KBA Annual Convention
EDUCATE & ELEVATE
Covington 6.24-26.2020
Individual Own Occupation Disability Coverage for Kentucky Attorneys
Affordable KBA Rates from Metlife

KBA Member Semiannual Rates

<table>
<thead>
<tr>
<th>Monthly Coverage Amount:</th>
<th>$3,000</th>
<th>$5,000</th>
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<td>30-39 yrs</td>
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<tr>
<td>40-49 yrs</td>
<td>$352</td>
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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

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- Settlement in TX - Whistleblower: $392 Million
- Settlement in KY - Trucking Accident: $1.55 Million
- Settlement in KY - Pharmaceutical Consumer Protection: $25 Million
- Settlement in KY - Automotive Product Liability: $4.5 Million

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ELECTIONS

Congratulations to all who participated in Board of Governors’ elections. This election saw a 38 percent participation rate, proof that the new electronic voting system is worthwhile and surviving spam filters. This year there were four contested races, which might be a record, or close to it. Congratulations to Douglas Benge, Susan Phillips, Amelia Adams, and Mitch Hall, who won their elections in the 3rd, 4th, 5th, and 7th Districts, respectively. In addition, Jim Sigler (1st), and Jennifer Gatherwright (6th) will join us, Matt Cook (2nd) will return for his second term, and Miranda Click will become vice-president. That totals nine brand new faces in the boardroom, plus Amy returning after a year of running the Rules Committee.

Importantly, everyone who participated in the elections should have the opportunity to work with the KBA, and we will look for those opportunities going forward. Congrats to all.

New faces also mean that we will say goodbye to valued members and friends. Immediate Past President Doug Ballantine will ride off into the sunset. Fletcher Schrock (1st), Melinda Dalron (3rd), Bobby Simpson (4th), Eileen O’Brien (5th), Gary Sergent (6th), and Judge John Vincent (7th), will all be sorely missed. We’ll also miss departing lay members Mike Cherry and Dottye Moore. Each members’ contribution over years has been tremendous; offering measured and valued perspectives on behalf of their districts and the general public.

I want to give a special thank you to the departing, current, and incoming lay members. Many KBA members may not realize that these important people take time from their schedules to join the KBA Board of Governors for the disciplinary docket as full voting members. The Rules of Professional Conduct, in large part, deal with our relationship with clients. Having the perspective of the public and clients, through lay members, in the room when we discuss discipline is invaluable, and they are all immensely appreciated.

CONVENTION

This is the B&B’s convention edition, promoting the June 24-26 KBA Annual Convention in Covington. Make your reservations early, extend your stay, bring your family, and enjoy northern Kentucky and greater Cincinnati. We’ll suggest tours, eateries, entertainment, family activities, and of course, educational and entertaining continuing legal education (CLE). The visitor’s page in this edition (see pages 10-11) is an outstanding resource to help you plan your trip.

In addition to the 65 CLE programs and the many social events, we will honor our 2020 award recipients. Justice Michelle Keller will receive the Distinguished Judge award, Robert Bilott will receive the Distinguished Lawyer award, Michael O’Hara will receive the Donated Legal Services Award, Jim Dady will receive the Bruce K. Davis Bar Service Award, and David Sloan will receive the President’s Special Service Award. All are richly deserved, and we will have the opportunity to tell you more about the recipients and celebrate them in June.

Also, a special thank you goes to David Davidson and Loren Wolff for chairing the convention committee, and to David Kramer and Claire Parsons for chairing the CLE planning committee. It is good work, lots of work, and very valuable to the KBA.

Thanks to all of the many lawyers, KBA staff, and others who have worked so hard to ensure that the June convention will be successful. Putting together 65 CLE programs, finding engaging feature and spotlight speakers on a budget, space planning, exhibitor planning, social event planning, public service project planning, and all the other details that go into a convention for nearly 2000 of our finest, is a large task. Details matter and our convention committee is knocking it out of the park.

MORE … There are always a couple of new developments. The Access to Justice Commission is considering launching a lawyer referral service, for instance. Statistics show that many people either don’t call a lawyer at all and ignore their legal needs, or try to be their own lawyer, often with bad results. The proposed services under consideration will close the gap between citizens who need lawyers and lawyers who want the work. One caveat is that local bars, such as the Louisville Bar Association (LBA) and the Northern Kentucky Bar Association (NKBA), already have lawyer referral sys-
My very sincere hope is that everyone in the Commonwealth is well and taken care of, and that this very unusual message is completely irrelevant by the time it reaches you. Nonetheless, it comes as news to no one that we are experiencing events related to the COVID-19 virus that none of us have ever experienced before. We have had some real panic, as we did with SARS, MERS, Ebola, and even the Swine Flu, but this is the first "this is not a drill" pandemic exercise of our lifetimes. The impact of the events we are living with right now will be studied and talked about for generations.

We all need to do our part to lower the curve of infection. The Kentucky Bar Association (KBA) is doing its part, as requested by Kentucky Governor Beshear, the CDC, and other national agencies. Whether what we do now is enough, too much, or not enough is somewhat irrelevant. Historians can parse that argument, and I'm certain that they will. Standing down, cancelling meetings and gatherings for 30 days, and giving employees the time off that they need to take care of themselves and their families is a small price to pay.

The KBA will continue to operate, and our employees, like so many others, will work primarily from home, and use the office only as necessary and approved. This is fluid and we don't know the end date, but the KBA will put things back to normal as soon as possible when we can safely do so.

It will be very interesting to see, in the end, what we learn from all of the disruption. We might find that we can do with fewer of certain trappings than we are accustomed to, that technology works well if we use it wisely, and that we can do better than just "get along" in difficult circumstances. We tend to rise to occasions, and this is a big occasion for our businesses, every individual attorney, and the Commonwealth in general. I have no doubt we'll rise to this challenge and cooperate with the courts and one another to work professionally through the disruptions.

FINALLY... Some drums need constant drumming. The coincidence between being mentored, practicing law well and contentedly, avoiding discipline, and dealing well with adversity is not something I can point to scientifically, but it is true. Early childhood development is a key to success as a person, and being a young lawyer requires early development to instill good habits and instincts. Mentors matter. The idea of well-being during practice is a growing concern, and a foundation of good habits and good instincts leads to the sought-after well-being. Mentors matter. Negative things will happen, be they professional issues or just plain bad luck in life. Dealing with adversity with the proper focus, humility, and ability to bounce back is a top-five type skill. Mentors matter.

If you practice law and aren't sharing what you've learned with younger lawyers with intention, then you aren't mentoring, and you should be. It doesn't matter if you are a solo, small firm government lawyer, in-house, or in a large firm, the knowledge you have is needed by others. Take the time, go through an official program or just pick people out of a crowd. Be generous with your time and your skills so that the younger lawyers have a better chance of "getting it."

If you have questions about KBA services or the KBA's status, please reach out. If you can't find what you need, feel free to contact me at ssmith@graydon.law and I'll do what I am able to answer your questions. Please understand that we are all making this up as we go along and that there are bound to be hiccups along the way. After meeting other presidents, executive directors, and staff during my tenure, I can confidently tell you that the KBA staff is among the very best in the entire U.S.
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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 decided to host a legal information clinic, “Talk to a Lawyer,” as well supporting local organizations Covington Partners and The Center for Great Neighborhoods. Additional information on each project is provided below. As you submit your registrations for our convention, please consider participating in the public service projects either with your time and talent with the clinic or monetarily by donating $10 to either Covington Partners or The Center for Great Neighborhoods.

**PUBLIC SERVICE PROJECT**

**TALK TO A LAWYER**

“Talk to a Lawyer” provides an opportunity for an individual to meet one-on-one with an attorney for a limited period of time concerning the individual’s legal issue. The attorney commitment for the legal information clinic is limited to trying to help with advice, information or direction in the allotted time slot. Individuals will be screened for financial eligibility and then assigned a time slot. Individuals will be advised of the limited scope of attorney engagement at the time of intake triage so that there is no misunderstanding about the level of service being provided. If an attorney, however, would like to accept a case for extended representation, the case will be processed as a pro bono referral. Attorneys will make referrals to legal aid and lawyer referral programs or other legal resources, as appropriate. Individuals who require more extensive legal consultation will be referred to Legal Aid attorneys who will be on-site during the clinic. Be sure to mark your registration form if you will be willing to volunteer for the clinic.

**LOCATION:**
Kenton County Public Library - Covington Branch
502 Scott Blvd
Covington, KY 41011

**TIMES:**
Wednesday, June 24, 2020 10AM-4PM
Thursday, June 25, 2020 11:30AM-5:30PM
Times may be subject to change. Time slots will be assigned based on your availability to participate. Transportation will be provided.

**THE CENTER FOR GREAT NEIGHBORHOODS**

Since 1976, The Center has been a vehicle for community residents seeking to improve the quality of their lives and their community. The Center sparks positive growth in Covington by bringing people together, encouraging them to work with each other, and supporting their efforts to shape the future of their community. The organization is committed to helping people discover and develop their skills, find and use the resources they need, and discover partners who share their concern for the well-being of Covington. The Center believes that individuals are most fulfilled when they are connected to their neighbors and have opportunities to share their gifts as they work together to improve the community.

In helping youth and adult residents to realize that sense of fulfillment, The Center supports their efforts to:

- Build strong neighborhood associations and civic groups;
- Develop effective leadership skills;
- Practice wise stewardship for the community;
- Maximize access to resources that improve the quality of their lives and health;
- Benefit their personal, economic, educational, civic and social development;
- Create effective partnerships with other stakeholders in the community;
- Improve the quality of life in their neighborhoods.

The Center for Great Neighborhoods engages neighbors through gardening and a community cookout as part of a park redevelopment planning process.

For more information on this organization, visit their website at www.greatneighborhoods.org.
COVINGTON PARTNERS

For the past 20 years, Covington Partners and Covington Independent Public Schools have worked together to provide high-quality support programming to help students become successful in school and in life. Covington Partners was founded in 1999 to reduce drug abuse and violence among Covington youth. Since that time, Covington Partners expanded their offerings to include a variety of mentoring, family strengthening, and physical/mental health programs. Every aspect of this organization’s work is focused solely on supporting the children of Covington. Programs include Covington Mentoring Program, a formal one on one program that matches a positive adult with a student in either school or community based settings, Fitness Rocks, a program for students K-12 with a goal to reduce obesity and increase wellness, and Out-of-School Time programs that provide academic and social enrichment to over 2,500 students annually. The success of Covington Partners is attributed to the partnerships it has formed. Covington Partners works to bring together key community stakeholders including students, families, partner organizations, the Covington Independent Public Schools, funders, staff, board members, mentors and volunteers to all work towards the goal of helping the youth of Covington achieve success in every phase of their life. More than 100 individuals and community organizations represent a broad range of community sectors and meet quarterly to coordinate, plan and implement programs in support of Covington youth. For more information on this organization, visit their website at www.mycovingtonpartners.org.

JOIN US AT THE KBA CONVENTION FOR SOME WELL-BEING IN THE PUPPY PIT!

Back by popular demand is the Kentucky Lawyer Assistance Program and Young Lawyers Division’s Puppy Pit! This year the event is sponsored through the generosity of The Lawrence Firm.

Come in, de-stress and 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!
**WEDNESDAY 6.24.20**

**FEATURE**

DAVID LEE WINDECHER
Author of The American Dream: HisStory in the Making

**SPOTLIGHT**

EMILY BAZELON
Journalist and author of Charged: The New Movement to Transform American Prosecution and End Mass Incarceration

Other topics covered on Wednesday:
- Tax Law
- Mindfulness
- Combatting Money Laundering
- Employment Law
- Immigration Law
- Jury Selection
- Criminal Law

**THURSDAY 6.25.20**

**FEATURE**

Political power couple
JAMES CARVILLE and MARY MATALIN

**SPOTLIGHT**

PROFESSOR BEN BARTON
Author of Rebooting Justice: More Technology, Fewer Lawyers, and the Future of Law

Other topics covered on Thursday:
- Construction Law
- Real Estate Law
- Election Law
- Small Firm Practice
- Cybersecurity
- Mediation
- Elder Law

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FRIDAY 6.26.20

FEATURE
ROB BILOTT
Kentucky attorney and author of Exposure: Poisoned Water, Corporate Greed, and One Lawyer’s Twenty-Year Battle against DuPont

Other topics covered on Friday:
Supreme Court Review
Brewery & Distillery Law
Attorney Wellness
Agriculture Law
Data Security and Privacy
Family Law
Kentucky’s Dueling Language

SPOTLIGHT
RICK BASS
Environmental activist and author
and DR. RICHARD TAYLOR
Author and instructor at Transylvania University

A special thank you to the 2020 KBA Annual Convention and CLE Planning Committees for planning a great event full of outstanding CLE programs and social events.

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Step out for fine dining, seriously good sips, and ample entertainment in Northern Kentucky

Cool vibes, unique restaurants, and trendy bars, have come to define Northern Kentucky, a region that is spurred forward with a new and exciting energy while maintaining a respectful nod to its past. Visitors to this thriving bend in the river are quickly smitten with its charm and seemingly endless list of things to do. Here are just a few to keep in mind for your visit.

SCHEDULE AN AFTERNOON OF FAMILY FUN, CULTURE, ENTERTAINMENT, AND SPORTS

Regional museums, rich cultural experiences, and unique local fare can be found on both sides of the river:

In Northern Kentucky, the Behringer Crawford Museum in Covington is home to Northern Kentucky history while the James A. Ramage Civil War Museum in Fort Wright illustrates our local war history. The Vent Haven Museum in Fort Mitchell is the world’s only museum of ventriloquial figures and memorabilia, containing more than 900 figures from 20 countries. Walk where the Woolly mammoths roamed at Big Bone Lick Historic Site. And step back into the 19th century at the Dinsmore Homestead where time stands still. Plan a visit to the Newport Aquarium and stroll through five seamless tunnels surrounded by marine life. Learn why it’s so stretch to say that Newport was the precursor of Las Vegas with a visit to the Northern Kentucky Gambling Museum and explore the streets on a Newport Gangster Tour.

Across the Ohio River, catch a play at the Aronoff Center for the Arts or Cincinnati Playhouse in the Park. Enjoy an evening with the symphony at Cincinnati Music Hall. Experience plants and butterflies from across the globe at Krohn Conservatory, or spend the afternoon visiting our famous hippopotamus, Fiona, at the Cincinnati Zoo & Botanical Gardens. Examine the region’s local stories of the holocaust at The Nancy & David Wolf Holocaust and Humanity Center at the Cincinnati Museum Center in Union Terminal; The Harriet Beecher Stowe House celebrates the life and legacy of the author and activist, while the National Underground Railroad reveals the stories of freedom’s heroes. Discover the origins of pharmaceuticals at the Lloyd Library & Museum. Stroll through baseball history at the Cincinnati Reds Hall of Fame Museum. And a visit to the American Sign Museum proves that signs are indeed art. The Taft Museum of Art is one of the finest small art museums in the country, with major works by Rembrandt, Reynolds, Turner, Whistler, Sargent and more. The Cincinnati Art Museum features a diverse art collection of work spanning 6,000 years, while the Contemporary Arts Center explores and celebrates the unfolding landscape of art and expression.

SIT AND SIP FOR A BIT

Welcome to the B-Line, ladies and gentlemen! That’s right, positioned at the northern rim of the land that is the epicenter of all things Bourbon, the B-Line is the Official Gateway to the Kentucky Bourbon Trail and home of Northern Kentucky’s own bourbon tour, centered around Gateway to the Kentucky Bourbon Trail and home of epicenter of all things Bourbon, the B-Line is the Official right, positioned at the northern rim of the land that is the

Rather have rum? Or, maybe enjoy a craft beer while watching a Ringling Brothers clown-turned-brewery-owner spin a chair on his chin? Then head over to Ludlow, where Second Sights Spirits’ Distillery and Lounge serves up finely crafted cocktails, then just cross the street to Bircus Brewing Company where, as they say, “the surreal world of circus meets the simple love of beer.”

GREAT TASTES BEYOND THE URBAN CORE

In Union, Butcher Betty’s Farmstand Market & Café believes in the local farmer, local cottage producers, all of which translates into fresh and flavorful offerings.

Walt’s Hitching Post in Fort Wright dates back to 1942 serving up legendary smoke house ribs. Try to eat just one slice of their ridiculously good Salted Rye Bread.

A little pizzeria in Fort Mitchell is offering Neapolitan cuisine done right. Camporosso breathed new life into a dilapidated 1920s-era gas station, making a name for itself in the regional pizza scene with brick oven pizzas.

When The Bourbon Review magazine published its annual list of America’s Best Bourbon Bars last year, Burlington’s Tousey House Tavern was near the top of the list, offering southern cuisine and hospitality.

Laissez le bon temps rouler at Knotty Pine on the Bayou in Cold Spring! Oysters? You bet – on the half shell, fried, or Bienville. Have a hankerin’ for alligator? Knotty Pine serves a lightly battered deep fried version served on creole sauce.

And tucked away behind a string of chain restaurants in Florence, Miyoshi is a little gem of a venue serving authentic Japanese food, using seasonal ingredients and native Japanese delicacies.

THE BOYS OF SUMMER & MORE

Feel like a hot dog and a game? Catch the Cincinnati Reds at the Great American Ballpark. If you’d rather participate instead of spectate, take your rage at Lazer Kraze in Erlanger, or a dip at the Beach Waterpark in Mason, not far from King’s Island, for an afternoon of rollercoasters and amusements. Later, cool off at the Washington Park waterworks and grab a nibble or two at the nearby fabulous restaurants in hip OTR, then treat your little one to a ride on the vintage carousel at Cincinnati’s Smale Park while you get the best view of all on the SkyStar Observation Wheel at The Banks.
WHAT’S FOR DINNER?

Friend, let us make a few suggestions. Northern Kentucky has ramped up its culinary game to national eye-catching standards. Baker’s Table in Newport made Eater’s “Top 16 Best New Restaurants in America,” and voted #4 Best New Restaurant of 2019 by USA Today’s 10BEST.” Meanwhile, Southern Living Magazine’s ‘Culinary Road Map to Dining in the South’ included Covington’s Otto’s restaurant, featured for its southern classics Hot Brown and fried green tomatoes.

Stroll through Northern Kentucky’s river cities and find whatever suits your palette. In Covington’s historic MainStrasse Village you’ll find farm-to-table fare at Bouquet; a historically inspired, locally sourced menu at Commonwealth (get the gnocchi!); amazing tacos and more at Frida, a tequila and mescal bar featuring Latin street cuisine; and Dee Felice offers New Orleans-style cuisine and, occasionally, live jazz. If it’s steak you’re craving, check out Lisse, a Dutch inspired steakhouse.

Located in Covington’s RiverCentre, and conveniently located to the Northern Kentucky Convention Center, you’ll find locally sourced, southern-inspired dishes, a Bloody Mary bar, and tasty brunch cocktails at The Kitchen by Butler’s Pantry. Just a few doors down, FIRE at RiverCentre presents a laid back, upscale dinner. A stone’s throw from the RiverCentre is The Gruff, with a full bar and eat-in restaurant that features brick oven pizzas.

There’s a vibrant culinary pulse in the heart of Covington with offerings such as Libby’s Southern Comfort (try the fried chicken skin appetizer), Coppin’s at Hotel Covington has a classic gastropub menu with classics like bobwhite Quail and Corn Pudding. Look for epic tacos and 87 tequilas at Agave & Rye. Don’t let the name fool you, Ripple Wine Bar is pouring wines from around the world and serving tasty small plates. Just across the street, the Hannaford at Pike + Madison is an industrial-chic bar for craft cocktails. And Rich’s Proper Food and Drink serves up seafood with a hint of Southern Creole influence. Peppe Cucina is a New York-style deli and the place for a good sandwich and Sicilian-style pizza.

While you’re checking out the gangster history in Newport, stroll over to the Hofbrauhaus at Newport on the Levee for house-brewed beer and hearty German fare, served by a staff donning traditional attire.

END THE DAY ON A SWEET NOTE

When you’re finished with a day of museums, swimming, and sports, check out the quality of our local sweets. Local-made Graeter’s Ice Cream is so good it’s sold nationally. Sweet Tooth Candies in Newport, makes small batch chocolates. And Schneider’s Sweet Shop in Bellevue has been around since 1939, serving time-tested recipes passed down through generations of the Schneider family, like Opera Creams and Ice Balls. “Ice Balls?” you ask. It’s the perfect marriage of shaved ice balls with ice cream in the middle, and perfect for a summer day.
THURSDAY 6.25.20

YOUNG LAWYERS DIVISION LUNCHEON 12-1:30PM
City View Ballroom  Embassy Suites at RiverCenter
$20 per person

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BENCH & BAR AND YLD JOINT RECEPTION 5-6:15PM
Atrium Terrace  Cincinnati Marriott at RiverCenter
Complimentary with registration
Pre-registration required

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ANNUAL BANQUET 6:30PM
Covington Ballroom  Cincinnati Marriott at RiverCenter
$65 per ticket

FRIDAY 6.26.20

KBA MEMBERSHIP AWARDS LUNCHEON 12-1PM
Covington Ballroom  Cincinnati Marriott at RiverCenter
$30 per person

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 our Senior Counselors.

Looking for something fun and exciting to do with your family and while visiting Northern Kentucky? The Convention Planning Committee has you covered. Take an outing to the “Great American Ball Park” to watch the Cincinnati Reds take on the Chicago Cubs. A limited number of tickets (Infield Box Seats) are available for this game. Request your tickets on the registration form.

Located outside of Butler’s Pantry Marketplace
Complimentary with registration
Pre-registration required

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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 our Senior Counselors.

Looking for something fun and exciting to do with your family and while visiting Northern Kentucky? The Convention Planning Committee has you covered. Take an outing to the “Great American Ball Park” to watch the Cincinnati Reds take on the Chicago Cubs. A limited number of tickets (Infield Box Seats) are available for this game. Request your tickets on the registration form.

Located outside of Butler’s Pantry Marketplace
Complimentary with registration
Pre-registration required

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REGISTRATION, HOTEL AND PARKING

HOW 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
Registration confirmations for registrations received by mail will be emailed to the email address provided or the Official KBA Roster Address.

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

EARLY REGISTRATION DISCOUNT
Register by May 27, 2020, and receive $100 off the on-site registration fee! This discount does not apply to the One Day/Half Day attendance fees.

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.

REGISTRATION CENTER
Upon arrival, all registrants should check in at the KBA Registration Desk located in the lobby of the Northern Kentucky Convention Center.

Registration Center Hours
Wednesday (6.24) & Thursday (6.25): 7AM-5PM
Friday (6.26): 7:30AM-2PM

CANCELLATION OF REGISTRATION
Cancellation of 2020 Kentucky Bar Association Annual Convention Registration must be in writing and received by the Kentucky Bar Association by June 8, 2020, to receive a full refund. Cancellations received between June 9, 2020, and June 17, 2020, will be charged a $50 administrative fee. There will be no refunds on cancellations received after June 18, 2020. Event tickets will not be refunded after June 18, 2020. Email cancellation notifications to mbourne@kybar.org.

HOTEL RESERVATION
The Kentucky Bar Association has reserved a limited number of rooms for the nights of June 22 through June 26 at the Cincinnati Marriott RiverCenter, Embassy Suites Cincinnati RiverCenter, Courtyard by Marriott Cincinnati, and Holiday Inn Riverfront at a special Convention Rate. To receive the Convention Rate, all room reservations must be made directly with the hotel by May 29, 2020. Rooms at this rate are reserved on a first-come, first-served basis. Due to the limited number of rooms at this rate, please remember to make your reservations early! Cancellations on hotel rooms must be made 48 hours in advance to avoid forfeit of the one night’s room and tax deposit.

SPECIAL CONVENTION RATE
To receive the Convention rate, you must make your reservations:
1. by using the link below before May 29, 2020, and
2. guarantee your reservation with one night’s room and tax deposit using a credit card.

To secure a room, visit: https://book.passkey.com/e/50069321

PARKING
Cincinnati Marriott at RiverCenter
10 W. RiverCenter Blvd., Covington
Self-Parking is $2 an hour up to $10 per day (with no in/out privileges for hotel guests). Guests will pay at the gate upon departure. Valet parking is $28 per day (with in and out privileges). Marriott guests may charge Valet parking charges are posted nightly to guest room accounts. The lot is owned and operated by a third party vendor. It is open to the public, 24 hours a day. The rates are the same for non-guests or guests. Rates are $2 an hour up to $10 for the day with no in and out privileges.

Embassy Suites Cincinnati RiverCenter
10 E. RiverCenter Blvd., Covington
Self-Parking is available for $10 per vehicle/per day, with unlimited in/out privileges from the garage. Embassy guests may charge it to their room and can get their ticket validated at the bell stand. The $10 charge will post nightly to their room. Valet parking is $26 per night. Non-hotel guests may also park in the garage for $10 per day.

Courtyard by Marriott Cincinnati
500 W. 3rd St., Covington
Rate: $149 flat

Holiday Inn Riverfront
600 W. 3rd St., Covington
Rate: $127 flat

To secure a room, visit: https://book.passkey.com/e/50069321
**Please provide my contact information (name, address, and email) to convention vendors.**

**PAY ONLINE:**
Log in to the KBA Website at www.kybar.org/2020ac to pay by credit card.
All major credit cards accepted.

**PAY BY MAIL:**
Make check payable to:
**Kentucky Bar Association**
Attn: Accounting Dept.
514 W. Main Street
Frankfort, KY 40601-1812

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### Select One

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<th>After June 17</th>
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<tr>
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**1 Day Attendance Only**:
- Wed | Thurs | Fri | 
- $280 | $280 | $305 | $ |

**½ Day Attendance Only**: Wed | Thurs | Fri |
- $180 | $180 | $205 | $ |

**Registration Fees Subtotal:** $______

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### The Legal Information Clinic - “Talk to A Lawyer”
- Yes, I would like to sign up for The Legal Information Clinic.

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### Event Tickets

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<td>Thursday: YLD Luncheon</td>
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<td>Friday: Membership Luncheon</td>
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**Subtotal:** $______

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**Please consider making a tax deductible donation to either**: 
- The Covington Partners, Inc. 
- The Center for Great Neighborhoods

$10 recommended donation

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**Total Fees to Accompany Form:** $______

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Section Meeting Registration
**Open to Current Section Members Only**
Pre-registration for section meetings is required.
Please check the section meeting(s) you will attend.
Annual section meetings are open only to current dues paying section members. Anyone registering for a section meeting who does not belong to that section will not be signed up to attend the meeting.
To view your current section membership, log in to our website and click on “My Profile” to view your section membership located on the left hand side under Groups.

**Wednesday, June 24: 4:45-5:45pm**
- Animal Law Section
- Appellate Advocacy Section
- Bankruptcy Law Section
- Civil Litigation Section
- Corporate House Counsel
- Criminal Law Section
- Family Law Section
- Health Care Law Section
- Public Interest Law Section
- Small Firm Practice & Management Section
- Taxation Law Section

**Thursday, June 25: 5:00-6:00pm**
- ADR Section
- Construction & Public Contract Law Section
- Education Law Section
- Elder Law Section
- Environment, Energy & Resource Section
- Immigration & Nationality Law Section
- Labor & Employment Law Section
- LGBT Law Section
- Local Government Law Section
- Real Property Law Section

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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.
In 2019, SB 114 ushered in some major changes to laws affecting real estate recording, the Uniform Electronic Transactions Act (U.E.T.A) and notary public commissions. This bill changed the definition of an “original signature” and removed real estate recordings as an exemption under Kentucky’s version of U.E.T.A. It updated the Notary Public commission laws and allowed for remote online notarization (R.O.N.).

SB 114 was the end result of legislative task force enacted in 2018 and under the direction of Secretary of State’s office. Representatives on this task force included members from the Secretary of State’s office, Bankers’ Association, Mortgage Bankers’ Association, Kentucky County Clerks Association, American Land Title Association, Kentucky Land Title Association, E-recording vendors, Remote Notarization vendors, Uniform Law Commission and members from the Senate and House of Representatives.

Here are some of the statutory changes and practical changes.

ORIGINAL SIGNATURES: The definition of an original signature no longer means just an ink to paper signature or “wet signature.” The definition of an original signature now includes e-signature which is defined as “an electronic symbol, sound or process attached to or logically associated with a record and executed or adopted by an individual with the intent to sign the record. An example of an e-signature is a signature captured on an iPad or signature capture pad. It can also be a digital signature generated by a computer which is used in bankruptcy filings.

E-RECORDING: SB 114 removed the exemption in KRS 369.103 (2) (c) which stated “a law governing the conveyance of any interest in real property…” The removal of this exemption allows for electronic recording of real estate records.

However, certain exemptions remain in place in KRS 369.103 and are subject to original “wet” signatures.
(a) A law governing the creation and execution of wills, codicils, or testamentary trusts;
(b) KRS Chapter 355 other than KRS 355.1-107 and 355.1-206, and Articles 2 and 2A of KRS Chapter 355; and
(c) A law governing the creation or transfer of any negotiable instrument or any instrument establishing title or an interest in title to a motor vehicle and governed by KRS Chapter 186 or 186A.

Chapters 186 and 186A cover the Department of Transportation documents dealing with the transfer of vehicles. Other documents that require a “wet” signature are a Notary Public Oath and Bond form that is signed at the time the notary public is sworn in at the county clerk’s office and captures the notary’s signature.

E-recording became available on January 1, 2020 but since the implementation of e-recording is permissive not every county clerk will have e-recording available in their offices. Check with your county clerk to see if and when it will be available.

FORMATTING OF DOCUMENTS: With the advent of e-recording the Kentucky County Clerks Association adopted the following formatting standards so that there would be standardization for both e-recorded documents and documents submitted in a paper format. These standards were adopted from the Property Records Industry Association (PRIA) standards which are utilized when a document is submitted electronically.

LEGIBILITY STANDARDS ARE AS FOLLOWS:

- **Paper weight:** 20 lb
- **Paper size:** 8 ½ x 11 preferred; 8 ½ x 14 accepted
- **Paper color:** White; no water marks
- **Staples or binding:** None
- **One or two side print:** One side only
- **Impression Seals:** None allowed
- **Colored highlight markers:** None allowed
- **Margins:**
  - Top 3” of first page recommended for Recorder use, especially on right side of page (not recommended on last page); all other margins 1”
- **Ink color:** Black preferred, with dark blue signatures
- **Font:** 10-point minimum/ Times New Roman or equivalent
- **Spacing:** 9 lines per inch maximum

In practical terms, the 3” inch margin at the top allows the clerk to have enough space in which to place the recording information. This also creates a consistent place where the recording information can be located. While the county clerks would like to see all documents have a 3” inch margin at the top there will always be documents that can’t conform. Any document produced prior to January 1, 2020 that may need to be recorded will not be rejected on a formatting issue. In addition, KRS 382.335 (3) exempts wills and statutory liens in favor of the Commonwealth from indexing standards.

The majority of documents recorded in the county clerk’s office have 12 point font, so the recommended font size of 10-point is...
to create a standard for a minimum font size. This font standard would not be applied to the heading of document which is often larger than 12 point. This standard is to ensure the readability of a document since they are scanned and microfilmed.

The font of “Times New Roman or equivalent” means that someone can use another font but that font must be as easy to read as Times New Roman. This standard ensures the readability of a document.

The standard of “no impression seals” means that the seal can’t be embossed since the embossing will not be visible when the document is either e-recorded or scanned. Seals are no longer necessary on a document but if there is a seal it won’t be rejected. However, if the seal is conveying the notary information on a document then the seal must be in ink so that the information can be scanned or copied.

Since it will take time for everyone to adapt to these formatting standards, the county clerks decided not to reject a document due to formatting standards for ninety (90) days after January 1, 2020. County clerks will always retain the discretion to take a document that doesn’t meet formatting standards but still meets all the recording requirements.

**PREDICTABLE RECORDING FEES:** E-recording also created predictable recording fees under KRS 64.012. Most county clerks will have the new fee schedule available on their websites. Different counties still maintain specific recording requirements for indexing purposes that may require additional fees for additional references or parcel identification numbers. These additional indexing standards are in KRS 382.335 (4).

**CHAPTER 382 Conveyances and Encumbrances:** SB 114 made changes to Chapter 382 to allow for the adoption of the Uniform Real Property Electronic Recording Act (URPREA). KRS 382.075 outlines e-recording for real property documents and along with the changes to Chapter 369 (U.E.T.A.) allows for electronic signatures on documents. These modifications allow county clerks to accept documents through electronic submission.

However, since e-recording is permissive for the county clerks, KRS 382.076 details how a document that may be born digitally and includes e-signatures can be “papered out” for purposes of recording that document with the county clerk.

The statute allows this practice as long as the tangible document is accompanied by a certificate from a notary public with:

- Signature of notary public with date signed
- Jurisdiction in which signed
- Title of notary public
- Commission # and expiration date of commission
- Language certifying that the document is a true and correct copy of an electronically executed document

The following form of certificate is sufficient for the purposes of this section, if completed with the information required by subsection (3) of this section:

State of ___________________

[County] of __________________

I certify that the foregoing and annexed document entitled _____
[document title], dated ________ [document date, if applicable],
and containing _______ pages is a true and correct copy of an electronic
document bearing one (1) or more electronic signatures.

Executed this _________________ [date].

[Signature of notary public]

Some documents may be a ‘hybrid,’ where the document has both wet signatures and e-signatures. This document is acceptable for recording but the above certificate must be included on any document that is presented on paper that was electronically signed.

Any electronic signature must have an indication from the notary that the document was electronically signed and acknowledged as such.

The requirements of KRS 382.076 do not apply to a plat, map or survey of real property under KRS 382.076 (9).

KRS 382.140 Recording of Deeds executed out of State: This statute was repealed as of January 1, 2020, and effectively removes the requirement for a “seal” on documents executed outside the Commonwealth of Kentucky. If the document is presented with a seal even though it is no longer required, the document will still be accepted for recording as long as the document meets all other recording requirements.

**CHAPTER 423 Notary Public:** SB114 had the biggest impact on Notary Public law including the adoption of remote online notarization.

Effective on January 1, 2020 the changes to becoming a notary public include:

- A person can now apply for a notary public commission directly with the Secretary of State using their online portal. The Secretary of State has issued regulations on notary public commission that will be reviewed by the Administrative Regulation Review Subcommittee at the April 2020 meeting.
- KRS 423.390 defines the requirements and process for being either regular notary or a remote online notary.
- The language about ‘good character’ has been removed from the statute so the application no longer has to be signed by specific elected officials.
• A personal bond is no longer an option and all notaries will need to provide a $1,000 insurance bond when they come to the county clerk’s office to take their oath of office.

• The notary identification number issued by the Secretary of State will not change every four years as a notary renews their commission. The identification number will remain with an individual until they chose to terminate their notary commission.

• The notary identification number is now mandatory along with the notary’s expiration date.

• There is now an educational component to becoming a notary. This educational component would be administered by the Secretary of State’s office and has yet to be defined.

• KRS 423.370 has eliminated the need for a notary to use a seal or a stamp when notarizing a document. If the notary does use a seal a record can still be recorded but if that document is e-recorded, then the seal must be in ink so that any information on the seal can be scanned. If the notary uses a stamp it must include (1) the notary public’s name, title, jurisdiction, commission number, and expiration date; and (2) be capable of being copied together with the record to which it is affixed or attached or with which it is logically associated.

• KRS 423.390 (7) allows for a notary public to change their name within 10 days of making the name change. The notary must submit this information to the Secretary of State as required by their form and pay the required fee. The notary will then have to go to the county clerk’s office to complete the new oath and bond.

If someone is already a notary public, these changes will only take affect at the time of the notary renewal or if the notary wants to apply to have their name changed.

REMOTE ONLINE NOTARIZATION (R.O.N.): The ability for someone to have a document notarized by remote online notarization became available on January 1, 2020. There are different companies that offer this service to the public and you can see their videos online.

Basically remote online notarization is the ability for the notary public to witness a person’s signature through a remote process using a program like facetime on a phone or a tablet. The remote notary will identify the person, upload the document that is to be signed, witness the person signing the document, and then notarize that document. The person can then print that document to be used as needed. The notary is required to keep a copy of this audio-visual exchange.

This new aspect of notary law includes the following:

• KRS 423.390 requires the online notary to keep a journal.

• KRS 423.455 defines the process of remote notarization and the process of retaining the audio-visual recordings.

• KRS 423.450(3) An electronic certificate of authority evidences the authenticity of the official signature and seal of an online notary public of this state and shall contain substantially the following:

Certificate of Authority for a Notarial Act
I, (name), Secretary of State of the Commonwealth of Kentucky, certify that (name of electronic notary), the person named as a Notary Public in the attached or associated electronic document, was indeed commissioned as a Notary Public for the Commonwealth of Kentucky and authorized to act as such at the time of the document’s electronic notarization.

To verify this Certificate of Authority for a Notarial Act, I have included herewith my electronic signature this day of , (year).

(Electronic signature and seal of the Kentucky Secretary of State)"

ABOUT THE AUTHOR

GABRIELLE SUMME made history in 2010 when she was elected as the first female Kenton County Clerk. Since becoming County Clerk, she has made it a priority to preserve the county’s history by digitizing its records. She is past president of the Kentucky Clerk’s Association and served on the E-recording Task Force.

Summe attended Chase College of Law while working for the Kenton County Attorney’s office and became an assistant County Attorney after her graduation in 2000.

In 2013, she received the Exceptional Service Award from Chase and in 2014 was honored as a Woman Making a Difference by Notre Dame Academy. She was the convention chair for the 2014 Kentucky Bar Association (KBA) Convention and is a past member of the KBA’s CLE Commission.
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THE FUTURE OF

Opioid Litigation

BY RICHARD AUSNESS

I. INTRODUCTION

The use of opioids to treat a variety of common medical condi-
tions began in the late 1990s when Purdue Pharma introduced
OxyContin. Because of its patented time-release feature,
Purdue promoted OxyContin as a treatment for chronic pain
and it eventually became the most popular prescription pain
reliever in the United States. 

Unfortunately, opioid abuse has become a serious problem in
many areas of the country. Not only have millions of indi-
viduals become addicted to opioids, but many state and local
governments have incurred increasing costs for health care and
emergency services to address the rise in opioid addiction. This
in turn led thousands of government entities to sue manufac-
turers, distributors and dispensers of opioids to compel them
to pay for some of the economic costs of opioid addiction.

II. OPIOID LITIGATION PRIOR TO 2014

Beginning around 2000, individual opioid users began to bring
personal injury lawsuits against pharmaceutical companies. They invoked various liability theories to support their claims
including public nuisance, negligence, strict liability in tort,
failure to warn, breach of implied warranty, violation of state
consumer protection law, fraud, civil conspiracy and “malicious
conduct.” However, virtually all of these suits were unsuccess-
ful, as were a number of class actions.

State and local governments also sued during this period, but
they usually settled for modest amounts. For example, in 2004,
West Virginia settled its suit against Purdue for $10 million
and in 2007, the company settled a class action with 26 states
for $19.5 million. The Commonwealth of Kentucky and
Pike County also brought suit against Purdue in 2007. After
protracted litigation, Pike County settled in 2013 for about
$4 million and Kentucky settled in 2015 for $24 million.
III. CURRENT LITIGATION BY GOVERNMENT PLAINTIFFS

The current phase of opioid litigation began in 2014 when the State of Mississippi and City of Chicago initiated lawsuits against a number of opioid sellers. Since then, almost every state, as well as more than 2,000 local governmental entities, have brought similar lawsuits. The allegations in these claims basically followed one of two fact patterns. In the case of manufacturers of branded products, government plaintiffs alleged that opioid producers engaged in a sophisticated campaign to encourage doctors to prescribe opioids for the treatment of chronic pain by giving false assurances that opioids were effective and safe for this purpose. In the case of manufacturers of generic drugs and downstream sellers, such as distributors or dispensers, government plaintiffs generally contended that they failed to monitor suspicious drug orders or to report them to regulatory authorities.

As more states and local governments sued opioid producers and sellers, these lawsuits took a variety of twisted paths. The first path involved claims by the states. These cases were brought in state courts and have remained there. Recently, one case was tried in an Oklahoma trial court by a judge sitting without a jury and resulted in a judgment against Johnson & Johnson and its subsidiary, Janssen, for $572 million (later reduced to $465 million). Johnson & Johnson has appealed so it remains to be seen which party will ultimately prevail.

A similar case was brought by the State of New York against various drug companies and against the Sackler family, owners of Purdue. Liability claims include public nuisance, violations of various state statutes, fraud, gross negligence, willful misconduct, unjust enrichment, and fraudulent conveyancing. If the defendants are found to be liable, damages will be determined at a subsequent trial.

In contrast to claims brought by the states, drug companies are often able to remove local government lawsuits to federal courts on diversity grounds. However, in December 2017, the Judicial Panel on Multidistrict Litigation (JPML) consolidated all of these federal cases in the Northern District of Ohio for the discovery and pretrial motion phase of the litigation. Twenty-four cases pending in the Eastern and Western Districts of Kentucky were included in this transfer. Judge Dan Polster, who was selected to preside over the Multidistrict Litigation (MDL), scheduled a bellwether trial with two Ohio counties chosen as plaintiffs to be held in October 2019. However, the trial was aborted when the parties reached a settlement.

Another bellwether trial involving the City of Huntington and Cabell County, West Virginia has been scheduled for some time in 2020 and additional bellwether trials will probably be scheduled in the future.

Finally, for some defendants, bankruptcy may be an attractive alternative to protracted litigation. Purdue Pharma has already taken this path by filing for bankruptcy in a federal court in White Plains, New York in September 2019. In all likelihood, this will preclude Purdue from participating as a defendant in the MDL and instead will require the bankruptcy court to adjudicate the government plaintiffs’ claims.

IV. SETTLEMENTS

There are three plausible settlement outcomes: The first is a comprehensive or “global” settlement; the second is a settlement negotiated in a bankruptcy proceeding; and the third is a series of piecemeal settlements. There are many reasons why a settlement is in the interest of both sides. From the plaintiffs’ perspective, they want to get their money sooner rather than later. Also, plaintiffs (and their lawyers) must pay litigation costs as they arise. Finally, protracted litigation is undesirable for plaintiffs because, at least in theory, the more money the defendants spend on litigation, the less they will have available to contribute to the settlement pot. However, the defendants also have a strong incentive to settle. Not only will they incur substantial costs defending these lawsuits, but the prospect of large damage awards in the future may adversely affect the financial strength of the defendants’ businesses or even force them into bankruptcy. In addition, extended litigation carries with it the risk that highly damaging information will surface during discovery or at trial.

Judge Polster has made it clear that he hopes that the parties to the MDL (and possibly the states as well) will eventually reach some sort of comprehensive settlement. The Master Settlement Agreement negotiated between the states and major tobacco companies may provide a model for such a settlement. However, there are significant differences between the two situations. In the tobacco litigation controversy, there were fewer than 50 plaintiffs involved so it was relatively easy for them to work in concert. Furthermore, there were only a few defendant tobacco companies and they were all engaged in the same allegedly tortious conduct. In the current opioid litigation, there are more than 2,000 plaintiffs. In addition, there are various classes of defendants who have engaged in very different types of conduct. Thus, even if the parties could agree on the size of a prospective settlement, it will be difficult for them to apportion responsibility among themselves for paying the settlement.

Another barrier to a global settlement is that the states and local government plaintiffs constitute only a small portion of the potential plaintiffs who might sue the drug companies in the future. In response to this concern, the MDL plaintiffs’ counsel developed a novel concept known as a “negotiation class action.” This class action, which was certified by Judge Polster, creates a class comprised of all local governments that will try to reach a settlement with some or all of the defendants.

Although the amount of a possible settlement is not known, the proposal includes a “Negotiation Class Allocation Map” that apportions settlement funds according to a formula that takes into account three equally-weighted factors. These include: (1) the amount of opioids delivered within the class member’s geographical boundaries (measured in morphine milligram equivalents or MMEs); (2) the number of opioid-related overdose deaths; and (3) the number of opioid use disorder (OUD) cases. Under the terms of the class action proposal, potential class members were permitted to opt out of the class by November 22, 2019. Finally,
if a settlement were achieved, class members could vote to accept or reject it, with approval requiring a supermajority of 75%. The negotiation class concept is potentially useful, but it remains to be seen whether it will actually work in practice.

Another possible settlement route is through bankruptcy. After Purdue filed for bankruptcy in 2019, the cases against it in the MDL were transferred to a federal bankruptcy court in New York. This will presumably remove Purdue from any further involvement in the litigation that is occurring in other state and federal courts. If the parties are able to formulate a settlement for approval by the bankruptcy court, it may provide a template for settlements in the MDL and other non-bankruptcy proceedings.

The final possibility is that settlements will be negotiated on a piecemeal basis. “One off” settlements have already been occurring for some time. For example, in 2016-17, West Virginia entered into settlement agreements with twelve opioid distributors for a total payment of $73,265,000. In addition, Purdue and other drug companies settled with the State of Oklahoma shortly before their cases went to trial.28 The defendant drug companies also settled with two Ohio counties in order to avoid a bellwether trial in the MDL proceeding.29

This suggests that certain groups of defendants, such as manufacturers of branded drugs, manufacturers of generic drugs, distributors or dispensers, will enter into separate settlements with the states, local governments or both. An example of this possibility involved the three largest drug distributors, Amerisource Bergen, McKesson and Cardinal Health, who reportedly offered $18 billion over 18 years in October 2019 to settle outstanding claims by state and local governments.30

V. OPIOID LITIGATION IN KENTUCKY

The Kentucky Attorney General’s Office has been involved in litigation against opioid producers and sellers. In 2016, Kentucky joined a multistate lawsuit against the maker of Suboxone, a drug used to treat opioid addiction. On June 28, 2017, Kentucky Attorney General Andy Beshear announced plans to file lawsuits against various manufacturers, distributors and retail sellers of opioid drugs. In September 2017, the Attorney General’s Office contracted with a private law firm, Morgan & Morgan, to conduct this litigation on a contingency fee basis.31

In November 2017, the Attorney General filed suit against Endo Pharmaceuticals in connection with its opioid drug Opana ER and in 2018 against drug manufacturers Janssen Pharmaceuticals, Mallinckrodt, Teva Pharmaceuticals and Insys Therapeutics, distributors Amerisource, Cardinal Health and McKesson Corporation, and retail dispenser Walgreen’s. At the present time, the parties in these cases are engaged in discovery.32

As mentioned earlier, more than 20 Kentucky counties and cities also brought suit against opioid producers and sellers, before these lawsuits were transferred to the MDL in 2017. These lawsuits are still pending in the U.S. District Court for the Northern District of Ohio. Finally, a number of Kentucky hospitals and other health care providers have also sued pharmaceutical companies.33

VI. WHAT IS NEXT?

At this point no one knows how the current opioid litigation will end. One possibility, albeit a remote one, is that the parties will litigate these cases in federal and state courts until the liability issues are settled one way or another. However, no one really wants to go down that path. A more likely possibility is that the parties will settle on a piecemeal basis as was done by Purdue and Teva with the State of Oklahoma or by the MDL defendants and Summit and Cuyahoga Counties in the first MDL bellwether trial. Although this process could take years, it is possible that a pattern would eventually emerge in these early settlements that provides a template for subsequent settlements down the line.

Assuming that more litigation is likely, courts will have to address a number of unresolved issues. For example, does FDA and DEA regulatory authority over the production and distribution of prescription drugs preempt state and local government lawsuits? Can drug companies avoid liability on the grounds that the plaintiffs’ economic losses are too remote? Do the states, pursuant to their parens patriae jurisdiction, have the exclusive right to sue the drug companies? Are federal courts without jurisdiction to try opioid cases because they involve political questions? Is each defendant jointly and severally liable for all of the economic harm caused by opioids, including heroin and other illegal drugs? And finally, are state and local governments required to spend any money they receive, either from damage awards or by settlements, solely on law enforcement and opioid-related research and treatment programs? One hopes that these questions will be answered as the current opioid litigation runs its course.

ABOUT THE AUTHOR

RICHARD AUSNESS is the Stites & Harbison Professor of Law at the University of Kentucky J. David Rosenberg College of Law. He received his B.A. and J.D. degrees from the University of Florida. He also received an LL.M. degree from Yale Law School. Professor Ausness has been a member of the University of Kentucky College of Law faculty since 1973. He has published several books and more than 70 law review articles. At the present time, Professor Ausness is examining the opioid litigation phenomenon. He has been interviewed on this subject by numerous newspapers and magazines. He has also appeared on a number of radio and television programs and has presented at several conferences and symposiums.
ENDNOTES

1 Its active ingredient was oxycodone, an opioid that was found in other analgesic products such as Percocet, Percodan and Tylox.


9 Christopher R. Page, Comment, These Statements Have Not Been Approved by the FDA: Implemeting the Postapproval Regulation of Prescription Drugs, 88 Or. L. Rev. 1189, 1205 (2009).


11 Ausness, supra note 7, at 1156.


13 Other lawsuits by hospitals, Indian tribes, healthcare plans and neonatal abstinence syndrome babies are also pending but are not part of the MDL. Erich Eiselt, The Opioid Wars—Notes from the Front, 60 Municipal Law. 24, 25 (Sept.-Oct. 2019).

14 Kadri, supra note 6, at 94.

15 Id.


18 Id. at 5-6.

19 Id. at 2-3.


21 Id. at 1380-81.

22 The MDL process is a mechanism that enables a large number of similar federal cases to be consolidated into a single proceeding for certain limited purposes. Howard M. Erichson, Informal Aggregation: Procedural and Ethical Implications of Coordination Among Counsel in Related Litigations, 50 Duke L.J. 381, 415-16 (2000).


27 Eiselt, supra note 14, at 24.


29 Mann & Dwyer, supra note 24.


31 Litigation Against Pharmaceutical Industry—Kentucky Attorney General, supra note 13.

32 Id.

Mass Torts

101:

All Mass, but No Class

BY GREGORY J. BUBALO AND KATE A. DUNNINGTON
Mass torts litigation "emerges when an event or series of related events injure a large number of people or damage their property." A mass tort is defined by the nature and number of claims; the claims must arise out of an identifiable event or product, affecting a very large number of people and causing a large number of lawsuits asserting personal injury or property damage to be filed. The central question is whether the group of claims, whatever its size, calls for special management.1

There are many wordy, complex definitions for a mass tort although these center more on judicial management. But this article is written more from the perspective of a lawyer, sitting in a Mass Torts 101 class. Here, we attempt to review what "mass tort" representation means on a fundamental level for the average practitioner.

When asked what it means to be a "mass tort" lawyer, we jokingly respond: "Mass tort lawyers have mass, but no class." Lawyers involved in a mass tort case represent, within "aggregated" proceedings, individual clients who are suffering substantially similar wrongs and injuries inflicted by a common defendant or many common defendants. These aggregated proceedings may be pending in one or multiple jurisdictions and in many procedural forms. A mass tort representation begins in an attorney-client relationship with each claimant. In contrast, "class action" lawyers directly represent only one or maybe a few client(s), seeking to have the Court appoint such to represent the entire class of claimants similarly situated. The "Class Action" lawyer typically has no direct contractual or attorney-client relationship with class members, outside of those class members representing the class as a whole.

Many lawyers "collect" a few mass tort clients with the intention to refer these to "mass tort" specialists. But even where lawyers attempt to limit the scope of their representation to referral, the complexity of the facts, procedures, and law, combined with ethical rules that may be unclear when applied en masse, present potentially dire traps for the unwary practitioner. Instead of a scholarly treatise, this article is designed more as a practical primer to highlight some of the difficult challenges of mass tort litigation that may await the average practitioner.

MASS TORT LITIGATION IS "AGGREGATE LITIGATION."

A mass tort is a form of "aggregate litigation," defined by the "American Law Institute" ("ALI"), in its Principles of the Law of Aggregate Litigation, which states:

All aggregate proceedings combine claims or defenses held by many persons for unified resolution, which may be trial or settlement. .... Examples of aggregate proceedings include mass-tort actions, class actions, derivative lawsuits, actions naming multiple conspirator and inventory settlement.2

These types of aggregate proceedings are divided "into categories along functional lines." There are "aggregate lawsuits" (where multiple claims are joined or consolidated, i.e., through Civil Rule (CR) 20); "representative actions" (like class actions via CR 23); "administrative aggregations" (such as CR 42); and even a separate type of proceeding for filed or unfiled "private aggregations" of claims or cases in various jurisdictions which is usually an "inventory" of clients and claims to be resolved through litigation, or private mediation or arbitration.4 One or more of these aggregated actions may be procedural platforms through which a "mass tort" is litigated.

LEGAL ETHICS DEFINING MASS TORT PRACTICE.

More than most areas of legal practice, the rules of legal ethics provide mass tort practice with overarching principles within a maze of procedural rules and substantive laws. One might ask: "How is it ethical to represent multiple clients harmed by the same wrongs with similar injuries?" The response is simple. Without lawyers who are capable and willing to represent multiple clients, these clients many times would have no practical chance at justice. The advantages of group representation generally outweigh the disadvantages. Thus, potential conflicts, if any, may be waived in writing with informed consent.

Sample fee agreements in mass torts have specific "waiver of conflict" provisions to address these issues and these waivers should be entered from the beginning of each client’s representation in a mass tort. For instance, one sample agreement begins:

CLIENT acknowledges and understands that ATTORNEYS will be simultaneously representing CLIENT’S individual interests as well as the legal interests of other individuals with similar claims against the same DEFENDANT(S).

The waiver provision typically goes on to explain that there are advantages and disadvantages of such representation, but that, as a practical matter, joint representation is an overwhelming advantage. Nevertheless, the individual interest of each client should be considered, and the balance of benefits may change during the case for one, some, or all clients, requiring further consideration and additional disclosures and waivers after informed consent (assuming the balance of benefits tilt favorably toward mass representation for each client).

Aggregate representation presents unique burdens for the lawyer, which may vary throughout the litigation process. The burden is most intense at the end, because "aggregate settlements" resolve most mass tort cases. Out of an abundance of caution, it is important for the fee agreement for each mass tort client to be much more detailed than usual contingent fee agreements, such as for a traffic accident, a slip and fall, or other "stand-alone" cases.

For instance, it is important to disclose (among other issues) how expenses of the case are chargeable and reimbursed from each client. "Generic expenses" may be divided among all clients represented in the litigation, versus "case specific" expenses chargeable specifically
to a single client, i.e., filing fees, cost of medical records, or other client-specific issues. The ability to divide the generic expenses (which are exorbitant) amongst a large group of individual clients, thus lessening the cost to each, is just one of the reasons why filing claims for many jointly represented clients justify the joint representation. One individual claim may not support the costs involved. But when the generic expenses can be distributed amongst many, it becomes possible for an attorney to pursue an action against what is usually a large multi-million or multi-billion-dollar company. Nevertheless, each mass tort client must be informed of how such expenses are incurred, calculated and divided. Mass tort lawyers have been sued by clients for allegedly failing to account for generic versus case specific expenses after settlement.8

A well-written agreement will also disclose in lay terms that, although some of these claims may be “individually” settled, many are instead settled through a “lump sum” or “aggregate settlement.” Principles of the Law of Aggregate Litigation §3.16(a) defines “non-class aggregate settlements,” as where there are “two or more individual claimants in which the resolution of the claims is interdependent.”10 Interdependency occurs where “acceptance of the settlement is contingent upon the acceptance by a number or specified percentage” of claimants or dollar amounts offered.11 Or, where the “the value of each claimant’s claims is not based solely on individual case-by-case facts and negotiations.”12

Comment 13 of SCR 3.130(1.8) (g) illustrates some of the potential conflicts of interest that exist in aggregate settlements and the required disclosures and waivers:

When the terms of an aggregate settlement do not determine individual amounts to be distributed to each client, detailed disclosures are required. For example, if a lump sum is offered in an aggregate settlement and the clients’ attorney is involved in dividing the settlement sum, that attorney must disclose to each client the number of his or her clients participating, specifics of each client’s claim relevant to the settlement, and the method of dividing the lump sum.

The disclosures and waivers required in an interdependent settlement of a thousand clients, for example, may be very complex in order to satisfy ethical requirements. However, such may be equally required with 5 clients, where individual offers of settlement are not made to each client, but a lump sum settlement is offered to all the clients with a condition that 100% of them must accept the settlement and its terms. Attorneys who litigate mass tort claims would be wise to employ an independent ethics expert to bless the process, in order to ensure that obligations to the clients are kept, while shielding attorneys and firms from potential liability.13

Ethical obligations related to settlement is a central theme that defines this practice area. As discussed above, a direct attorney-client relationship exists with each claimant in a mass tort case. “Class actions, by contrast, involve representation by attorneys who typically have a relationship only with the class representatives and not with the unnamed class members, although the lawyer owes a fiduciary duty to all class members.”14 Class action settlements are Court supervised and approved. Unlike class action settlements:

[N]on-class aggregate settlements may occur with no active judicial oversight whatsoever. Non-class aggregate settlements are governed primarily by ethical rules and are rarely subject to court review or approval for fairness.15

Lawyers must be sensitive to the drastically changing ethical obligations depending on the type of aggregated litigation. Although the difference in all these forms of aggregation is too complex to be discussed here,16 critical distinctions exist between obligations of class counsel to the class, versus the representation of individual clients in other types of aggregated litigation. These distinctions are primarily fueled by the fact that a class action may be a nonconsensual form of representation versus mass tort representation, which is almost always consensual.17 Kentucky courts have addressed the tension between representing the class, versus representing individual members of that class in the form of a mass tort action.18

Unfortunately, some (former) members of the Kentucky bar are familiar with the pitfalls which can occur when lawyers fail to fulfill their ethical duties to their mass tort clients. These lawyers’ fall from grace is instructive as a cautionary tale. On May 20, 2010, Kentucky’s “Fenphen” fiasco resulted in the disbarment of Melbourne Mills, Jr. (“Mills”).19 Earlier, Shirley Cunningham, Jr. (“Cunningham”) and William Gallion (“Gallion”) were disbarred for similar charges.20 Cunningham and Gallion, essentially conceded their fate, moved for and were granted permanent disbarment. Mills resisted disbarment, but finally met the same end.

These disbarments were related to the settlement of a “class action,” Darla Guard, et al. or Jonetta Moore, et al. v. A.H. Robins Company, et al. (hereafter called “Guard”).21 Guard was one of literally thousands of drug products liability actions filed against Defendant Wyeth and its subsidiaries because of diet pills, One of Wyeth’s diet pills was Pondimin® (generically called fenfluramine). When a fenfluramine and a phentermine prescription were combined, it popularly became known as “Fenphen.” The settlement in Guard for $200,450,000 resolved the claims of 440 plaintiffs alleging injury due to Fenphen ingestion.

Gallion, Cunningham, and Mills (hereafter called the “Gallon Group”) were representing both the class and directly representing an inventory of mass tort clients falling within the class as well. This dual representation was a serious conflict of interest. The Gallion Group was charged with 22 ethical violations related to their actions administering the aggregate settlement.22

In June 2011, the Kentucky Bar Association (“KBA”) Board of Governors recommended disbarment of famed attorney Stanley Chesley, an attorney whose primary practice was in Ohio but who was co-counsel in Guard with the Gallion Group. Chesley rose to prominence in the late 1970s as one of the most visible and highly respected practitioners of class actions and mass torts.23 The KBA Board of Governors accepted the recommendation of
Trial Commissioner, William Graham, who on February 22, 2011, recommended that Chesley be permanently disbarred from practicing in Kentucky.\textsuperscript{24} The Commissioner stated that “his callous subordination of the interests of his clients to his own greed is both shocking and reprehensible.”\textsuperscript{24} In total, the Trial Commissioner found Chesley in violation of eight different ethical rules.\textsuperscript{26} Subsequently, our Supreme Court permanently disbarred him from the practice of law.\textsuperscript{27} In sum, any lawyer contemplating the representation of any client in a mass tort practice should be acutely aware of the applicable ethical rules and the guidance of our Supreme Court.

**PRACTICAL CONSIDERATION DEFINING MASS TORTS.**

**Infrastructure:** Before attempting to represent clients *en masse*, a lawyer must have adequate infrastructure\textsuperscript{28} in her/his firm, or otherwise have access to it. A lawyer who decides to undertake a mass tort practice should fully understand the overhead involved. For instance, in one recent mass tort, approximately 542 claimants were eventually filed in aggregate actions in four different states. In order to select clients that fit the criteria of liability and causation as alleged in those complaints, these 542 clients were selected from approximately 3,610 “leads” or potential clients. As part of this review, all or parts of their medical records were considered. This enormous undertaking could overwhelm a legal practice unprepared to handle it. Case management and client contact systems are essential in this type of work.

**Advertising:** Mass Tort lawyers advertise, usually for specific torts. They employ advertising in all aspects, on national cable, on local television, digitally, through pay-per-click or on Facebook. For most mass tort clients, legal advertising is the first notice they have of any issue or defect with a device or drug. The complexity of this is the subject of another article, but advertising is very much a part of mass torts. In *Shapero v. Kentucky Bar Association*, 486 U.S. 466 (1988), the Supreme Court struck down as a violation of the 1st Amendment a rule prohibiting lawyers from sending truthful, nondeceptive solicitation letters to potential clients. Since that time in Kentucky and other states, restrictive provisions prohibiting advertising (for better or worse) have been stricken as an ultimate act of our democracy under the 1st Amendment. We live in a democratic republic with a right to free speech, commercial and otherwise. To quote Churchill, it’s “the worst form of government, except all others.”\textsuperscript{29}

**Location, Location, Location:** Like real estate, where to locate mass tort litigation so that these proceedings may be effectively aggregated is literally the million-dollar question. In the Essure® mass tort litigation, remands have been fought, won, and lost from federal to state courts in four different jurisdictions. Although remands were won in Kentucky, Indiana, Pennsylvania and other states on the issues of federal jurisdiction and diversity,\textsuperscript{30} hundreds of plaintiffs ultimately lost their attempt to remand from the Eastern District of Missouri due to issues of personal jurisdiction following the recent Supreme Court case of *Bristol-Myers Squibb Co. v. Superior Court*, 137 S. Ct. 1773 (2017) (hereafter “BMS”).\textsuperscript{31} Where to file a case so that claims can be effectively aggregated is a typical battle for most mass tort lawyers, especially after *BMS*. Before *BMS*, multiple plaintiffs could be filed in many state courts to consolidate the actions of literally hundreds of claimants in a single forum. *BMS* significantly limited these choices by giving a much narrower view of specific jurisdiction.

**Trials:** In practice, many mass tort actions never go to trial. There are many reasons for this, but typically (assuming the plaintiffs can withstand the tsunami of jurisdictional, procedural, and dispositive *Daubert* and summary judgment motions), a mass tort trial is extremely expensive for both sides and may last weeks or even months. Frequently, both sides select “bellwether” cases to determine the value, if any, of a typical claim. Then, on this basis, settlement negotiations may begin. The Manual for Complex Litigation, Fourth, § 22.315 also calls a “bellwether” trial a “test case,” as follows:

> If individual trials, sometimes referred to as bellwether trials or test cases, are to produce reliable information about other mass tort cases, the specific plaintiffs and their claims should be representative of the range of cases. Some judges permit the plaintiffs and defendants to choose which cases to try initially, but this technique may skew the information that is produced.

**CONCLUSION.**

Mass torts is an exciting area of practice but requires a foundation of basic knowledge as a platform for competent representation. Hopefully, this article provides a starting point for those lawyers new to the area.\textsuperscript{32}

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**GREGORY J. BUBALO and KATE A. DUNNINGTON** are law partners in the Becker Law Office, a subsidiary of Bubalo Law PLC. Mr. Bubalo has represented plaintiffs in mass tort cases, including multiple jury trials in multiple jurisdictions. He was named a 2020 Lawyer of the Year by Best Lawyers in mass torts and is Board Certified in Civil Trial Law by the NBTA. Both Mr. Bubalo and Ms. Dunnington are licensed in Kentucky and Indiana, as well as multiple federal courts. They are members of the Kentucky Justice Association where they serve on the board of governors and are active members of the American Association for Justice.
Principles of the Law of Aggregate Litigation, § 3.16, Comment a. While this is generally true, there have been occasions where mass torts and class actions have merged, where a mass tort was settled by a class action approved settlement. See, e.g., Brown v. Am. Home Prod. Corp. (In re Diet Drug (Phentermine, Fenfluramine, Desfenfluramine) Prod. Liab. Litig.), No. 99-20593, 2000 U.S. Dist. LEXIS 12275 (E.D. Pa. Aug. 28, 2000).

Principles of the Law of Aggregate Litigation, id.

Class counsel generally must limit their representation of members of the class to only those serving in a fiduciary capacity as class representatives. “The compelling obligation of class counsel in class action litigation is to the group which makes up the class.” See In re GMC Pick-Up Truck Fuel Tank Prod. Liab. Litig., 55 F.3d 768, 801 (3d Cir. 1995). Interests of the entire class, “[are] not dependent on the special desires of the named plaintiffs.” Id.


See Kentucky Bar Ass’n v. Mills, 318 S.W.3d 89 (Ky. 2010).


Boone Circuit Court, Case No. 98-CI-795.

An abbreviated description of these violations, organized by Kentucky Supreme Court Rule 3.130 sections, is: (1) Rule 1.1(a) (failure to provide competent representation); (2) Rule 1.4(a) (failure to adequately communicate with clients); (2) Rule 1.4(b) (failure to inform clients of relevant information); (3) Rule 1.5(a) (receiving an excessive fee); (4) Rule 1.5(c) (failing to provide a written statement or accounting about the outcome of the matter); (5) Rule 1.5(e) (failing to disclose or gain approval for a division of fees); (6) Rule 1.7(a) (conflict of interest in representing multiple clients without consent who were competitors); (7) Rule 1.7(b) (conflict of interest in obtaining a stake in settlement funds also claimed by their clients); (8) Rule 1.8(a) (conflict of interest by acquiring an interest in settlement funds in excess to fee agreements); (9) Rule 1.8(g) (conflict of interest in failing to explain and obtain consent in the allocation of a lump sum settlement among multiple clients); (10) Rule 1.8(j) (conflict of interest in acquiring a proprietary interest in litigation); (11) Rule 1.15(b) (co-mingling property with that of clients); (12) Rule 1.15(b) (failing to turnover client funds or provide an accurate accounting); (13) Rule 1.15(f) (failure to make a proper accounting of settlement funds and fees, before the removal of fees from the settlement accounts); (14) Rule 2.1 (failure to exercise independent professional judgment in distribution of settlement funds); (15) Rule 5.1 (failure to adequately supervise associate lawyers); (16) Rule 5.3(a) (failure to enact policies and procedures to assure that non-lawyer employees acted in accordance with ethical rules); (17) 5.3(b) (failing to supervise non-lawyer employees to assure compliance with ethical rules); (18) Rule 5.4(a) (fee splitting with non-lawyers, including a trial consultant and a mediator); (19) Rule 5.5(b) (permitting non-lawyers to give legal advice); (20) Rule 8.3(a) (knowingly assisting other plaintiffs’ lawyers and non-lawyers, as well as the Boone Circuit Judge, to violate ethical rules); (21) Rule 8.3(b) (deceiving clients concerning individual settlement amounts); (22) Rule 3.3(a)(1) (misrepresenting to the Boone Circuit Court that clients had consented to donate millions of dollars to a charitable organization).


See Stanley M. Chesley, Report of the Trial Commissioners, KBA File 13785 (Ky. 2011), finding that Chesley “[h]e willingly and actively participated in . . . ‘meeting’ with Judge Bamberger in order to get the Court’s stamp of approval on this criminal enterprise.” Id. at *27. The Trial Commissioner stated that “[e]very action taken by Chesley after this meeting with Judge Bamberger was calculated to assist in the cover-up….” Id.

Ky. Bar Ass’n v. Chesley, 393 S.W.3d 584 (Ky. 2013).

“A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.” Ky. SCR 3.130 (Rule 1.1).


Kentucky Supreme Court Issues Key Decision on Parental Liability Waivers

By Samuel W. Wardle

If you have kids, you’ve signed a liability waiver. In fact, you’ve probably signed hundreds of them.

Liability waivers—aka pre-injury exculpatory agreements—are ubiquitous. If a child is going on a trip, playing for a team, or taking a class, odds are that a parent will have to release “any and all claims” against the organization arising from any injury that the child might suffer, whether occasioned by the negligence of the organization’s employees or other factors.

Everyone agrees to these waivers. Few, if any, parents actually read them.

But is this boilerplate enforceable? The Kentucky Supreme Court addressed this very question in its important 2019 ruling, Miller v. House of Boom Kentucky LLC.¹

**Miller’s Holding**

Miller addressed the tort claims of a minor who was injured at a popular trampoline park in Louisville. Before the child could enjoy the park’s trampolines, gymnastics mats, foam blocks and balance beams, her mother had to agree to waive any claim the child might later raise based on injuries allegedly caused by the negligence of the park’s employees:

**Release of Liability:** Despite all known and unknown risks including … serious bodily injury … [the parent agrees to] voluntarily remise, release, acquit, satisfy and forever discharge and agree not sue HOUSE OF BOOM … [for] any and all claims which allege negligent acts and/or omissions committed by HOUSE OF BOOM[.]
Like any parent would, the mother agreed. She paid the entry fee, and her daughter proceeded to the trampolines and broke her ankle. The girl and her parents sued for damages. The trampoline park moved for summary judgment, arguing that the girl's mother had waived the girl's right to sue.

The U.S. District Court for the Western District of Kentucky recognized that the trampoline park's summary judgment argument raised a “novel issue of state law” in Kentucky. Although Kentucky precedent generally casts a skeptical eye on liability waivers in general—decisions have characterized them as “disfavored” and “strictly construed against the drafter”—Kentucky courts will enforce unambiguous waivers. However, no court in Kentucky had ever addressed whether an exculpatory agreement signed by a parent could be enforced against a child as an absolute bar to the child's tort claim.

The Western District of Kentucky sent the trampoline park's arguments to the Kentucky Supreme Court as a certified question of Kentucky law, pulling Kentucky into a debate that has simmered for decades in other jurisdictions. Many states' highest courts have enforced parental waivers, reasoning that they are consistent with parents' fundamental rights to make important decisions for their children.1 Approximately a dozen state appellate courts have reached the opposite conclusion, holding that public policy precludes a parent from waiving her child's common-law right to recover damages for the negligence of another.2

In a unanimous decision, the Kentucky Supreme Court held that public policy precludes a parent from waiving a child's right to redress for the alleged negligence of a for-profit trampoline park. The Court reasoned that Kentucky parents have no “inherent right” or “fundamental liberty interest” to “quash their child's potential tort claim” under Kentucky law. Based on this determination, the Court framed the issue as “whether Kentucky public policy supports a change in the common law that would protect for-profit entities from liability by enforcing pre-injury liability waivers signed by parents on behalf of their children.”3 (Emphasis added).

The Court squarely concluded that public policy does not support “changing the common law” to allow for-profit businesses to enforce such waivers. The Court found that the enforcement of parental waivers would be inconsistent with longstanding Kentucky protections for the rights of minors to bring civil claims.4 And the Court rejected the trampoline park's contention that the policy of encouraging “affordable recreational activities” supported the enforcement of parental waivers. Rather, in the Court's view, a commercial entity can “purchase insurance and spread the cost between its customers” and also “train its employees to inspect the business for unsafe conditions.”

Further, the Court pointed out that the majority of “pro-waiver” states have enforced such waivers in the educational context, based on the dual policies of “encourag[ing] wholesome recreation for boys and girls” and “limit[ing] liability for those volunteering[].”5 And the Court concluded that “the same public policy implications that apply when dealing with the voluntary opening of private property or a school district's limited immunity allowing community use of school property do not apply when dealing with a commercial entity.”

Consequently, the Court’s decision was a narrow—although important—one: for-profit businesses that cater to children in Kentucky might not be able to enforce liability waivers signed by the children's parents.

**MILLER'S OPEN QUESTIONS**

In closely tailoring its ruling to fit the facts at hand, the Court left open several questions that may be tested in future litigation.

For example, what distinguishes a “non-profit, educational” organization from a “for-profit, commercial” business? Miller strongly implied that public entities such as schools, and volunteer/ non-profit
organizations such as the YMCA, would be entitled to enforce parental liability waivers to encourage “wholesome recreation” and to limit volunteers’ liability. Miller noted that its rationale was consistent with Kentuckians’ recreational-use statute, KRS 411.190, which provides a limited immunity to the owner of land used for a recreational purpose, provided that the owner does not charge a fee. But Miller also left for another day the question of what, exactly, distinguishes a volunteer provider of “wholesome recreation” from a profit-seeking business. Many families, for example, would view gymnastics gyms, summer camps, and private sports leagues as “wholesome” and beneficial, even though these organizations are private and many operate for a profit. But a parental waiver in favor of such an organization may not be enforceable under Miller.

It was for this reason that the Maryland Court of Appeals held, in BJ’s Wholesale Club, Inc. v. Rosen, that the issue of “whether a child’s judgment renders him less capable of looking out for his own welfare heeds true whether or not he or she is playing on a school playground or in a commercial setting.” BJ’s Wholesale Club, contrary to Miller, held that parental waivers are broadly enforceable by both public and private entities. Miller examined and rejected this analysis, characterizing it as inconsistent with settled principles of Kentucky law.

Miller may also test the enforceability of other common contractual provisions, such as arbitration and forum-selection clauses. A 2012 Kentucky Court of Appeals decision held that a statutory custodian (a lesser role than a formal, court-appointed guardian) had no authority to bind an incompetent adult to an arbitration agreement.7 Miller approvingly cited the decision as support for the Kentucky policy of oversight over agreements involving minors and incompetents. Creative attorneys may begin arguing that, if a parent cannot waive a child’s overall right to sue, then the parent should not be able to waive the child’s choice of law, forum, or dispute-resolution mechanism, either.

Perhaps these concerns will prompt for-profit Kentucky businesses to lobby the General Assembly to overturn or modify the holding of Miller by statute. After appellate courts in Florida and Colorado issued similar policy-based, “anti-waiver” decisions, state legislators quickly overturned the rulings.10 And indeed, Miller all but invited legislative review, noting that the trampoline park “retains the ability to urge change in the common law by petitioning the General Assembly to enact a statute that supports a parent’s ability to waive their child’s legal rights.”

However, even legislative action might not end disputes over Miller’s application. Kentucky’s “jural rights” doctrine precludes the General Assembly from limiting common-law claims.11 And the Miller Court specifically framed the issue at hand as whether to “change the common law” and preclude tort claims by minors.

In the meantime, Kentucky businesses, as well as their insurers and attorneys, will have to adjust. But anecdotally, at least, they have been slow to do so. On a recent cold and rainy day, this author drove his two young children to a for-profit children’s recreational facility in Louisville. Notwithstanding the Kentucky Supreme Court’s definitive holding, the business’s employees unceremoniously produced a liability waiver purporting to absolve them of any liability, should my children’s afternoon end in a trip to the emergency room. I was informed that my assent to the waiver was a requirement of entry.

The waiver contained the exact language that Miller declared unenforceable.

Like every other parent in the building, I signed the waiver and sent my kids off to play.

ENDNOTES

1 575 S.W.3d 656 (Ky. 2019).
4 See House of Boom, 575 S.W.3d at 658-59 n.1, 2, 3, & 4 (collecting cases).
5 House of Boom, 575 S.W.3d at 660.
6 See KRS 387.280.
11 See, e.g., Taylor v. King, 345 S.W.3d 237, 242 (Ky. App. 2010) (holding that dram shop law’s restriction on punitive damages violated the jural rights of Kentuckians and, consequently, was invalid).

ABOUT THE AUTHOR

SAMUEL W. WARDLE is a litigator in the Louisville office of Frost Brown Todd. In addition to serving on the Kentucky Bar Association’s Communications & Publications Committee, Wardle is chair of the Louisville Bar Association’s Litigation Section and a Superlawyers “Rising Star” in Kentucky litigation.
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jobs.kybar.org
Former United States Ambassador Patricia Herbold found she had a lot of career opportunities after she graduated from Salmon P. Chase College of Law in 1977. Forty-three years later, new generations of students will have more opportunities at Chase because of a $2 million gift Ambassador Herbold and her husband, Robert Herbold, have made to the college.

Their donation, the largest in the 127-year history of Chase, has endowed the deanship as the Ambassador Patricia L. Herbold Dean of Chase College of Law to help fund work of the dean in such areas as faculty and student recruitment, expansion of curriculum and academic programs, teaching and research, and creation of new opportunities for students.

“I have been blessed in so many ways in my life,” Ambassador Herbold says. “My legal education at Chase provided me with a variety of career choices – private practice, corporate counsel, politics – each of which I pursued when the opportunity presented itself. Establishing this endowment is my way of thanking Chase and is an expression of my hope that it will create opportunities for others to share their blessings in ways that are meaningful to them and beneficial to others.”

Her career opportunities include having been associate regional counsel for Prudential Insurance Co., in Cincinnati, general counsel for Bank One, in Dayton, Ohio, and an attorney with Taft, Stettinius & Hollister, in Cincinnati. She was also a city council member and mayor of the northeastern Cincinnati suburb of Montgomery. Then in 2005, after having moved to Washington state where her husband had accepted a position as executive vice president and chief operating officer of Microsoft Corp., she was sworn in as U.S. Ambassador to the Republic of Singapore. She remained in that post until 2009, when administrations changed and she submitted her resignation, as traditional for non-career appointees.

The endowment by Ambassador Herbold and Dr. Herbold designates current Chase Dean Judith Daar as the first Ambassador Patricia L. Herbold Dean of Chase College of Law. “Ambassador Herbold’s transformative gift to Chase will enhance our program of legal education for generations to come,” Dean Daar says. “Her exemplary work in the legal arena, as well as her impactful service to our country, make her an inspiring role model for our entire community. It is an incredible honor to steward the endowment during my deanship, knowing the enduring impact it will have on Chase well into the future.”

The endowed position places Chase among about 15 law schools with endowed deanships. It is the first endowed named position at Chase and the first endowed named deanship at Northern Kentucky University, which includes Chase.

The significance of the endowment extends to the entire university. “NKU is fortunate to have alumni, like Ambassador Herbold, who continue to engage with the university and support its future success. As her story demonstrates, our graduates leave NKU to make an impact – not just on the region, but also the world,” NKU President Ashish Vaidya says.

Ambassador Herbold remained involved with Chase and NKU following her graduation, as a member of the Chase Dean’s Board of Advisers, as a recipient of the NKU Alumni Association Outstanding Chase Alumna Award, and as commencement speaker at the 2008 NKU commencement, where she was awarded an honorary doctorate.

Prior to endowment of the deanship, Ambassador Herbold had created scholarships for two students in the Chase evening division, which she had attended.
University of Kentucky J. David Rosenberg College of Law students have embraced community service as an essential part of their education. In the fall, among other activities, students made sandwiches for the hungry, collected pennies for families in need, and delivered school supplies to one of the poorest counties in the country.

On Thanksgiving Day, Connor Hicks, a second-year law student, delivered notebooks, pens, warm clothing and other items to the nonprofit Hope Chest in McDowell County, West Virginia, for distribution to students in the area.

Hicks first visited McDowell County as part of an undergraduate internship at the West Virginia University College of Law Land Use and Sustainable Development Law Clinic, before he became a student at the UK Rosenberg College of Law. Hicks said he met the friendliest people there and he wanted to help the community struggling with high rates of poverty and drug overdoses. For two consecutive years, the Rosenberg College of Law community has been eager to help with the effort, Hicks said. He has received support from fellow students, student organizations—including the Appalachian Law Caucus and The Federalist Society—faculty and staff.

“It’s important now, early on, to establish that it’s important to give back,” said Darrian Botts, a second-year law student and BLSA public relations chair. “If you do that early on, you’re going to be more likely to do it later on.”

Botts said community service work has helped her get to know the people outside of the law building and, in turn, the community gets to know the law students.

Taylor Kennedy, a second-year law student and BLSA’s programming and events chair, said it is crucial that law students get involved in communities where their expertise as attorneys might be needed in the future.

“I know growing up, people were afraid of attorneys—and talking to them—and definitely felt that people in these professional positions had their noses in the air and weren't interested in giving back or paying it forward,” Kennedy said. “I don't think that's a fair stereotype, and I want to do as much as I can to break those kinds of things down.”

Kennedy said listening to diverse groups of people throughout the community has taught her more about how the law intersects with the community's needs.

“For lawyers, there are so many things we can do in our field,” Kennedy said. “Community service works in two ways. You’re helping people, which is great, but they’re also helping you, which also feels great. It benefits both sides.”
The University of Louisville School of Law is fortunate to count many successful torts practitioners among its former students. As all lawyers know, tort law is a broad practice area with many areas of specialization. In this issue’s column, I spoke with three such experts, all of whom share their thoughts on tort law.

BY DEAN COLIN CRAWFORD

WHAT ARE SOME TRENDS IN TORT LAW YOU HAVE OBSERVED IN RECENT YEARS?
The biggest trend in personal injury cases has been the impact of mediation. Now, almost all courts make it mandatory for mediation to occur before a trial date. Defendants want to eliminate risk, and plaintiffs are incentivized to maximize their recovery, before time and costs rise after mediation.

The overall success rate of mediation is close to 80 percent. Therefore, jury trials have been reduced so attorneys must have their case well prepared as they approach mediation.

HOW HAS TECHNOLOGY IMPACTED YOUR PRACTICE?
Technology has risen the bar with regard to how attorneys present or prove their case.

For liability proof purposes in high damage motor vehicular or industrial accidents, visual 3-D models of the scene with active animations can enhance how you show the jury a clear picture of what happened. In medical cases, or for medical proof purposes, visually presenting well-organized medical records, injuries, procedures, and video clips of medical or expert testimony on a large screen can bolster a jury’s ability to understand and accept the causation and damages portion of an attorney’s case.

Technology in trial has become mainstream, almost expected and certainly well received by the jury.

Other aspects of technology are that 1) legal research is done online and not in books, 2) the majority of files, documents, records, transcripts, etc., are downloaded and saved on computer systems and in the cloud, so that the old days of attorneys storing or carrying around huge paper files no longer exists, and 3) electronic filings with the court are now standard practice.

DO YOU HAVE ADVICE FOR CURRENT LAW STUDENTS WHO WANT TO PRACTICE TORT LAW?
Core law subjects and fundamentals are, of course, the standard requisite knowledge. Beyond that, I encourage law schools to offer, and law students to take, more practical lawyer skill courses.

A law firm may have a need to hire for the certain purpose of legal research and writing, but attorneys that hire students out of law school are also looking for, and trying to project, the candidate’s legal talent. Law students do not have “experience” so a distinguishing factor that students can do (within three years of law school) is take some courses that develop practical lawyering skills.

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WHAT ARE SOME TRENDS IN TORT LAW YOU HAVE OBSERVED IN RECENT YEARS?
Scheduling seems to have become much more laborious. I think defense attorneys are able to handle more cases now, perhaps because of the changes in technology. But then to try to schedule a deposition, especially if there are multiple parties involved, I find we end up having to go out months and months.

I think the courts tend to be a little bit put off by discovery motions, so they don't look very favorably upon motions to compel or motions regarding discovery abuse.

Because of these issues with scheduling and discovery abuses, I find that these cases are taking a lot longer to resolve. What used to maybe take a year or two is now more like two to four.

HOW HAS TECHNOLOGY IMPACTED YOUR PRACTICE?
It's changed everything. With clients, their life is an open book now. These defendants, they all have people who can research everything: Facebook, Twitter. We have to talk to clients about that and caution them. They need to know that what they post, they might as well post it to the jury.

DO YOU HAVE ADVICE FOR CURRENT LAW STUDENTS WHO WANT TO PRACTICE TORT LAW?
My advice would be: Don't get out and try to do it on your own right away, especially if you're going to practice complex tort litigation, like medical negligence or product liability law.

If you think about it, the first time you tried to shoot a basketball or ride a bicycle, you weren't as good starting out as you were later on. It's the same with the practice of law. My advice would be to find someone who is good at it and work for them for a while.

FERNANDO VALDIZÁN
Alex R. White, PLLC
Class of 2011

WHAT ARE SOME TRENDS IN TORT LAW YOU HAVE OBSERVED IN RECENT YEARS?
I have been practicing for about nine years now and have done some form of personal injury almost from the beginning, starting as a defense attorney for a major insurance company. When I switched to the plaintiff side, I noticed that the biggest trend was that almost every attorney would often say and even promote that they do “personal injury” law. However, very few know all of the important details and intricacies of personal injury work.

Many lawyers who do other areas of law, i.e. family law or criminal law, will take on a personal injury case, even if it is just signing up the case and then refer it out to get a fee. This a lot of times confuses clients as to who their true attorney is and then become even more confused as to why that client’s case was transferred to a new attorney. This hurts the overall relationship with the client and experience with the case.

HOW HAS TECHNOLOGY IMPACTED YOUR PRACTICE?
Technology has made information readily available. This affects our ability to get information about how accidents happen, injuries and even statistics on values of cases.

However, a lot of times this can become an issue of reality vs. perception. By this, I mean that a lot of times attorneys, insurance companies and even clients can turn to the internet to get information on past incidents and apply that to their own case. In theory, this would prove helpful, but every incident is unique so you have to be careful and always pay attention to the individual details of your own case.

DO YOU HAVE ADVICE FOR CURRENT LAW STUDENTS WHO WANT TO PRACTICE TORT LAW?
To practice tort law, and specifically personal injury, you need to be a “people person.” By this I mean that you need to be able to communicate very well with clients, medical providers, insurance companies and other attorneys.

Even more importantly, you will need to hone in on your negotiation skills. If you know your client’s case and needs, then you should be able to passionately and effectively negotiate their case. Then, if negotiations deem themselves unsuccessful, you will be able to litigate that case in the same manner.
In January I attended the inaugural meeting of the Kentucky Bar Association’s newly formed Lawyer Wellbeing Committee. The purpose of this first meeting was to simply inform ourselves about the current state of lawyer wellbeing, and to more broadly explore what lawyer wellbeing looks like.

To help facilitate that conversation we had Professor Lawrence S. Krieger of Florida State University College of Law join us to present the findings of his well-researched paper entitled “What Makes Lawyers Happy? A Data-Driven Prescription to Redefine Professional Success.” The study was a response to data and concerns expressed by legal educators, attorneys, and bar leaders about the emotional distress, dissatisfaction, and unethical or unprofessional behavior among practicing lawyers.

Krieger and his colleague discovered that the things lawyers think will make them happy long-term in the profession (e.g., money, prestige, making partner, status) are exactly the opposite of what actually leads to wellbeing in the law, and scientifically, have little to no correlation with happiness. Instead, they found that these three pathways most strongly correlate with long-term wellbeing: autonomy, mastery, and relatedness.

**AUTONOMY**
Autonomy simply means feeling like you are able to make your preferred choices and can express yourself authentically. Many of us feel pressured to comport our behavior and even appearance to whatever image we have of what a “successful lawyer” looks and acts like. While negotiating the expression of our authentic self with the expectations of others is always a necessary balancing act, if we want to be happy we should err on the side of authenticity and act in accordance with our preferences to the fullest degree possible.

**MASTERY**
Mastery simply means having the desire to get better at something that matters to you, and to feel competent and be successful at difficult tasks. Unfortunately, a lot of legal work can be repetitive and monotonous, and the pursuit of meaning and worthwhile work can be challenging. However, mastery is something you acquire over time. It is often the product of doing what you don’t like in order to know what you prefer and are good at. Mastery is something every good and happy lawyer should aspire to no matter where they are at in their career. The key to mastery is patience, perseverance, and practice.

**RELATEDNESS**
Relatedness is simply how you connect, or relate to others, and whether you feel a sense of belonging at work. This comes down to good firm culture. Is your firm a family or a competition of all against all? Some people thrive in the latter environment, but it is unlikely to make them happy. Many of us spend more time with people at the office than we do with our own families. If we work in a toxic environment we should not be surprised if we are unhappy. The quality of our lives is in many ways a reflection of the culmination of all of our relationships, so be mindful of where and with whom you spend your time.

**EXTRINSIC VS. INTRINSIC MOTIVATIONS**
Unfortunately, lawyers are particularly susceptible to valuing extrinsic motivations over these more subtle intrinsic motivations that actually lead to happiness. This was most starkly demonstrated by Krieger’s study of first year law students and their initial motivations for going to law school, and the decline in their overall wellbeing as their motivations become more extrinsic (e.g. class ranking, “big law” jobs, etc.).

You would be hard pressed to find a more idealistic and altruistic group of people than first year law students. You need only speak to a few of them to get a sense of the depth and breadth of their desire to have a positive impact on the world. They want to protect
the environment, help the downtrodden, and defend the constitution. They want to promote the common good and serve those who need their help.

Fast forward three short years, however, and many of those enthusiastic idealists will have more modest and practical ambitions. The relentless war of all against all for class rankings and the handful of “good jobs” at the “good firms” subtly grounds many people’s ambitions into the realities of simply trying to get that first job and paying back student loans.

According to Krieger’s study this seemingly inevitable part of growing up takes a significant toll on our wellbeing for many years to come. But what does this mean for young lawyers and attorney wellbeing generally? My takeaway was that it is never too late to course correct. Whatever your motivations and life circumstances have been in the past, there is always the possibility of choosing a different future one present moment at a time.

MINDFUL LAWYERS ARE HAPPY LAWYERS
This is where a mindfulness practice can be very beneficial. Many of us simply are not very aware of what our motivations are. Our reactions are automatic, treading the well-worn groove of our past behavior. We don’t think about what we would prefer or what might make us happy, we only do what we think is necessary. By becoming more aware of our thoughts using the practices we have discussed in previous articles, you will get a clearer understanding of what is necessary, what is optional, what you prefer, and how you can move your life and practice in a direction more in alignment with your wellbeing one decision at a time.

ABOUT THE AUTHOR
ZACHARY A. HORN is a managing partner of the law firm of Kirkland, Cain & Horn, PLLC, in Frankfort, Ky., where he practices in the areas of business law, civil litigation, banking, creditors’ rights, and bankruptcy. Horn is a graduate of Transylvania University, where he graduated with honors, and of the University of Kentucky College of Law, where he served on both the Moot Court Board and Bankruptcy Moot Court Board.

He is the current chair of the Young Lawyers Division and has served on its Executive Committee since 2012. In addition to his service on the Executive Board of the Young Lawyers Division, Horn is the secretary/treasurer of Kentucky Capital Development Corporation, a member of the Frankfort Rotary Executive Committee, the Franklin County Democrats Executive Committee, the Church of the Ascension (Episcopalian) Vestry, the Episcopal Diocese of Lexington Executive Committee, and serves on the planning committee for the University of Kentucky/CLE Consumer Bankruptcy Law Conference.

Horn is also a frequent speaker and writer on issues ranging from attorney wellness and mindfulness in the law to more nuts and bolts issues relating to civil litigation and creditors’ rights.

YLD Seeking Nominations for Annual Awards

The Young Lawyers Division is seeking nominations for its four annual awards given for exceptional contributions to the legal profession and the public.

NOMINATIONS ARE DUE FRIDAY, APRIL 10, 2020

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If you have any questions, please contact Megan P. Keane, Young Lawyers Division vice chair at mkeane@dznlaw.com.

The OUTSTANDING YOUNG LAWYER AWARD honors a Kentucky attorney who has excelled in the practice of law, and community service. Any Kentucky young lawyer is eligible for nomination. “Young lawyer” is defined as one who, as of July 1, 2019, has been engaged in the practice of law for ten or fewer years or who is forty years old or younger.

The YOUNG LAWYER SERVICE TO COMMUNITY AWARD honors a member of the Young Lawyers Division for exemplary service to his or her community through volunteerism, service to nonprofit organizations, and/or pro bono legal representation.

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

The NATHANIEL R. HARPER AWARD honors a person or organization that has demonstrated a commitment to changing the face of the 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.
Great Quotations in a Torts Case: Distinguishing Lightning Bugs from Lightning
BY JENNIFER JOLLY-RYAN AND SEAN RYAN

Skilled legal writers use quotations cautiously. A paraphrase is often clearer and shorter than a direct quote. The paraphrasing writer thinks enough about the case or statute to understand it. To the contrary, the writer who provides a long, unnecessary quotation, runs the risk that the reader will ignore or skip over the quotation. Ninth Circuit Judge Alex Kozinski, in his article, *The Wrong Stuff*, humorously shared, “[w]henever I see a block quote, I figure the lawyer had to go to the bathroom and forgot to turn off the merge/store function on his computer.”

There are many times, however, when the court or legislature’s exact words are necessary to get your point across. If the text depends upon a statute or regulation, the precise wording matters. Sometimes the court makes a point so eloquently, a paraphrase is no substitute for the court’s own words.

Your case may very well turn on one word. As Mark Twain once said “[t]he difference between the almost right word and the right word is really a large matter. Tis the difference between the lightning bug and the lightning.” What standard must you present before the court? Negligence or recklessness? Preponderance of the evidence or clear and convincing? Genuine issue of material fact or more than a scintilla? These words matter. But as attorneys, our words are often diluted through the nature of our vocation as advocates. The court understandably sees attorneys as biased. The advocate is there to represent the best interests of the client and there is great incentive to present facts and law in the most favorable light to the advocate’s case. The court may take what the lawyer says with a grain of salt. The court may prefer law straight from its original source, rather than having to second guess every case the advocate cites.

You must use your judgment as an attorney and a writer to decide how to use the lightning and the lightning bugs out there. You don’t want to be Judge Kozinski’s “wrong stuff” kind of lawyer. Be mindful that in legal writing, there are typically three ways to use quotations: 1) block quotes 2) quotes in the body of a sentence and 3) parenthetical quotes. You must use your judgment as an attorney...
to determine just how strong the quote is to your case and then decide how to use it.

Block Quotes—Block quotes should be reserved for the proverbial “lightning” case that has so much beneficial material that it exceeds 49 words in a block. Any attorney should be happy to find such a case. Imagine your client was texting while entering a convenience store and was not paying attention to his surroundings. He saw an employee drying the floor with a mop, but the bright yellow “wet floor” sign was on the ground for the last hour. The employee slips and falls, injuring himself. If you find a beneficial case that involves this exact factual scenario, strongly consider a block quote. There is no reason to intervene between the court and the law that will allow you to win your case.

Quotes in the Body of a Sentence—These are quotes that you include in the sentence itself and includes strong wording for your case. But the quoted case may not have enough similar facts to warrant a block quote. Let’s say on the same scenario above, you find a case in which a court finds that it was negligent for the store to leave the wet floor sign on the ground. The exact quote is “the store was negligent in not propping up the sign.” Yet the proceeding facts may arguably be distinguishable in some way. Using a block quote would reveal that this case involved a situation where the sign at issue was difficult to see and had been on the ground for an eight-hour period. The court does not specify whether or not these were determinative factors or not. It simply does not help your case to include a block quote with the distinguishable facts. Stick with what helps you and use the shorter quote.

Parenthetical quotes—these types of quotes should be the most common in your rhetorical arsenal. We all wish we could find a lightning case in every instance. But the realities of being a Kentucky attorney is that counsel must often draw sparks from lightning bugs. Let’s say based on the above you have found no case law directly on point. You have found a case in which a plaintiff saw a store owner salting the sidewalk in front of his store, and the plaintiff slipped and fell. Despite what the plaintiff saw, the defendant was still found liable. Your usage of this case might look something like this. Kentucky courts have found that a store does not reasonably inform a plaintiff of a dangerous condition simply by actions, such as mopping a floor. Jones v. Widget, Co., 555 S.W. 555 (Ky. 2015) (holding that “while the defendant was salting the sidewalk at the time, this was insufficient to warn plaintiff of the slippery condition”). This case is applicable, but it takes some explaining by the attorney to show why that is so. The best usage of the quote is therefore in the parenthetical, not in the body of the text.

In summary, a strong and meaningful quotation can be one of the advocate’s most valuable tools if thoughtfully used. It can be the difference between lightning and a lightning bug in the case, if effectively used.

ABOUT THE AUTHORS

JENNIFER JOLLY-RYAN is a professor of Legal Writing at Salmon P. Chase College of Law, Northern Kentucky University. She is a member of the Kentucky Bar Association. She practiced law with Dinsmore & Shohl and Jolly & Blau and clerked for the Honorable S. Arthur Spiegel before joining the faculty.

SEAN RYAN is an associate attorney at Baker Hostetler in Cincinnati and is a member of both Kentucky and Ohio Bar associations. He served as a judicial law clerk for the Honorable Gregory Stivers in the Western District of Kentucky and Honorable Lisa Godbey Wood of the Southern District of Georgia.

ENDNOTES

2020 Cybersecurity Awareness

BY JOE DAVIS

Law firms are big business when it comes to cyber criminals. Cyber Criminals look at a law firm as a “one stop shop” with many different pieces of information on multiple clients. It is common knowledge in the hacking world that these firms hold an incredible amount of information. Paper has started to become less utilized as technology has progressed. While information is still recorded and stored on paper these documents are being transferred to digital format. This digital format can contain information about business practices, contracts, personal identifiable information and health information.

Attorneys have a duty to safeguard this information. ABA Model Rules 1.1 and 1.6 require attorneys to take competent and reasonable measures to safeguard information related to clients. There are often contractual and regulatory obligations to protect client information and other personally identifiable information including health and financial information. This duty presents a challenge to attorneys that are using technology. Most attorneys lack the training and experience in security to properly safeguard their data. Attorneys are asked to understand their limitations and obtain enough information on how to protect client information. This is a minimum standard and a failure to comply may constitute unethical or unlawful conduct.

So, what can be done to prevent a breach of information? The best way to defend your self is to:

RECOGNIZE THE RISK
Security starts with an overall inventory and risk assessment to determine the threats and what needs to be protected. This should include both data and technology. There is a two-factor analysis that includes “sensitivity of the information” and “the likelihood of disclosure if additional safeguards are not employed.” This risk-based approach is outlined in Comment [18] to the Model Rule 1.6.

SECURITY POLICIES
Security should not be left to the IT staff or outside vendors. Security includes a full spectrum of measures that identify and protect information. This includes how to detect, respond to and recover from a data breach or security incident.

IDENTIFYING HOW A BREACH CAN HAPPEN
RANSOMWARE
Ransomware has been around for a long time, but recently has grown in frequency. This type of attack is simple yet effective. This is malicious software either loaded directly onto a computer or network or through an attachment that an employee clicks on. This type of attack holds a law firm hostage by encrypting data until a ransom is paid. Once they have control, the hacker will make a demand for currency. This is usually in the form of Bitcoin. Once the ransom is paid the hacker will (hopefully) release the network back to the firm.

ACCIDENTAL USER ERROR
One of the most prominent causes of a data breach can be as simple as a mistake. We are all human and can make mistakes. Mistakes that involve law firm data can be incredibly costly. Sending a confidential document to an incorrect email, forgetting to encrypt sensitive data, are innocent mistakes. Clicking on a website link through a phishing attack can result in ransomware attacks or client information being stolen. The only way to combat this type of breach is implementing the proper training, good technology and developing a security culture in your firm.

SURVEILLANCE
This type of breach is usually associated with a phishing attack. There could be an email with an official looking format asking the user to login a site. Once they login the damage is done. They now have access to servers, email databases, privileged information. The list is endless. They may sit undetected for months or years gathering information on clients.

THIRD PARTY PROVIDERS
You might be outsourcing some Ediscovery service to a third-party vender or contract with IT services, or printing services. Your firm is still on the hook if these third-party venders get hacked. You need to be sure exactly how your client data is being managed by outside providers. This is extremely important if you
share files via the cloud. Cloud sharing systems such as DropBox are a very real security concern.

**PASSWORD MANAGEMENT AND REDUCED SECURITY STANDARDS**
This one is an easy security hole to patch but it is amazing how many firms do not pay attention to this area. Regularly change your passwords and make them unique. Do not use the same password over numerous devices. Also use a more robust password as well as two-factor authentication. There are many tools and systems that can help you manage your passwords.

You may feel that existing security makes it difficult to work remotely. Attorneys frequently take home their laptops and logon to the office network via a VPN. Make sure you put in place secure remote/mobile platforms that are fast and safe.

**SECURITY CULTURE IN THE FIRM**
Implementing a security-oriented culture within law firms. It starts with an emphasis on training and a unified management structure that stresses the importance of data security. This mindset must reinforce firm-wide. This is a major concern and the firms are not embracing this are putting their clients at risk.

**CYBER LIABILITY INSURANCE**
Data breaches are happening at an alarming rate. Because of this there is a recognition of the need for a robust cyber liability insurance policy. “It’s not if but when” is a popular saying in the cyber insurance marketplace and this rings true. The odds are you will experience a cyber incident of some kind if you have not already. Many general liability and malpractice policies do not cover security incidents or data breaches. Cyber Liability insurance policies have evolved to not only cover cyber liability but also liability to third parties, first party losses to the law firm—Business interruption, data restoration, technical and legal expenses. A cyber liability insurance policy should be a part of every law firm’s security policy.

ABOUT THE AUTHOR
JOE DAVIS is the director of Cyber Liability for Houchens Insurance Group. His focus is the development and implementation of Risk Management Programs including cyber liability exposures. Mr. Davis advises on best practices as well as reviews carrier forms to negotiate enhancements and endorsements. He works within a variety of industries including, finance, retail, healthcare, education and manufacturing to identifying risk factors and assist loss control strategies. He earned his J.D. degree from Nashville School of Law. Mr. Davis can be reached at jdavis@higusa.com or by phone at (270) 405–4840.

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— Joe Bill Campbell, Past-President
Kentucky Bar Association

Gina I. Rogers, RN, BSN, LNCC

NO RISK
If we can’t find an expert, we refund 100% of your fee.

Why MRC?
• Proven track record
• 20 years experience working with hundreds of attorney clients
• Access to top medical experts
• Over 180 different specialties
• New experts added frequently

Other Services:
• Case Screening by an MD or RN
• Timelines or chronologies

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NO RISK
If we can’t find an expert, we refund 100% of your fee.
Perhaps nothing can help us improve our professional lives in the law. But it certainly is worth investigating. And, no, retirement is not the answer! Nor oblivion.

As important as our professional lives are, improving our professional lives can only help our quality of life overall. And, I suggest more radically, happier lawyers do indeed mean a happier and better-ordered society.

Rather than debate that, let’s look at what the KBA Task Force on the Practice of Law hopes to do to help us simplify or improve our professional lives. In pursuit of that, the Task Force is planning for presentations at both the Annual Convention and for the Kentucky Law Updates this Fall. Instead of a simple command model, the Task Force would like your thoughts on how you would like to see those programs play out.

**2020 ANNUAL CONVENTION**
The Convention program will be a compressed one hour and will address technology, practice systems and ethical issues relating to them. If all goes well you should be able to identify and avoid the ethical pitfalls with computer systems, the Internet and e-filing, from competence to confidentiality and security, map electronic forms from the Kentucky Court of Justice into a standard legal practice, and identify and remediate the challenges associated with implementing new technologies and practices into traditional practice areas.

The focus of this will be on what Task Force chair Steve Embry’s survey identified as a core interest of attorneys in the state: the effective use of forms to simplify and enhance practice. To build this program, Kelly Stephens of the Administrative Office of the Courts will address the current initiatives and innovations in form practice coming from the courts. Your sister lawyers Amy Cubbage, Stephen Embry and Mark Wettle, with other players yet to be named, will serve as the glossators on how these will integrate effectively in the practice.

**YOUR CONCERNS—SPEAK NOW...**
You do have a say in this. If you have particular concerns, interests or would like to suggest directions for training, investigation or practice system development to discuss, please email that today to:

Steve Embry: sembry@techlawcrossroads.com
Michael Losavio: michael.losavio@louisville.edu

**KENTUCKY LAW UPDATES**
The Task Force proposal for the Kentucky Law Updates will again address ethics with technology and cyber, ranging from competence through confidentiality and data breach response. Building on the suggestions of Task Force member Jeff Sallee, the program will drill down on law office cyber practice and security:

1. when and how to use a technology expert in case and evidence examination and development, including protocol development to advise your clients,

2. when and how to use a technology expert to secure your own office resources, do adequate backups against a Ransomware attack and have a disaster recovery/business continuity plan and

3. how to use this knowledge that you’ve acquired to advise your clients to best secure themselves, both before, during, and after the inevitable security compromise.
Yes, these are relevant regardless of your practice, although if you do domestic relations work I suggest it is especially important…

YOUR CONCERNS—SPEAK NOW…
You do have a say in this. If you have particular concerns, interests or would like to suggest directions for training, investigation or practice system development to discuss, please email that soon to:

Steve Embry: sembry@techlawcrossroads.com
Jeff Sallee: jeff.sallee@twc.com

As I’m not on this response, I will leave how you word your suggestions to your discretion.

THE FUTURE TODAY
The future of law practice is an accelerating topic, with more and more resources coming online all the time. While we may discuss those in the future, one item is worth our attention. The California Bar’s Task Force on Access Through Innovation of Legal Services was charged with considering regulatory changes to improve access to legal services via technology. One factor in its creation was the report to the Bar on the legal market that, inter alia, noted modification of ethics rules to promote new collaborations between lawyers and non–lawyer service providers that would “drive down overall costs; improve access for the poor, working and middle class; improve the predictability and transparency of legal services; aid the growth of new businesses; and elevate the stature and reputation of the legal profession as one serving the broader needs of society.”

The Task Force report is due March 31, 2020. It will be a bellwether of what more may be in store for the future of our practice of law.
The Board of Governors met on Friday, November 15, 2019. Officers and Bar Governors in attendance were, President S. Smith, President-Elect T. Kerrick, Vice President J. Meyer, Immediate Past President D. Ballantine, Young Lawyers Division Chair Z. Horn and Young Lawyers Division Chair-Elect M. Click. Bar Governors 1st District – F. Schrock, V. Sims; 2nd District – M. Cook, S. Montalvo-Gesser; 3rd District M. Dalton, J. Ridings; 4th District – B. Simpson, J. Watkins; 5th District – M. Barfield; 6th District – T. McMurtry, G. Sergent; and 7th District – J. Vincent. Bar Governors absent were: R. Blackburn and E. O’Brien.

In Executive Session, the Board of Governors considered four (4) disciplinary default cases, one (1) reinstatement case and one (1) restoration case. Judy McBrayer Campbell of Frankfort, Dottye Moore of Elizabethtown and Dr. Leon Mooneyhan of Shelbyville non-lawyer members serving on the Board pursuant to SCR 3.375 participated in the deliberations.

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

- Heard a status report from the 2020-2021 Budget & Finance Committee and Rules Committee.
- Lyle Hanna and Chase Adams from Hanna Resource Group provided an overview of the Market-Based Compensation Report they completed for the KBA staff positions.
- Judicial Evaluation Committee Chair Amy Cubbage reported that the judicial evaluation survey had been completed. The next step is for the Committee to review the results, except for the narrative comments, and make a recommendation to the Executive Committee to review with the Board for the final decision regarding publishing of the results from the survey.
- Leadership Conference Committee Co-Chair J.D. Meyer reported that the second annual Leadership Conference was held October 22, 2019, at the Administrative Office of the Courts with the reception following at Buffalo Trace in Frankfort. Meyer reported that 43 participants were invited to attend, with about 40 of them in attendance. Meyer provided an overview of the programming and reported that it was a great program and received positive feedback from the attendees.
- Immediate Past President Douglas Ballantine provided a report regarding KLEO indicating that the program is doing well. He reported that the Kentucky Bar Foundation funded the summer institute. He also indicated that Doug Farnsley and Charles E. “Buzz” English, Jr., were working on several projects for KLEO including setting up a 501(C)(3). Ballantine mentioned that the most recent reception held to honor Professor Allison Connelly raised over $5000.
- Young Lawyers Division (YLD) Chair Zachary Horn reported on the following programs and projects YLD’s is working on: lawyer well-being, joint receptions with the KBA president for KLU locations, sponsoring social events in the future including Keeneland and UK tailgating, and the Food Frenzy scheduled for March 1 – March 14. Mr. Horn also presented proposed changes to the Bylaws, which had not been updated since 2012. Currently there is a secretary/treasurer, vice chair, chair elect and chair. The proposed changes shorten the track so that it is now vice-chair, chair elect, chair. This would remove the secretary/treasurer position and spread the duties out across the three positions. It would also give the at-large members a vote. The Board approved the recommended changes to the current YLD Bylaws.
- Approved the appointment of Matthew P. Cook of Bowling Green and James M. Ridings of London to serve on the KBA Audit Committee for a three-year term ending on December 31, 2022.
- Approved the appointment of George E. Long II of Benton to the Bar Center Board of Trustees for a three-year term ending on December 1, 2022.
- President Smith reported that the planning for the 2020 Annual Convention is going well and indicated that the committee is securing a good, diverse set of speakers that will cover a variety of topics. He reported that tickets have been purchased for the Reds vs. Cubs game on Wednesday, June 24, as an optional event.
- Approved signing a three-year contract with Casemaker with the option to have a year to year renewal of vLEX.
• 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. James A. Sigler from the 1st, Matthew P. Cook from the 2nd, and Jennifer M. Gatherwright from the 6th have no opposition. Mr. Meyers reported the following contested races: 3rd District Douglas G. Benge and David L. Dalton; 4th District David L. Holton III, and Susan D. Phillips; 5th District Amelia M. Adams, Donald “Pat” Moloney and Ron L. Walker, Jr.; 7th District William M. “Mitch” Hall, Jr., Tammy E. Howard and Rick King. The elections will be on-line through BallotBox. The email will be launched on December 15 and the election will close on January 15, 2020.

• Approved two (2) disabled inactive status requests pursuant to SCR 3.030(5)(a).

• Meyers reported on the status of the Kentucky Commission on the Future of the Legal Profession. The Commission met several years ago and was broken into four subcategories to review their topic and provide a report. Due to not having staff to pull the entire report together, after some time, KBA member, Joey Wright, volunteered to produce a final report. The report has been sent to the chair of each subgroup for their review and updates. The goal is to have the final report ready to review next year.

• Meyers reported that the KBA is looking at various options for the future of the Diversity & Inclusion Summit. He indicated that we could put a special track together for annual convention or do another standalone program. He reported that we are looking at feedback and talking to stakeholders and will report back to the Board with a proposal on how to move forward.
KENTUCKY BAR ASSOCIATION  
STATEMENTS OF FINANCIAL POSITION  
June 30, 
Unaudited*

<table>
<thead>
<tr>
<th>ASSETS</th>
<th>2019</th>
<th>2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current assets</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cash</td>
<td>$ 1,224,319</td>
<td>$ 1,419,743</td>
</tr>
<tr>
<td>Restricted cash</td>
<td>884</td>
<td>-</td>
</tr>
<tr>
<td>Certificates of deposit</td>
<td>60,785</td>
<td>60,663</td>
</tr>
<tr>
<td>Investments</td>
<td>2,841,241</td>
<td>9,913,382</td>
</tr>
<tr>
<td>Accounts receivable</td>
<td>90,002</td>
<td>80,659</td>
</tr>
<tr>
<td>Due from affiliate, current</td>
<td>94,512</td>
<td>-</td>
</tr>
<tr>
<td>Interest receivable</td>
<td>4,672</td>
<td>16,074</td>
</tr>
<tr>
<td>Prepaid expenses</td>
<td>130,394</td>
<td>105,702</td>
</tr>
<tr>
<td>Total current assets</td>
<td>4,446,809</td>
<td>11,596,223</td>
</tr>
</tbody>
</table>

| Due from affiliate, less current portion | 568,917 | 804,037 |
| Property, building and equipment, net | 3,165,484 | 3,364,615 |
| Total long-term assets | 3,734,401 | 4,168,652 |
| **Total assets** | **$ 8,181,210** | **$ 15,764,875** |

<table>
<thead>
<tr>
<th>LIABILITIES AND NET ASSETS</th>
<th>2019</th>
<th>2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Current liabilities</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Accounts payable</td>
<td>$ 341,743</td>
<td>$ 672,587</td>
</tr>
<tr>
<td>Accrued expenses</td>
<td>244,393</td>
<td>12,893,422</td>
</tr>
<tr>
<td>Current maturities of bonds payable</td>
<td>221,692</td>
<td>-</td>
</tr>
<tr>
<td><strong>Total current liabilities</strong></td>
<td>807,828</td>
<td>13,566,009</td>
</tr>
</tbody>
</table>

| Deferred revenue | 17,274    | 11,179     |
| Bonds payable, less current maturities | 3,652,856 | -          |
| **Total liabilities** | **4,477,958** | **13,577,188** |

Net assets  
Without donor restrictions |          |            |
| Board designated | 262,793   | 320,279    |
| Undesignated | 3,440,459 | 1,867,408  |
| **Total net assets** | **3,703,252** | **2,187,687** |

**Total liabilities and net assets** | **$ 8,181,210** | **$ 15,764,875**

*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.
LAW DAY 2020

Presidents of local bar associations across the Commonwealth should have received their Law Day 2020 celebration planning guides, as well as this year’s Law Day awards competition entry form. This year’s theme is “Your Vote, Your Voice, Our Democracy: The 19th Amendment at 100.”

We encourage each local bar association to participate in the Kentucky Bar Association’s Annual Law Day Awards Competition. The deadline for entries is Wednesday, May 20. The KBA Law Day Committee will award $300 to the first place winner in each of the three – Large, Medium and Small – bar categories. Additionally, representatives from the winning bar associations will be honored at the KBA Annual Convention during the Membership Luncheon scheduled for Friday, June 26, at Marriott RiverCenter.

Entries should be mailed to Shannon Roberts at the Kentucky Bar Association. For an entry form and any additional information on the competition, please contact Roberts at (502) 564-3795 ext. 224 or at sroberts@kybar.org.

Law Day 2020 falls on Friday, May 1. For more information on Law Day, visit www.lawday.org.

Stay connected

Make sure to follow us to stay in the know.

@Kentucky Bar Association
@KyBarNews

DO YOU KNOW SOMEONE WHO COULD WIN THE...

2020 KBA ANNUAL Student Writing Competition?

The Kentucky Bar Association invites and encourages students currently enrolled at the University of Kentucky College of Law, the University of Louisville Louis D. Brandeis School of Law, and the Northern Kentucky University Salmon P. Chase College of Law to enter the KBA Annual Student Writing Competition. This competition offers these Kentucky legal scholars the opportunity to earn recognition and a cash award. First, second, and third place awards will be given.

ENTRIES MUST BE RECEIVED BY JUNE 1, 2020

1ST PLACE $1,000*
2ND PLACE $300
3RD PLACE $200

*Also includes possible publication in the Bench & Bar.

SUBMIT ENTRIES WITH CONTACT INFORMATION TO:

Shannon Roberts
Communications Department
Kentucky Bar Association
514 West Main Street
Frankfort, KY 40601-1812

Students may enter their previously unpublished articles. Articles entered should be of interest to Kentucky practitioners and follow the suggested guidelines and requirements found in the “General Format” section of the Bench & Bar Editorial Guidelines. For inquiries concerning the KBA Annual Student Writing Competition or to receive a copy of the Bench & Bar Editorial Guidelines, contact Shannon Roberts at sroberts@kybar.org or call (502) 564-3795 ext. 224.
WHEREAS, the parties to this Agreed Order, Judge Alan Ray Bertram and the Kentucky Judicial Conduct Commission (the “Commission”) state:

1. The Commission has authority, pursuant to Kentucky Constitution §121, Supreme Court Rule 4.020, et seq., and KRS 21.345 et seq. to order and effect the permanent retirement of a judge who is suffering from a disability that seriously interferes with the performance of the judge’s duties.

2. Judge Bertram has the right to require the Commission to conduct a hearing into allegations that he is suffering from a disability that seriously interferes with the performance of his duties pursuant to Supreme Court Rule 4.020(1)(a). Judge Bertram specifically waives his right to such hearing.

3. Judge Bertram suffers from a diagnosed medical condition that seriously interferes with the future performance of his duties as Circuit Court Judge.

4. Pursuant to Supreme Court Rule 4.270, Commission Orders shall become effective 10 days after service on the judge, unless he appeals therefrom within that time. The parties agree that the nature of an Agreed Order obviates the need to comply with such time limits.

NOW THEREFORE, in the interest of justice and upon good cause, the parties hereby consent to the entry of this Agreed Order as follows:

a. Judge Bertram waives his right to a hearing into these matters;

b. Judge Bertram waives the time limit to appeal.


SO ORDERED this 18th day of December, 2019

/S/
STEPHEN D. WOLNITZEK, CHAIR

HAVE SEEN AND AGREED:

/S/
ALAN RAY BERTRAM, JUDGE

/S/
TIMOTHY DENISON, ESQ.
Counsel for Alan Ray Bertram, Judge
IN RE THE MATTER OF:

ROBERT F. WRIGHT, DISTRICT COURT JUDGE
35TH JUDICIAL CIRCUIT

PUBLICATION REPRIMAND

Robert F. Wright is a District Court Judge for Kentucky’s 35th Judicial Circuit consisting of Pike County. Judge Wright has waived formal proceedings and has agreed to this disposition.

The Commission conducted a preliminary investigation resulting from two (2) separate complaints. In the first complaint, the Commission received information that on February 11, 2019, Judge Wright held a hearing in Pike County Case No. 19-S-00011, styled Cantrell-Ratliff v. Gillespie, a small claims case in which the plaintiff sought the return of her boat. The hearing was held the same morning the complaint was filed. The defendant was never served and therefore not present at the hearing. At the conclusion of the hearing, Judge Wright issued a docket order in favor of the plaintiff directing the boat to be returned to the plaintiff. Judge Wright acknowledges that he knew the plaintiff, and she had previously worked on his judicial campaign. After the defendant filed a pro se answer and counterclaim, Judge Wright rescinded his order.

In the second complaint, the Commission received information that Judge Wright presided over Pike County Case Nos. 18-T-2705 and 18-T-4432, both styled Commonwealth v. Angel Watson. In those matters, the defendant requested that Judge Wright recuse and filed a petition for the Chief Justice to assign a special judge. The defendant was a previous client of Judge Wright, and Judge Wright had posted a video to his Facebook page during his campaign calling the defendant a “liar and a thief.” Judge Wright held a hearing in the matter on March 12, 2019, even though the petition for the Chief Justice was still pending. The Chief Justice subsequently disqualified Judge Wright from the matters and assigned a special judge.

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

Rule 1.1 which requires judges to comply with the law.
Rule 1.2 which requires judges to act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary.
Rule 2.2 which requires a judge to perform all duties of judicial office fairly and impartially.
Rule 2.3 which requires a judge to perform the duties of judicial office without bias or prejudice.
Rule 2.6 which requires a judge to accord to every person who has a legal interest in a proceeding, or that person’s lawyer, the right to be heard according to law.
Rule 2.9 which requires a judge to disqualify himself or herself in any proceeding in which the judge’s impartiality might reasonably be questioned.

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

Date: 12/23/2019

/S/
STEPHEN D. WOLNITZEK, CHAIR

Judge Coleman recused from any consideration of this matter.

Agreed to:

/S/
Hon. Robert F. Wright, District Court Judge
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 30 days. All roster changes must be in writing and must include your 5-digit KBA member identification number.

Members are also required by rule SCR 3.035 to maintain with the Director a valid email address and shall upon change of that address notify the Director within 30 days of the new address. Members who are classified as a "Senior Retired Inactive" or “Disabled Inactive” member are not required to maintain a valid email address on file.

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

Online: Visit [www.kybar.org](http://www.kybar.org) to make changes online by logging into the website and editing your profile.

**Form:** Complete the Address Changes/Updates form found at [www.kybar.org](http://www.kybar.org), under the For Members tab, Members Request, Address Changes/Updates. Email completed form to jcheek@kybar.org OR mail 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.*
YES . . . I want to invest in the future of the Kentucky Bar Foundation! I am a member in good standing of the Kentucky Bar Association and:

Enclosed is my check for $1,250, representing full payment of my Life Fellow Membership.

Enclosed is my check for $300, representing my down payment for a Fellow Membership.

Additionally, I hereby pledge to pay the Kentucky Bar Foundation $300 annually during the next four years, for a total contribution of $1,500.

Name ____________________________________________
Firm ____________________________________________
Mailing Address __________________________________
City, State, Zip ____________________________________
Telephone _________________________________________
Email ____________________________________________
Signature __________________________________________

The Board of Directors of the Kentucky Bar Foundation is pleased to congratulate the following groups that received a 2019 grant from the KBF Diversity Fund:

$25,000
Kentucky Legal Education Opportunity (KLEO)

$5,625
MothersEsquire, Inc.

The Diversity Fund was established to benefit nonprofit groups and organizations working on efforts to promote the inclusion in the profession of individuals from diverse and other underrepresented populations. If you are interested in applying for a grant from the KBF Diversity Fund, the 2020 application will be available this fall.
In a 2015 peer-reviewed study, lawyers self-reported a major depressive episode in the past year at 28%. That's 4 times higher than the general population.

Signs and symptoms of depression:

- Procrastination or inability to meet professional or personal obligations or deadlines
- Difficulty concentrating, remembering details, and making decisions
- Loss of interest or pleasure in hobbies and activities that were once enjoyed
- Feelings of confusion, loneliness, isolation, and being overwhelmed
- Persistent sad, anxious, or “empty” mood
- Drug or alcohol use
- Feelings of hopelessness, helplessness, worthlessness, or low self-esteem
- Fatigue and decreased energy
- Insomnia or excessive sleeping
- Thoughts of suicide, suicide attempts

KYLAP
the Key to Recovery Kentucky Lawyer Assistance Program

We Can Help. Call (502) 226-9373
Special COVID-19 Mental Health Statement and Resources

During times of crisis, it’s normal to feel increased stress and anxiety. Protect your mental health while you’re protecting your physical health. The ripple effect of your good mental health will benefit your family, friends, and the clients you serve so faithfully.

Extensive resources for maintaining good mental health can be found at:
https://www.americanbar.org/groups/lawyer_assistance/resources/covid-19--mental-health-resources/.

KYLAP’s 24-hour helpline, (502) 226-9373, remains open and available to provide you with telephone assistance and resources, or you may call KYLAP Director Yvette Hourigan on her cell phone at (859) 221-0806.

Resources for lawyers, including local resources, will continue to be posted on KYLAP’s website at www.kylap.org. Check it out.

For those in recovery from alcohol or other drugs, when it is difficult or impossible to attend recovery meetings in person, you can attend meetings online at www.intherooms.com, and at www.lionrockrecovery.com. You can participate by cell phone, iPad, laptop, or desktop computer. Please protect your sobriety during this difficult time.

KYLAP LUNCH & LEARN WITH JUSTICE SHEA NICKELL AND JUSTICE BILL CUNNINGHAM (RET.)

All Judges in the First Supreme Court District are cordially invited to join Supreme Court Justice Shea Nickell, Former Supreme Court Justice Bill Cunningham, and the Kentucky Lawyer Assistance Program for a lunch and learn opportunity on May 8, 2020, at Walker Hall in Paducah. The event will be from 11:30a.m -1:00p.m., and lunch will be provided. E-invitations will be sent shortly.

For questions or additional information, please contact Ashley Cooper at (502) 226-9373 or abeitz@kylap.org.

KYLAP sincerely thanks the McCracken County Bar Association for generously underwriting this event.

An application for CLE accreditation in Kentucky will be submitted.

YOU CAN NOW SUPPORT THE KYLAPFOUNDATION, INC., THROUGH amazon smile

Visit amazon.com/smile, select Kentucky Lawyer Assistance Program Foundation, Inc., and start shopping now!
In your personal and professional lives, I am quite certain that you wear many and varied hats. Some of them are functional and some are for style. Well, I like hats—both literally (particularly when it is cold or the first Saturday in May) and as a metaphor for the many and wide-ranging roles we all play. The Kentucky Bar Association Continuing Legal Education Commission and staff also wear many hats. We wear our regulatory hat during much of the year, reminding members of their licensure requirements, as well as enforcing them. But, oftentimes, we are wearing a service hat. While the most obvious aspect of our service function is to provide quality instruction on diverse law practice areas, of equal importance is our task to inform about the Kentucky Bar Association.

But let’s not talk about us; let’s talk about you, what you need, and what we can do for you. Chances are, you are too busy to have the luxury of really investigating all the information available to you on our website, so I would like to take this opportunity to guide you through some of our member benefits and services. You are likely missing out on valuable discounts and products that could make your lives easier!

**KBA Member Benefits & Service:**
**Don’t Miss Out!**

BY MARY BETH CUTTER

www.kybar.org/page/membenefits

The following companies provide substantial discounts to KBA members:
- Avis and Budget for car rentals;
- LawPay and SurePayroll for financial services related to your practices;
- Bar Association Cyber Insurance, which is a necessity these days;
- Lawyers Mutual of Kentucky for malpractice insurance, and malpractice insurance is and has ALWAYS been a necessity;
- National Insurance Agency for life and disability insurance;
- The Kentucky Legal Directory (that blue book your office gets every year);
- United Postal Service;
- Zola Creative Media and EsqSites.com for website design; and
- Identillect Technologies for email encryption.

The KBA is always searching out new discount opportunities for our members, so check the website frequently!

Not only does the KBA provide its members with valuable discount opportunities for necessary products and services, but there are so many resources available to you. If you have not used Casemaker for your legal research, I would encourage you to give it a try. It is offered for KBA members for free (the KBA pays for it), and there are many enhancements to the service that you can add. Casemaker is always improving, so look into it as a free or inexpensive alternative to other legal research products.

jobs.kybar.org/

The KBA now offers a Career Center! Employers seeking applicants can post jobs on the site, and applicants seeking employment can upload resumes. It is a wonderful resource targeted to the needs of Kentucky employers and lawyers.
For several years now, the KBA has offered a mentoring program/service called GPS: Great Place to Start. The program allows Kentucky attorneys to volunteer to help less experienced Kentucky attorneys as they begin their legal careers. The level of interaction and involvement is completely at the discretion of the participating attorneys. Potential mentors can be searched by location as well as by practice area. Those who have volunteered and/or utilized this service have raved about it.

If you suffer or have suffered with stress, burn-out, work-life imbalance, anxiety, depression, mental health concerns, substance abuse, addiction, and even relationship issues, I would HIGHLY recommend contacting KYLAP (Kentucky Lawyer Assistance Program). KYLAP is a fantastic resource, and can provide you with information to find the help and guidance you need. For those looking to prevent having such issues, KYLAP can provide guidance and resources on maintaining well-being. The KBA has a new Well-Being Committee, and KYLAP is working very closely with it to develop additional resources in this area.

The KBA sections are a wonderful resource that enable members to connect and network based on shared interests and practice characteristics. Our sections are a great resource for practice area specific CLE as well.

The Young Lawyers Division also does some great CLE, social and networking events, and public service projects. Your involvement and/or support of KBA Sections and Divisions is well worth the effort.

Ever heard the expression, look before you leap? That is the whole idea with our Ethics Hotline. First of all, I am sure many of you have experienced the magic of internet browsers. You start to type what seems like a complicated, highly specific topic that only you have ever wondered about. Before the fourth word is typed, the browser autofills the rest of your exact question. Well, this is often true with legal ethics issues as well. Start by searching the published Ethics Opinions.

If you want the opinion of someone who is very familiar with the ethics rules and Rules of Professional Responsibility, there is an Ethics Hotline made up of Ethics Committee members who have volunteered to handle such matters. Through the Ethics Hotline, you may obtain advice about contemplated future actions. These are informal but CAN serve as a defense to a later complaint if the description of the matter was accurate.

Last but not least, the Kentucky Law Update is a two-day, no charge for members in good standing, CLE program that we offer at nine different locations around the state. I want to believe with all my heart that you are aware of this fabulous member benefit that no other state bar provides for its members. If you are not, I do not want to know. Just follow this link, www.kybar.org/page/klu, and study up on it. We’ll talk later.

While it might be exhausting, this article is not exhaustive. I recommend you investigate the KBA website and really utilize the services we provide. They can make your practice a bit easier and perhaps more economical. Maybe the KBA can help some of those hats you wear fit your life a little better. That’s the goal.
CONTINUING LEGAL EDUCATION

MARK YOUR CALENDARS!

KENTUCKY LAW UPDATE 2020

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.

OWENSBORO
Owensboro Convention Center
AUGUST 27-28 (TH/F)

PADUCAH
Julian Carroll Convention Center
SEPTEMBER 24-25 (TH/F)

COVINGTON
Northern Kentucky Convention Center
SEPTEMBER 2-3 (W/TH)

ASHLAND
Delta Marriott Downtown
SEPTEMBER 10-11 (TH/F)

PIKEVILLE
Eastern KY Expo Center
OCTOBER 8-9 (TH/F)

LOUISVILLE
KY International Convention Center
OCTOBER 29-30 (TH/F)

BOWLING GREEN
Sloan Convention Center
SEPTEMBER 30-OCT. 1 (W/TH)

LONDON
London Community Center
NOVEMBER 5-6 (TH/F)

LEXINGTON
Convention Center
DECEMBER 1-2 (T/W)

We look forward to seeing you in the fall!

KBA TELESEMINARS

Don't want to travel for “LIVE” CLE credits? The KBA provides you a weekly series of live teleseminars that are as nearby and as convenient as your office or home phone. For the full catalog of offerings in 2020, visit http://ky.webcredenza.com/.

For questions or to register over the phone, please contact Kim at kim@webcredenza.com or (720) 879-4142.

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First District Representative
jason@bedlaw.com

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gtrimblelaw@gmail.com

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Fifth District Representative
lmayo@littler.com

Leigh Gross Latherow
Seventh District Representative
llatherow@vanattys.com

Frank Hampton Moore III
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mooreiii@coleandmoore.com

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Justice Laurance B. VanMeter
Supreme Court Liaison

Interested in assisting with a CLE? Have ideas for a program? Contact Mary Beth Cutter, KBA Director for CLE at mcutter@kybar.org, or any member of the Continuing Legal Education Commission.
Submitting CLE Credits Online

1. VISIT www.kybar.org
2. SELECT CLE
3. SIGN IN TO YOUR Member CLE Portal
4. SELECT Submit New Credits
5. CLICK ON THE Program BOX AND TYPE IN THE Activity Number. Wait for the system to locate the program and for the field to populate. CLICK ON THE BOX TO SELECT THAT PROGRAM.
6. CLICK Next.
7. CLICK “Total CLE” AND ENTER THE AMOUNT OF CREDITS EARNED. REPEAT FOR “Ethics” TO ENTER THE ETHICS CREDITS EARNED.
8. TYPE YOUR name as your certification AND signature.
9. CLICK Next.
10. YOUR CREDIT HAS NOW BEEN ADDED AND WILL APPEAR ON YOUR TRANSCRIPT.
Thank you for supporting the New Lawyer Program

We would like to thank those individuals and organizations whose contribution of time, expertise and funding helped make the February 2020 New Lawyer Program a success.

Sponsors and Exhibitors:
Kentuckiana Court Reporters

KBF
Kentucky Bar Foundation

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Kentucky Lawyer Assistance Program

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SCR 3.640 New Lawyer Program: “Within twelve (12) months following the date of admission as set forth on the certificate of admission, each person admitted to membership to the Kentucky Bar Association shall complete the New Lawyer Program.”

KBA 2020 New Lawyer Program
In Conjunction with the KBA 2020 Annual Convention
Covington  6.24-26.2020
For more information, visit KYBAR.ORG/PAGE/NLPDATESANDLOCATIONS
Congratulations to the 2019 CLE Award and the 2019 CLE Renewal Award Recipients

The Kentucky Bar Association Continuing Legal Education Commission would like to extend our congratulations to the members who have received the 2019 CLE Award and the 2019 CLE Renewal Award.

The lists will appear in a future edition of our electronic newsletter, eNews, and will be published on our website.

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

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.
In Memoriam

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

Joseph Morton Whitmer, born April 29, 1942, in Sacramento, Ky., died Aug. 24, 2019, at his home in Lexington. He was the son of Carlos Raymon and Elizabeth McDonald Whitmer. He was preceded in death by his parents, his sister Kathyrn Whitmer Bates and his first wife, Judith (Judy) Johnson Whitmer. Whitmer moved to Lexington to attend the University of Kentucky where he earned his B.S. in Accounting in 1964 and his J.D. in 1967. He was admitted to the Kentucky Bar in 1967. After practicing law in Nicholasville for one year he went on to become the vice president, secretary, general counsel and director of Consolidated Management Services, Eagles National Life Insurance Co., First Mutual Insurance Co. and First Mutual Life Insurance Company in Lexington. He co-founded, with his partner John B. Conrad, Professional Administrators Ltd. and served as executive vice president and director from 1968 to 1986 and from 1987, until his retirement in 1990, he served as its president and CEO. He was a University of Kentucky Fellow and a member of South Elkhorn Christian Church. Survivors include his second wife, Paula Thurman Whitmer, daughter Karen Whitmer (Don) Cole, son Brian D. (Megan) Whitmer; daughter, Julia Whitmer (Bill) Graham; grandsons Christopher, Patrick and Nathan Irving, granddaughters Lauren and Ella Whitmer and nephews Marc (Leah), Eric and Karl (Annette) Bates.

The preceding memoriam for Joseph Morton Whitmer is based upon information obtained from The Kerr Brothers Funeral Home, which published the obituary. To access the obituary in its entirety, visit: https://www.kerrbrothersfuneralhome.com/obituaries.php?view=detail&id=13860

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<td>Bruce A. Karem</td>
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<td>Linda Preston Sullivan</td>
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<td>Matthew Robb Walter</td>
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<td>KY</td>
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<tr>
<td>Joseph Morton Whitmer</td>
<td>Lexington</td>
<td>KY</td>
<td>August 24, 2019</td>
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ALAN KENT AKERS, SR., 70, of Bardstown, attorney and beloved husband and father passed into eternal life Wednesday, Sept. 4th. Akers was born to Astor Kermit Akers and Martha Darnell Gray Akers of Bloomfield, Ky., on Jan. 17, 1949. An alumnus of Bloomfield High School and the University of Kentucky, he received his law degree from the University of Louisville in 1974. He practiced law in Bardstown and Nelson County for over 45 years. He served in the Kentucky Army National Guard for over 20 years, retiring as a Lt. Colonel. He was an avid outdoorsman, with a passion for both hunting, fishing and his farm whenever he had spare time. He is survived by his loving wife of 48 years, Linda Bowman Akers, of Bardstown; and their two sons, Alan, and his wife Meaghan, of Chicago, and Brandon, of St. Louis.

The preceding memoriam for Alan Kent Akers, Sr., is based upon information obtained from The Kentucky Standard, which published the obituary on Sept. 8, 2019. To access the obituary in its entirety, visit: https://www.legacy.com/obituaries/kystANDARD/obituary.aspx?n=alan-kent-akers&pid=193839940&fbid=134143.

SAMUEL “SAM” CARL, born Sept. 11, 1953, died Jan. 31, 2020, at his home in Louisville, after a valiant battle with cancer. Often the life of the party, he was well-known for his keen wit and sense of humor. He loved to fish, play guitar, solve crossword puzzles, and support University of Louisville sports. A graduate of the University of Kentucky, he went on to receive his law degree from the University of Louisville in 1980. Sam is survived by his life partner Robin Koch Howard; his two children Noah and Clarice Carl, whom he shared with his former wife Jennifer Carl; sisters Madeline Howell (Steve) and Ann Bruner (Keith); niece Katherine Holland (Christian) and nephew Daniel Bruner; and cousins Mary Jim Montgomery, Kathy Wilder, and Leigh Hardy. He is preceded in death by his parents, Bill and Lee Carl.

The preceding memoriam for Samuel “Sam” Carl, is based upon information obtained from The Courier-Journal, which published the obituary from Feb. 3 to Feb. 4, 2020. To access the obituary in its entirety, visit: https://www.legacy.com/obituaries/louisville/obituary.aspx?n=samuel-carl-arl&pid=195259646.

JOHN MICHAEL LONGMEYER, 80, passed away peacefully in the early morning of Friday, January 31st. Longmeyer leaves a legacy of hard work, athleticism, and—above all—warmth and kindness. He was born and raised on a farm in Greenfield, Ill. After moving to Louisville, Longmeyer practiced law for 50 years. He is survived by his wife Janice, his five children—Tim (Lyn), Laura (Leo), Phil (Stacey), Joe (Lily), and Torrie (Stephen); 14 grandchildren; Carlos, Libby, Ryan, Lauren, Madeleine, Abby, Audrey, Aidan, Molly, Max, John Henry, Nathalie, Josie, and Jacob; one great-grandchild Sophia, and his brothers Joe and George. In addition to his first wife Judy, John is preceded in death by parents Joe and Lucy, and his sisters Margaret McCormick and Mary Lee Longmeyer.

The preceding memoriam for John Michael Longmeyer is based upon information obtained from The Courier-Journal, which published the obituary from Feb. 1 to Feb. 2, 2020. To access the obituary in its entirety, visit: https://www.legacy.com/obituaries/louisville/obituary.aspx?n=john-michael-longmeyer&pid=195249233&fbid=4747.

WILLIAM FITCH BURBANK, JR., died peacefully in his sleep on Jan. 18, 2020, at The Episcopal Church Home. He was born in Louisville on Feb. 14, 1927, to parents Lillian Stafford Burbank and William Fitch Burbank, both of whom predeceased him. Bill graduated from Male High School (1944), having served as vice president of his senior class, captain of R.O.T.C., and captain of the Football team. After high school, he enlisted in the Merchant Marine Academy (1945–46). Upon his return from WWII, he graduated on the Dean’s List from Centre College (1949), majoring in history, economics and English. He received a law degree from University of Louisville in 1952 where he was elected chairman of the Student Bar Association and president of the UL Student Body. He participated in many Louisville civic organizations, including: Louisville Jaycees, Louisville Chamber of Commerce, Exchange Club of St. Matthews Founding President, Juniper Club, Pyramid Investment Club and Kamp Kaintuck. Bill also was actively involved in the installation of the Squire Boone statue in downtown Shelbyville. Nancy M. Burbank, his wife and mother of his children, predeceased him. Also, predeceasing him were his sister Margaret B. Likins and his wife Virginia C. Burbank. He is survived by his daughter Priscilla A. Burbank (Michael Schewel), Jane E. Burbank and William F. Burbank, III, his grandchildren Laura B. Schewel, Benjamin B. Schewel (Kerilyn), Emily P. Burbank, and his great grandson Elliot D. Schewel. He is also survived by his sister Ruth M. Resch, cousin and close friend Martha M. Dupps, step-daughter Reneaux Collins, and his step-grandsons, Wynter Collins and Taylor Davis Collins.

The preceding memoriam for William F. Burbank is based upon information obtained from The Courier-Journal, which published the obituary from Jan. 20 to Jan. 23, 2020. To access the obituary in its entirety, visit: https://www.legacy.com/obituaries/louisville/obituary.aspx?n=william-fitch-burbank&pid=195121422&fbid=4753.

BRUCE ALBERT KAREM, 71, peacefully passed away with his loving family by his side on Monday, Jan. 27, 2020, at Baptist East Hospital in hospice. He was born in Louisville to George and Alma Karem on Dec. 5, 1948. In addition to his parents, he was preceded in death by his brother, Michael Karem. Karem was married to the love of his life Linda Lyons Karem for 48 years. He graduated from the University of Kentucky. He graduated from the Brandeis School of Law at UofL and retired as an attorney from the IRS in 2008. He was a member of the Lebanese American Country Club, Lambda Chi Alpha brother, and an elder & member at Beargrass Christian Church. Bruce is survived by his wife Linda; son Marshall (Amy) Karem; daughter Laura Karem (Tony Lakas); sister Deborah (Harold) Webb; brothers-in-law Tommy (Vickie) Lyons and Alan (Judy) Lyons; sister-in-law Judy (Steve) Baylor; grandchildren Charlie & Beau Karem and A.J. & George Lakas; and a host of cousins, nieces, nephews, great-nieces and great-nephews.

The preceding memoriam for Bruce Albert Karem is based upon information obtained from The Courier-Journal, which published the obituary from Jan. 28 to Jan. 31, 2020. To access the obituary in its entirety, visit: https://www.legacy.com/obituaries/louisville/obituary.aspx?n=bruce-albert-karem&pid=195194824&fbid=4746.
The Stuff the Bus Foundation is proud to announce the addition of Joye Beth Spinks to the Stuff the Bus Foundation Board of Directors. She is an associate at English Lucas Priest & Owsley, LLP (ELPO Law) in Bowling Green, and is a native of the Southern Kentucky area. After serving four years as a high school educator, Spinks pursued a career in law attending Boston University School of Law, where she worked for the chairperson of the Joint Committee for the Environment, Natural Resources, and Agriculture in the Massachusetts Legislature. She joined ELPO Law fulltime in 2019. Spinks is excited to serve her community through her new role with the Stuff the Bus Foundation. For more information on the Stuff the Bus Foundation, including upcoming events, visit stuffthebusky.com.

Sturgill, Turner, Barker & Moloney, PLLC, has promoted litigators Langdon R. Worley and Stephanie M. Wurdock to members of the firm. Both were also named 2020 SuperLawyers “Rising Stars.” Worley’s experience in civil litigation ranges from motor vehicle accidents and premises liability matters to commercial trucking, products liability, fire loss, subrogation, and blasting cases. She is a member of the Defense Research Institute (DRI), and the Kentucky Defense Counsel: Young Lawyers Section, and is president of the Women Lawyers’ Association. Wurdock, a past Kentucky Defense Counsel, Inc., Young Lawyer of the Year, is a litigator who defends healthcare providers against claims of negligent care, wrongful death, and violations of resident’s rights. She also speaks and publishes regularly about legal developments impacting the healthcare community. She is active in both the Kentucky Defense Counsel, Inc., and in DRI, Inc., where she is the current vice chair of the Young Lawyers Committee.

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Whitlow, Roberts, Houston & Straub, PLLC, is pleased to announce that Matthew S. Eddy has joined the firm as an associate. Eddy graduated summa cum laude from Georgetown College. In 2017, Eddy graduated from Vanderbilt Law School, where he was a member of the Vanderbilt Journal of Transnational Law. In September 2019, Eddy joined the Whitlow Firm after serving a two-year clerkship with Hon. Thomas B. Russell, Senior Judge for the Western District of Kentucky. Eddy is licensed to practice in Kentucky and Tennessee.

Dinsmore & Shohl’s Adrienne Strong was elected to the firm’s partnership, effective Jan. 1, 2020. Strong practices out of Dinsmore’s Lexington office. Strong works with the firm’s commercial litigation group. She joined shortly after graduating from the University of Kentucky College of Law in 2010. She has worked with a range of clients, including a number of oil and gas companies, educational institutions, lending institutions, and coal companies. She was named to the 2017-18 Leadership Lexington class, and she received the 2015 Dinsmore Difference Maker Award.

Phillips Parker Orberson & Arnett is pleased to announce that Katherine T. Watts and Matthew A. Piekarski are now partners with the firm. Watts has had an active trial and litigation practice throughout Kentucky since joining the firm in 2009. Her practice is primarily focused in the areas of medical malpractice defense, professional liability defense, employment/discrimination defense, and premises liability defense. Watts attended the University of Louisville Louis D. Brandeis School of Law. Piekarski has also maintained an active trial and litigation practice since joining the firm in 2009. His practice is focused on defending claims of medical and dental malpractice, claims against municipalities and law enforcement, premises liability claims, and motor vehicle accident
claims. Piekarski is a graduate of Marquette University and the University of Louisville Louis D. Brandeis School of Law.

Stites & Harbison, PLLC, recently announced that six attorneys have been promoted within the law firm effective January 2020. The new members (partners) include: Brian Bennett, Louisville office, Creditors’ Rights & Bankruptcy Service Group—Bennett focuses on financial institutions, real estate and complex commercial litigation in state and federal courts, in addition to banking and financial services compliance. J. Brittany Cross Carlson, Louisville 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. Rachel Owsley, Louisville office, Business & Finance Service Group—Owsley focuses her practice on mergers and acquisitions, ESOP transactions and general business services. She regularly represents large international and medium-sized businesses across the country in important commercial transactions. Rebecca M. W. Sherman, Lexington office, Construction Service Group—Sherman’s practice focuses on advising clients throughout all phases of construction projects including planning, contract drafting and negotiation, project administration, and disputes. She represents owners, contractors and subcontractors in construction disputes and litigation. Sherman’s practice also includes representation of professional athletes and entertainers in contract negotiations and business disputes in the sports and entertainment industries. Emily Larish Startsman, Lexington office, Torts & Insurance Practice Service Group—Startsman has handled a variety of litigation matters for insurance companies, medical providers, corporations and local businesses. Her focus includes medical malpractice, products liability and a variety of personal injury matters. Zachary VanVactor, Louisville & Jeffersonville, Ind., offices, Business Litigation Service Group—VanVactor regularly handles complex matters at both the trial and appellate level in state and federal courts around the country. His practice focuses on complicated business litigation, class action and multidistrict litigation, financial services litigation, pharmaceutical and medical device litigation, intellectual property litigation and professional liability defense.

Michael G. Swansburg, Jr., and J. Brooken Smith are pleased to announce the opening of the Louisville-based law firm Swansburg & Smith, PLLC. With more than two decades of experience in private practice at large, regional law firms, as in-house counsel, and in senior government leadership roles, Swansburg & Smith, PLLC’s attorneys offer personal attention to address the labor and employment needs of employers; to advocate on behalf of individuals, businesses and employers in civil litigation and other dispute resolution environments; to represent businesses and employers before executive branch administrative agencies; and to advise small businesses and entities on a variety of legal topics. The firm has created a website, swansburgandsmith.com, and its attorneys may be reached by phone at (502) 805-5960.

Sturgill, Turner, Barker & Moloney, PLLC, welcomes Catherine E., “Katie” Bouvier, Maureen C. Malles, and Joshua G. Miller as associates. Bouvier joins Sturgill Turner’s Torts & Insurance Group. Her courtroom experience includes private practice in a regional defense firm and prosecuting more than 500 felony cases as an Assistant Commonwealth Attorney in Fayette County. She is a board member of the Bluegrass Claims Association. She earned her J.D. from the University of Kentucky College of Law, and her B.A. in government and Spanish from Centre College. Malles joins Sturgill Turner’s Government & Municipal Law Group. Her experience includes clerkships at two Florida litigation firms as well as a legal externship with Tapestry, Inc. She graduated cum laude with a J.D. from the University of Florida Levin College of Law and earned her B.A. from Florida State University. Miller joins Sturgill Turner’s Torts & Insurance Group. His courtroom experience comes from more than seven years as a public defender in the Lexington office of the Kentucky Department of Public Advocacy, and as a law clerk for Chief Justice Erik Mose of the UN War Crimes Tribunal for Rwanda. He studied human rights in China while serving as an intellectual property law clerk in Beijing. He graduated with a J.D. from the University of Kentucky College of Law, and earned his B.A. from Western Kentucky University.

Daniel H. Miller was elected president of the Blue Grass Council, Boy Scouts of America, that serves over 6,000 youth in 55 counties of Central and Eastern Kentucky. Miller has served as chair of the KBA Real Property Section and is an attorney with Stonecroft Title & Escrow in Lexington.
Kentucky State Treasurer Allison Ball is pleased to announce that Lesley Stout Bilby is joining her team as chief of staff. Bilby will advise Treasurer Ball on policy and legislative issues and oversee the day-to-day operations of the Treasury. She most recently served as deputy secretary of the Kentucky Personnel Cabinet. She is a graduate of Centre College and the University of Kentucky College of Law. She also holds an M.Phil. in International Relations from the University of Cambridge. Treasurer Ball also promoted Lorran Hart Ferguson to deputy chief of staff where she will assist in advising Treasurer Ball on policy and legislative issues and will also oversee the Treasury’s Unclaimed Property Division. Ferguson was promoted from deputy general counsel and communications director. She is a graduate of Lindsey Wilson College and the University of Kentucky College of Law.

Fisher Phillips, a national labor and employment law firm representing employers, has announced that Megan U’Sellis of Louisville, was one of 17 attorneys elected to partnership. The new partners represent an expansive cross-section of the firm’s labor and employment service offerings, including employee defections and trade secrets, global immigration, labor relations, litigation, wage and hour, and workplace safety.

Governor Andy Beshear appointed Stites & Harbison, PLLC, attorney Demetrius Holloway to the Kentucky Personnel Board to serve a term expiring Jan. 1, 2024. The Kentucky Personnel Board includes seven members, five appointed by the Governor and two elected by state merit employees. The board oversees state government personnel standards and serves as an impartial judge of state employee-employer disputes. Holloway is a member (partner) of the firm based in the Louisville office. He represents employers in the defense of employment-based claims asserted under both Kentucky and federal law. Within the firm, Holloway is chair of the Diversity Committee and is a member of the Firm Recruiting Committee.

Susan Stokley Clary, the clerk of the Supreme Court for 25 years, retired Feb. 1. She has been the clerk for three chief justices, Robert F. Stephens, Joseph E. Lambert and current Chief Justice John D. Minton Jr. As Supreme Court clerk, Clary held an appointed position and was responsible for the custody, control and storage of all Supreme Court records. She was also court administrator and general counsel for the court. Clary served in numerous positions on the board of the National Conference of Appellate Court Clerks, including president from 2009-2010. Clary earned a bachelor’s degree from the University of Kentucky and a J.D. from the UK College of Law. Kelly Stephens has been named interim clerk of the Supreme Court. She served as the governmental affairs liaison for the AOC after having held many roles since joining the court system’s administrative arm in 2002. She is a graduate of the University of Kentucky and the University of Kentucky College of Law.

English, Lucas, Priest & Owsley, LLP (ELPO Law), announces that Rebecca Simpson has been named a Fellow of the American Academy of Matrimonial Lawyers (AAML). AAML members are recognized as preeminent family law practitioners with the highest levels of knowledge, skill, and integrity. Simpson is a partner with ELPO Law, where she serves as the chair of both the family law group and the diversity & inclusion committee for the firm. Simpson focuses her legal career on matters impacting children and families -- namely adoption, divorce and family mediation. Simpson is a founding member and the current Board President of Southern Kentucky Collaborative Professionals. Simpson is a graduate of Western Kentucky University, summa cum laude, and the University of Louisville Louis D. Brandeis School of Law, cum laude.

The Executive Committee of the American Bankruptcy Institute’s (ABI) Board of Directors announces that ABI Deputy Executive Director Amy Alcoke Quackenboss succeeded Samuel J. Gerdano as ABI executive director on Jan. 1, 2020. Quackenboss joined the ABI staff as deputy executive director in November 2010 and added the title of general counsel in 2012. In her capacity as deputy executive director, she has been involved in all aspects of ABI’s operations, including educational programming, publishing, information technology, staff management and budgeting. Quackenboss previously practiced law at Hunton Andrews Kurth, where she focused her practice on bankruptcy litigation and restructuring. Quackenboss received her B.A. from Miami University of Ohio and her J.D. from Washington & Lee School of Law.

Jenny Scott of Jenny Scott & Associates, PLLC, (JS&A) has been inducted as a Fellow of the prestigious American Academy of Adoption & Assisted Reproduction Attorneys. In addition to her family law practice, Scott has made adoptions a focus for the last 21 years. She practices adoptions all over the state of Kentucky, helping to form families and give children permanence. She worked with a lobbyist in 2018 to change three adoption statutes. She is also a founding member of Kentucky’s only chapter of Second Saturday, a nationwide non-profit organization holding monthly workshops for women contemplating divorce. Kentucky’s chapter of Second Saturday is soon to enter their fourth year and, in that time, has helped hundreds of women with experts offering legal, financial, and emotional support and advice. Jenny Scott & Associates, PLLC, is also pleased to announce the addition of attorneys Ramona C. Little and Amy S. Stutler. Little, a Cuban-American, is of counsel with JS&A, with over 10 years of experience practicing family law. She serves on the board of the Hudson-Ellis Foundation, is a former board member of the
Wilderness Trace Child Development Center and the Family Services Association. Little was recently selected to serve on the Kentucky Bar Association Rules Committee. Stutler is a 2019 UK College of Law graduate where she was a member of the 2019 National Trial Competition Team, Trial Advocacy Board member, Provost Fellowship Scholarship recipient, and Pro Bono Award recipient. Stutler’s area of concentration will be family law and adoptions as an associate with JS&A.

Marquis Who’s Who, the world’s premier publisher of biographical profiles, is proud to present Sheldon G. Gilman with the Albert Nelson Marquis Lifetime Achievement Award. Gilman celebrates many years’ experience in his professional network, and has been noted for achievements, leadership qualities, and the credentials and successes he has accrued in his field. With more than 45 years of experience to his credit, Gilman is currently retired, having excelled as a member and a partner with Lynch, Cox, Gilman and Goodman, PSC, from 1972 until 2017. In this post, he focused his practice on matters involving estate planning, trusts, employee benefits, and business taxes. Moreover, he was active as a mediator in complex trust and estate litigation matters and an expert witness in trust and estate cases. Previously, Gilman completed service in the U.S. Army Reserve, rising to the rank of a captain between 1968 and 1972. He has also held positions in the Judge Advocate General’s Corps of the U.S. Army and the Redstone Arsenal for the U.S. Army Missile Command in Huntsville, Ala. Furthermore, Gilman worked of counsel for the Office of the Secretary of Defense, a designee on the conscientious objector review board for the Secretary of the Army and on the staff of the Office of the Judge Advocate General Corps in the U.S. Department of the Army in Washington, D.C. Gilman pursued an education at Ohio University, earning a Bachelor of Business Administration in business finance and accounting in 1965. He concluded his studies at Case Western Reserve University in 1967, graduating with a Doctor of Jurisprudence in business organizations and tax law.

Cincy Magazine has named Stites & Harbison, PLLC, attorney Tom Breidenstein to its list of Cincy Leading Lawyers 2020 for zoning. Registered lawyers in Southwest Ohio, Northern Kentucky and Southeast Indiana may submit nominations for Cincy Leading Lawyers. An advisory board reviews the nominations and selects the final honorees. Breidenstein is counsel at Stites & Harbison and is a member of the real estate service group based in the Covington, Ky., office. 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 Planning Association (APA), as well as the Ohio and Kentucky Chapters of the APA.

O’Bryan, Brown & Toner, PLLC, is proud to announce that Donald K. Brown, Jr., was recently inducted into the first annual Kentucky Trial Court Review Trial Lawyer Hall of Fame. Brown was selected as one of five inductees. He is a founding partner of O’Bryan, Brown & Toner, PLLC. Brown is an accomplished trial attorney whose primary practice area is insurance defense litigation, with an emphasis in medical malpractice defense.

David Anderson will now serve as board president of CASA of South Central Kentucky. Anderson is senior counsel with English Lucas Priest & Owsley, LLP. CASA of South Central KY voted in a new slate of board members and officers at their annual meeting held on Thursday, Jan. 16, 2020 at ELPO Law. They are a non-profit agency that advocates for the best interests of abused, neglected, and dependent children who have been introduced into the Family Court systems around the region. CASA recruits and trains concerned citizens to volunteer and independently work in the court system to serve as the child’s advocate and court representative. The Board of Directors are tasked with fiscal and programmatic governance of the organization and carry a number of duties throughout the year including fundraising and mission awareness.

Roetzel & Andress LPA has strengthened its medical defense, product liability and transportation groups with the addition of Patrick B. Healy, who joins the firm as a shareholder in the Cincinnati office. Healy has devoted his practice to the defense of businesses and individuals involved in complex civil litigation, often involving allegations of catastrophic injury. Healy has experience representing a wide array of entities including: international manufacturing companies, physicians and health care providers, transportation companies, including a nationally recognized ride-sharing platform, and insurance companies. Healy earned his law degree from Chase College and graduated from DePauw University, where he was an Economics Management major.

English, Lucas, Priest & Owsley, LLP (ELPO Law), announced today that ELPO Law Attorney Leah A. Morrison will now be offering legal services related to Medicaid Planning. Medicaid Planning is a way to protect people’s assets from the threat of long-term care expenses. Attorneys who provide Medicaid Planning legal services work legally and ethically to protect assets when qualifying for Medicaid. The addition of providing Medicaid Planning legal services directly compliments the Special Needs Planning and Administration practice area which is served by both Leah A. Morrison and ELPO Law Attorney Elizabeth J. McKinney. While both attorneys have previously offered services in this area for third party planning, Morrison will now also offer first party planning.
Browning Coughlin is the founder of the nearly 4,500-member bar association, MothersEsquire. In 2019, Browning Coughlin was part of a team of lawyers that successfully argued for parental continuance for all lawyers, before the Florida Supreme Court. Browning Coughlin is also a well-regarded intellectual property and data privacy lawyer representing large and small companies in their trademark matters, as well as celebrity and sports figures in their trademark, copyright and licensing matters.

Dinsmore & Shohl LLP is kicking off 2020 with a wave of changes within its leadership ranks. Dinsmore leadership has elected Donna King Perry to return the firm’s board of directors and has named Matthew P. Gunn to serve as the leader of the firm’s immigration practice group. Perry joins the 18-member board for a three-year term effective immediately. Each Dinsmore office region is represented by at least one seat on the board. Perry represents the Kentucky offices. She returns to the board after an eight-year hiatus and is looking forward to working with new members and seeing how the firm’s growth since 2012 has brought both opportunities and challenges. Perry led the merger between Dinsmore and her previous firm, Woodward, Hobson & Fulton, L.L.P. in 2009. Prior to the merger, she had become the first-ever female office managing partner at a major law firm in the state of Kentucky. She focuses her practice on labor, employment and general litigation. Gunn is a partner in the firm’s Louisville office and has concentrated his practice in business immigration law for over 20 years. He joined Dinsmore in 2015 after serving as practice group leader for immigration at two prior firms. The Dinsmore Immigration Group crafts strategies and solutions to meet the unique immigration needs of its clients. It anticipates the areas where the U.S. government may challenge a case, and Dinsmore attorneys reverse-engineer the process to lower the risk of denial. As counselors, they help clients adapt their immigration sponsorship policies and compliance programs to keep pace with evolving legal standards. Gunn, is excited to continue the growth of the Dinsmore Immigration Group across the firm’s growing national footprint.

Robert W. Schrimpf has joined Roetzel and Andress LPA as an associate attorney at the firm’s Cincinnati office. He will be a member of the product & transportation group where he will focus his practice on transportation litigation. Prior to joining the firm, Schrimpf served as a Hamilton County assistant prosecuting attorney. A native of Cincinnati, Schrimpf completed his undergraduate education at the University of Notre Dame, and he earned his Juris Doctor from the University of Cincinnati College of Law. He also obtained an MBA from Xavier University while working at the prosecutor’s office.

Elizabeth Ullmer Mendel announces her retirement from the practice of law. She has worked at the Solicitor’s Office for the U.S. Patent and Trademark Office in Alexandria, Va., since 2012, where she was responsible for analyzing and prosecuting alleged violations of the USPTO Code of Professional Responsibility on behalf of the Director of the Office of Enrollment and Discipline and for handling other matters concerning practitioner ethics, misconduct, and enrollment. She previously worked for the Federal Deposit Insurance Corporation in the Professional Liability Practice Group and prior to that spent 27 years in private practice in Louisville with the law firm of Woodward, Hobson & Fulton, L.L.P. She is a graduate of the University of Louisville Louis D. Brandeis School of Law, magna cum laude, where she was manuscript editor for the Journal of Family Law and earned her B.A. in English, cum laude, at the University of California, Los Angeles. She plans to spend her retirement traveling the world and doing volunteer work at Christ Church Episcopal in Alexandria.
Hare, Wynn, Newell & Newton, LLP, announces the addition of Tyler Stewart, associate attorney to its Lexington office. Stewart is a Kentucky native. Prior to joining Hare Wynn, he spent years advocating for clients both in the public and private sectors and served as an assistant attorney general in the Consumer Protection Department of the Kentucky Office of the Attorney General. Since leaving the Kentucky Office of the Attorney General, he has successfully pursued and resolved numerous claims on behalf of consumers and clients involving nursing home abuse and neglect, bad faith behavior by insurers, car wrecks, truck wrecks, slip and falls, products liability, construction defects, medical negligence, violations of the Kentucky Consumer Practice Act, and a variety of other personal injury and consumer fraud cases. Stewart is a Georgetown College graduate and received his law degree from the University of Kentucky College of Law. Stewart will work primarily in the areas of nursing home abuse and neglect, personal injury and wrongful death litigation.

Denton Law Firm, LLC, of Paducah, Ky., is pleased to announce that Cody R. Walls has joined the firm as an associate attorney. Walls concentrates his practice in the areas of taxation, trusts, corporate law and probate law. He graduated summa cum laude from Murray State University with a degree in accounting, received his MBA from Murray State University and his J.D., magna cum laude, from Southern Illinois University in May 2019, where he was a staff member and note editor for the SIU Law Journal.

DBL Law recently hired Erin Shaughnessy as a new attorney. Shaughnessy practices in the firm’s civil litigation and labor & employment practice groups. She earned her law degree from the University of Louisville Brandeis School of Law, magna cum laude, and her undergraduate degree in political science from Murray State University, summa cum laude. During law school, she was the senior articles editor for the University of Louisville Law Review and a member of the Robert F. Wagner Labor and Employment Law Moot Court Team. She participated in externships with Judge Rebecca Grady Jennings, U.S. District Court for the Western District of Kentucky, Signature HealthCare and the Kentucky Attorney General’s Office and worked as a summer associate for DBL Law. Shaughnessy is based in the firm’s Louisville office.

Former Kentucky Secretary of State Trey Grayson has been appointed as managing director for CivicPoint, a subsidiary of Frost Brown Todd LLC (FBT). He will oversee the more than 20 lobbyist and government relations specialists across seven states and Washington, D.C. For more information, visit CivicPoint’s website. Grayson has been with CivicPoint the government affairs and FBT for nearly three years. Previously, he served as the president and CEO of the Northern Kentucky Chamber of Commerce, director of the Institute of Politics at Harvard University, and two terms as Secretary of State. Originally with an emphasis on five states, CivicPoint recently expanded into Colorado and Texas and increased its presence in Washington D.C. It is a full-service firm with a focus on education, energy, health care, information technology, local government and public-private partnerships.

Harlin Parker, Attorneys at Law since 1906, is pleased to announce that attorney Daniel Pardue has joined the firm. Pardue received his J.D. from the University of Kentucky, College of Law in May of 2018. He earned a B.A. in history and political science, summa cum laude, from Western Kentucky University in 2015.

Prior to joining Harlin Parker, Pardue clerked for Hon. Janet Crocker, Circuit Judge for Simpson County and Allen County, Ky., and Hon. James Brantley, Circuit Judge for Hopkins County, Ky. His practice areas include litigation, transportation, corporate, and real estate development.

Graydon is pleased to announce the election of Daniel J. Knecht to the firm’s partnership, effective Jan. 1, 2020. Knecht is a member of the firm’s litigation group and works out of the Downtown Cincinnati location. Knecht’s practice is focused on the areas of complex business and construction litigation. He has experience steering complex commercial and construction litigation matters to positive resolutions. He has helped execute e-discovery collection and review programs for massive document populations in complex multi-party construction suits. He has also assisted with developing and managing thorough testing and remediation programs in construction claims litigation involving developers, retailers, and contractors with national footprints. Knecht earned his J.D. from the University of Cincinnati College of Law and his B.S. in business from Indiana University.

Attorney Scott Schuette joins the ever-expanding McBrayer law firm’s Lexington office. Schuette brings his experience as staff attorney in the Fayette Circuit Court for both Hon. John Reynolds and Hon. Julie Muth Goodman to bear in the firm’s litigation department, where he will focus his work on construction law, eminent domain, dispute resolution and general litigation issues. Schuette is a 2018 graduate of Barry University Law School and is licensed to practice in both Florida and Kentucky.

Commonwealth Counsel Group PLLC Member Parker M. Wornall was named to the associate board of the American Heart Association (AHA), the nation’s largest voluntary organization dedicated to fighting heart disease and stroke. Wornall is one of 22 associate board members in the Louisville chapter of the AHA; he was selected in December 2019. Wornall strives, along with other members of the Commonwealth Counsel Group team, to promote investment in life-changing research aimed at fighting
heart disease in our communities. Leadership Louisville recently announced that Stites & Harbison, PLLC, attorney Brian Bennett is one of 44 community leaders selected for membership in the 2020 Bingham Fellows class. The Bingham Fellows program is the most advanced leadership course offered by Leadership Louisville, involving monthly meetings culminating in a year-end project. This year’s focus for Bingham Fellows is to study what it means for Louisville to be a top-tier city and the steps required to achieve that goal. Bennett is a member (partner) of the firm based in the Louisville office. He focuses on financial institutions, real estate and complex commercial litigation in state and federal courts, in addition to banking and financial services compliance.

Dinsmore & Shohl LLP adds two new associates in Lexington and Louisville. Alex D. Croft is among the Louisville office’s newest talent focusing on estate planning and tax law. Croft comes to the firm from Commonwealth Bank and Trust, where he was general counsel – trust counsel, vice president. He received his J.D. from the University of Louisville Brandeis School of Law and B.S. in finance from the University of Kentucky. Croft serves on the estate planning counsel of Louisville, is a member of the KBA Young Lawyers Division, and is on the board of directors at Cabbage Patch Settlement House. Sara A. Johnston joins the Lexington office. Her focus is on corporate litigation and debt restructuring. Johnston is accredited with the U.S. Department of Veteran Affairs, chair for the Kentucky Bar Association, Elder Law Section Legislative Committee and the Legislative and Policy Review Committee for the Working Interdisciplinary Networks of Guardianship Stakeholders and a volunteer for Legal Aid of the Bluegrass. Johnston earned her J.D. from the University of Kentucky College of Law and B.S. in political science as an early graduate from Auburn University.

Lexington-based law firm, Rose Grasch Cameisch Mains PLLC, is pleased to announce the expansion of the firm with the selection of Wes Harned as a new member, and the addition of Hannah Witherspoon as an associate. Harned, who joined the firm as an associate in 2017, has been named a member of the firm. His practice is focused on civil litigation in both state and federal courts, as he regularly represents businesses, business owners and other individuals – both plaintiff and defendant – in business disputes, including contract claims, business torts, employment disputes, wrongful termination, lease disputes and other commercial matters. Harned earned his J.D. from the University of Kentucky College of Law, where he was a member of the Kentucky Law Journal. Witherspoon has joined the firm as an associate, focusing her practice in the area of business transactions. She received her J.D. with Honors from the University of Kentucky College of Law in 2018 and her B.S. in advertising, magna cum laude, from the University of Kentucky in 2015.

O’Hara, Taylor, Sloan & Cassidy is pleased to announce that two new attorneys joined its practice. Jessica N. Wimsatt is a 2018 graduate of the University of Kentucky College of Law and focuses her practice on employment discrimination and retaliation, federal and state wage and hour violations, employment contracts, and civil rights litigation. Sherree E. Weichold, an associate of The Beck Firm, of counsel to O’Hara, Taylor, Sloan & Cassidy is a 2019 graduate of Salmon P. Chase College of Law and focuses her practice on family law and domestic relations, probate, bankruptcy, and civil litigation.

The United States Bankruptcy Court for the Western District of Kentucky announced the appointment of the Honorable Alan C. Stout as the Chief United States Bankruptcy Judge for the district effective Dec. 31, 2019. Chief Judge Stout succeeded Judge Thomas H. Fulton, who served in that role since Dec. 31, 2012. Chief Judge Stout has served as a United States Bankruptcy Judge in the district since Oct. 25, 2011. He will continue to hold court in Louisville and Paducah, Ky.

Commonwealth Counsel Group PLLC is pleased to announce that Jason M. Nemes has joined the firm as a member. Nemes represents businesses and individuals in a variety of litigation and regulatory matters. Nemes also regularly represents clients before Kentucky administrative bodies. Selected as a Super Lawyer since 2013, he has over 15 years’ experience, including service as Chief of Staff to the Office of the Kentucky Supreme Court Chief Justice and as the Director of the Administrative Office of the Courts. In addition to his law practice, Nemes represents eastern Jefferson County and south Oldham County in the Kentucky House of Representatives where he serves in several leadership positions. Nemes is a graduate of Western Kentucky University and received his J.D. from the University of Louisville Louis D. Brandeis School of Law.

The Northern Kentucky Chamber of Commerce has announced that Stites & Harbison, PLLC, attorney Allyson True Cook is the recipient of the seventh annual Debbie Simpson Spirit of Achievement Award. This award honors women involved in the Northern Kentucky Chamber Women’s Initiative who have made a significant impact upon the progress of the Women’s Initiative program, have demonstrated career success and have been active in the community. Cook is counsel at Stites & Harbison, PLLC, and she is based in the Covington office. Her practice focuses on construction, real estate, commercial finance, healthcare, general business services and litigation.
Jackson Kelly PLLC is pleased to announce that the firm has elevated attorney Jeffrey R. Soukup to member. Soukup practices out of the firm’s office in Lexington. He is a member in the business law practice group, focusing primarily on litigation and appellate work. While in law school at the University of Kentucky, he served as the managing editor of the Kentucky Journal, was selected for publication in the Journal’s 2006-2007 volume, and was awarded the prestigious Stoll Keenon and Park Scholarship for Outstanding Service to the Journal.

Jennifer Yue Barber, to be the Representative of the United States of America on the Economic and Social Council of the United Nations, with the rank of Alternate Representative of the United States of America to the Sessions of the General Assembly of the United Nations. Barber is a member of the law firm Frost Brown Todd LLC focusing on State and local tax, economic incentives, and government affairs. Barber earned her B.S. from the University of Kentucky and her J.D. from the University of Kentucky College of Law.

Federal Agricultural Mortgage Corporation, the nation’s secondary market provider that increases the availability and affordability of credit for the benefit of rural America, announced that the President of the United States has designated LaJuana S. Wilcher of Bowling Green, as chair of the company’s board of directors effective Jan. 17, 2020, when Wilcher was sworn in to her new position. Wilcher, who is a presidentially-appointed board member, joined Farmer Mac’s board on Dec. 20, 2019, after being nominated by President Trump and confirmed by the United States Senate. Wilcher is a partner at the law firm English, Lucas, Priest & Owsley, LLP, where she represents clients on complex environmental permitting, enforcement, regulatory compliance, and legislative matters throughout the country. Wilcher’s extensive experience as a leader and manager of large federal and state government agencies includes stints at the United States Department of Agriculture (USDA), Environmental Protection Agency (EPA), and the Commonwealth of Kentucky. Wilcher received a B.S. from Western Kentucky University and a J.D. from Salmon P. Chase College of Law, Northern Kentucky University.

Isaacs and Isaacs welcomes new attorney Michael Fayard. Fayard is trial attorney that is AV Preeminent rated by Martindale-Hubbell. He graduated from the University of Cincinnati with a degree in economics and he earned a commission as an Army Officer through ROTC. Fayard joined the Kentucky Army National Guard. During that time, Fayard received his J.D. from Florida Coastal School of law where he graduated with honors. Fayard then earned his Master of Laws degree (LL.M.) in International law with a focus on international litigation from Stetson University College of Law. His personal injury and civil litigation experience includes time spent with national injury firms where he successfully handled class actions, mass tort, and personal injury cases.
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