concentrates her practice on tax and estate planning, trust and estate administration, and trust and estate litigation. Vaught is licensed to practice in Kentucky and Ohio.

Reminger Co., LPA, is pleased to announce that Mathew A. Taulbee and Clarke D. Cotton joined their Fort Mitchell, Ky., office. Taulbee focuses his practice primarily in the areas of trucking and commercial transportation, products liability, and insurance defense litigation. He has nearly 15 years of experience of litigation involving creditors' rights, real estate matters, appellate practice, and other areas of law in Ohio, Kentucky, and Michigan. Taulbee graduated from the Ohio Northern University Claude W. Pettit College of Law. He is a member of the Northern Kentucky Bar Association. Cotton focuses his practice in the areas of workers' compensation, general liability, and trucking and commercial transportation. Cotton originally joined Reminger in 2016 as a law clerk, where he assisted in a number of practice groups. Cotton graduated from the University of Cincinnati College of Law where he served as an articles editor for the University of Cincinnati Law Review and published two articles. He is a member of the Kentucky Bar Association Young Lawyers Division and the Northern Kentucky Bar Association.

The Law Office of M. Erin Wilkins, LLC, in Newport, Ky., is pleased to announce Kathleen S. Shields has joined the firm. Practicing exclusively in the area of family law, Shields is licensed in both Kentucky and Ohio. Prior to joining the firm, she worked as a staff attorney for a Kentucky family court judge, where she gained experience in complex matters of custody, divorce, and adoption law.

The Jefferson District Court Term announces the appointment of Scott Barton to the Office of Public Administrator. Chief District Judge Anne Haynie administered Barton's oath. Barton has served over the last 20 years as a practicing attorney in both the Jefferson District and Circuit Courts, first as a prosecutor in the Commonwealth Attorney's office, then as a private defense lawyer. The Office of Public Administrator acts as an administrator of decedent's estates when no personal representative is available, or if the executor is removed. In addition, the office handles oversight of financial settlements for minors. The office is held for a four-year term.

Sturgill, Turner, Barker & Moloney, PLLC, is pleased to announce that L. Scott Miller has been promoted to member of the firm. Miller's litigation practice focuses on defending police departments and police officers 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. Miller is a member of the Kentucky, Tennessee and Fayette County Bar associations, the Defense Research Institute, and is a 2018 graduate of Leadership Kentucky.
Kentucky Bar Association (KBA) Immediate Past President Bill Garmer of Garmer & Prather, PLLC, is finishing his service on the KBA’s Executive Committee having served on the KBA Board of Governors since 2011. Garmer is a fellow of the American College of Trial Lawyers. He is a member of the American Bar Association; the American Association for Justice, where he has served as chair and vice chair of the Council of State Presidents and was on their board of governors from 1998 through 2010. Garmer is also a member of the Kentucky Justice Association, where he has served as president, vice president, secretary, and treasurer, and is presently on the board of governors. Most recently Garmer was named the #3 attorney in the 2019 edition of the Super Lawyers® Top Ten for the Commonwealth of Kentucky. Garmer is a graduate of the University of Kentucky, the University of Kentucky College of Law, and was inducted into the University of Kentucky College of Law Hall of Fame in 2014. Garmer & Prather, PLLC, is located at 141 N. Broadway in Lexington, Ky.

O’Brien, Brown & Toner is proud to announce that partner James P. Grohmann has assumed the role of managing partner of the firm beginning Jan. 1, 2019. Grohmann focuses his practice in the areas of medical and legal malpractice defense and appellate litigation. Grohmann is a fellow of the American Academy of Trial Lawyers and earned his law degree from the University of Kentucky College of Law.

The American Planning Association – Ohio Chapter (APA Ohio) has elected Stites & Harbison, PLLC, attorney Tom Breidenstein to its board of trustees. Breidenstein will serve a four-year term as an at-large citizen member of the board. Breidenstein is counsel to Stites & Harbison based in the Covington, Ky., office. He is a member of the firm’s real estate service group. His practice focuses on general commercial real estate, zoning and land use issues, and general civil litigation. Breidenstein is a member of a variety of professional groups, including the American Institute of Certified Planners and the American, Ohio and Kentucky Planning associations.

Dinsmore welcomes four lateral attorneys who join the firm in its Cincinnati and Louisville offices. New partners by office are: Cincinnati: David Kamp and Jean Geopppinger McCoy join the firm from White, Getney & Meyer, where each focused their practice on litigation at the trial and appellate levels. Kamp has more than three decades experience practicing law and is a fellow of the American College of Trial Lawyers, inductee of the American Board of Trial Advocates, and a member of the steering committee of the Cincinnati Bar Association/National Institute of Trial Advocacy training for young trial lawyers. McCoy has represented individuals and businesses in a wide range of business, civil, insurance, and other litigation matters. Her clients have included large institutional investors, individuals, and classes of individuals in multi-district and class action cases, including Holocaust survivors and non-governmental organizations that represent them. McCoy served as the 122nd president of the Cincinnati Bar Association and the executive director of the Potter Stewart American Inn of Court. Louisville: Previously managing member of Steptoe & Johnson PLLC’s Louisville office, Bonita Black joins Dinsmore in its public finance practice group. She is experienced in the areas of general corporate law, including mergers, acquisitions, and diversifications, as well as corporate, structured, and municipal finance law. Black assists local and regional nonprofits with their legal matters, including formation and board governance, policy and procedure development, creative financing, and tax issues. She serves on the University of Louisville board of trustees. Justin Walker is a commercial litigator who focuses on appellate law. In his role as assistant professor at the University of Louisville Brandeis School of Law, he conducts research in the areas of separation of powers, national security, and federal courts. Walker clerked for Justice Anthony Kennedy on the U.S. Supreme Court and for Justice Brett Kavanaugh on the U.S. Court of Appeals for the D.C. Circuit.

Stites & Harbison, PLLC, announces the addition of three attorneys to the firm. Two are based in the Louisville office; one is based in the Lexington office. All are admitted to practice in Kentucky. Grace Greenwell is a member of the business litigation service group and an adjunct member of the creditors’ rights & bankruptcy service group in Louisville. She received her J.D., magna cum laude, from the University of Kentucky College of Law in 2018 and a Master of Science in international law & human rights from the London School of Economics in 2013. Jennifer Henry Jackson joins the torts & insurance practice service group in Louisville. She graduated from the University of Kentucky College of Law, magna cum laude, in 2018. Joshua Barnett joins the torts & insurance practice service group in Lexington. He earned his J.D. from the University of Kentucky College of Law in 2017 and his Master of Public Administration from Columbus State University in 2008.

Alan B. Peck, senior partner at White Peck Carrington, LLP, Mt. Sterling, Ky., recently celebrated his 50th anniversary in the practice of law. All of his practice has been as a member of White Peck Carrington and its predecessors since he joined the solo practice of Lewis A. White in 1968. Although, at one time he handled various types of cases and matters, he eventually concentrated in the areas of real estate transactions, banking and finance, business organizations, estate planning and
probate. He is a graduate of the University of Kentucky, having received a B.S. degree in commerce in 1965 and a J.D. degree from the UK College of Law in 1968. He is a member of the Kentucky Bar and Montgomery County Bar Associations.

**Debra L. Broz, Attorneys at Law, PLC,** announces that Partner **Darren K. Mexic** was recently elected Bowling Green/Warren County Bar Association president. Mexic heads the bankruptcy and litigation sections in the firm.

**DBL Law** is pleased to announce that **Bill Brammell** has been elected to the Kentucky SHRM State Council. KYSHRM is the state affiliate of the Society for Human Resource Management. KYSHRM serves over 3,000 human resource professionals and advanced the HR profession in Kentucky through local chapters as well as through student chapters. Brammell is a member of DBL Law’s Louisville office and practices primarily in the areas of civil and commercial litigation, including defending employment discrimination claims, administrative law, contract negotiation, and white-collar criminal defense. He holds a J.D. from the University of Kentucky College of Law, a Master of Science in democracy and democratisation from University College London, England, and a B.A. in political science from the University of Louisville.

**Taft Stettinius & Hollister LLP** announces that the following attorneys have been elected to the firm’s partnership: **E. Chase Dressman**, environmental, Cincinnati and **Nick J. Pieczonka**, litigation, Cincinnati. Dressman provides clients with a full range of environmental services, including regulatory compliance assistance, environmental transactional guidance and all facets of environmental litigation. Dressman received his undergraduate degree from Xavier University and his J.D. from the University of Kentucky College of Law. He has been named an Ohio Rising Stars honoree every year since 2015. Pieczonka focuses his practice on litigation, real estate and construction, product liability and personal injury matters. As a member of Taft's litigation practice, he represents individual and business clients in all aspects of the litigation process, including trials, arbitration and mediation. Pieczonka received his undergraduate degree from Thomas More College and his J.D. from Salmon P. Chase College of Law—Northern Kentucky University. He has been named an Ohio Rising Stars 2019 honoree.

**John Weber** recently joined **Frost Brown Todd**’s Real Estate Practice Group and Multifamily Housing Industry Team, focusing on commercial real estate transactions and tax credit finance. He graduated cum laude from the University of Louisville Brandeis School of Law with a Certificate of Distinction in transactional skills. In law school he represented start-up businesses through the Entrepreneurship clinic, was a member of the University of Louisville Law Review, and an editor for the Journal of Law and Education, combining his previous experience in Teach For America with legal scholarship.

**Graydon** is pleased to announce the election of **Robert F. Brown** and **Mark A. Noel** to the firm’s partnership. Brown is a member of the firm’s corporate counsel group and works out of the Downtown Cincinnati location. Brown’s practice focuses on business law, acting as general counsel for numerous closely held, often family owned, businesses, which by its very nature, encompasses corporate, real estate, employment and commercial litigation matters. He earned his J.D. from The Ohio State University College of Law and his B.S. from Miami University. In addition to his legal practice, Brown serves on the boards of The Dragonfly Foundation and the Kenwood Swim and Tennis Club. Noel is a member of the firm’s personal client services group and works out of the Downtown Cincinnati location. Noel focuses his practice on designing and implementing estate plans to fulfill clients’ wishes, preserve and protect their assets, and minimize or eliminate the impact of tax laws on the transfer of wealth. He earned his LL.M.

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in estate planning from the University of Miami School of Law, J.D. from the University of Kentucky College of Law, and B.A. in political science from the University of Kentucky. Noel serves on the boards of the Family Nurturing Center and the Greater Cincinnati Planned Giving Council, as president of the Estate Planning Council of Northern Kentucky, and as an adjunct professor at the University of Cincinnati College of Law.

Fulton, Devlin & Powers LLC is pleased to announce that Toni Cline Renfro has joined the firm. Renfro’s practice will focus on workers’ compensation defense and subrogation. She earned her B.A. from Centre College of Kentucky in 1987 and her J.D. from the University of Louisville Brandeis School of Law in 1990. She is also a volunteer/legal advocate with the Center for Women and Families.

Paul T. Lawless became managing partner of Bell, Orr, Ayers & Moore, P.S.C. (“BOAM”), on Jan. 1, 2019. Lawless is a litigator handling both insurance defense and personal injury cases. He currently serves as secretary-treasurer with the Kentucky Defense Counsel, Inc. Lawless has been in practice with BOAM for 22 years after earning his J.D. from Chase College of Law, Northern Kentucky University in 1996, and an undergraduate degree from the University of Kentucky in 1993.

Dinsmore & Shohl LLP is pleased to announce Charles E. Baverman III, Kerry O. Irwin, Alina Klimkina, Matt Lockhart, and Sarah Mikowski McKenna have been elected to partnership. Baverman works in the Cincinnati office and focuses his practice on representing commercial developers, owners, investors, lenders and tenants in a variety of real estate matters, with specific understanding of and experience in ground-up development projects. He received his J.D. from the University of Cincinnati College of Law. Irwin works out of the Lexington office and is a member of Dinsmore’s corporate department. Irwin has a diverse practice that includes mergers and acquisitions, financing, entity formation and other transactional matters across a wide variety of industries, as well as a focus on the mining and natural resources sectors. She received her J.D. from the University of Kentucky College of Law. Klimkina is a member of the labor and employment practice group working from the Louisville office. She represents clients in litigation, agency investigations, and matters involving Title VII, the Americans with Disabilities Act, the Age Discrimination in Employment Act, among other state and federal statutes. She conducts compliance training for clients and has experience counseling and defending corporate directors and officers. She received her J.D. from the University of Kentucky College of Law. With a litigation practice focusing on commercial, transportation, and general civil defense, Lockhart’s experience includes railroad litigation, corporate litigation, contract disputes, consumer credit protection claims, and professional liability defense. Lockhart has been recognized as a West Virginia Rising Star by Super Lawyers and is a recipient of the Generation Huntington award for his dedication to the community. He received his J.D. from West Virginia University College of Law. He works from the Huntington, W.Va., office. McKenna practices in the Louisville office and concentrates her practice on tort and insurance defense and commercial litigation, with specific areas of focus including commercial motor vehicle accidents and automobile negligence, premises liability, product liability, and breach of warranty matters. Before joining Dinsmore, she served as a federal law clerk for Judge Thomas B. Russell of the U.S. District Court for the Western District of Kentucky. She received her J.D., cum laude, from the University of Louisville Brandeis School of Law.

Nashville attorney Hal Hardin has been recognized by the Nashville Bar Association, the National Association of Former United States Attorneys, and the Tennessee Supreme Court Historical Society at recent events. The Nashville Bar Association presented Hardin the John C. Tune Public Service Award. The award is given to a member who “makes outstanding contributions to the greater Nashville area community while distinguishing themselves as practicing attorneys.” The National Association of Former U. S. Attorneys presented Hardin with a painting of downtown Nashville in honor of his service as president from 2017-2018. At the Tennessee Supreme Court Historical Society’s (TSCHS) annual banquet in Memphis, Hardin was presented a leadership plaque for his service as past president of the society. Hardin started practicing law in 1969. He is a member of Tennessee Bar Association, was general counsel, 1983-1990, and is a recipient of its Award of Merit. Hardin is a member of the Kentucky Bar Association.

Judge James G. Adams, Jr., is now a retired senior judge. Judge Adams retired after 25 years as Christian County District Judge, Division I and since 2007, Vice Chief Regional District Judge for the Purchase/Penryrle Region. He served 23 years on the executive committee of the Kentucky District Judges Association.

2019 KBA Annual Convention details are now out!

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