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In June, when I took the Oath of Office as president of the Kentucky Bar Association (KBA) for 2017-2018, I said that I stood on the shoulders of all the great leaders of the KBA who had come before me. I said that understanding that the KBA is one of the top bar associations in the United States. That is only true because of the outstanding leadership of all those who have gone before me.

Each of these great leaders had their eyes fixed on the future as they guided the KBA forward.

In 2015, the KBA leadership initiated a Strategic Plan¹ to move us forward over the coming years, through 2020. In 2015, the KBA Board of Governors created a Strategic Planning Committee, chaired by our past president, the late Doug Myers.

The purpose of developing the plan was and is to develop goals for the officers and board of governors of the KBA. The idea is that it will take a continued effort on the part of officers and the board over the coming years to implement the plan.

So, my goal as president is to keep this Strategic Plan constantly “front and center” and ensure that every member is familiar with the Strategic Plan and that everyone is making every effort toward the goals of the Plan.

It is important for everyone to know the goals of the Strategic Plan and what the KBA has been doing to implement the Plan. So I am setting forth the Plan and its implementation as follows:

**GOAL 1:**
The KBA assists lawyers to achieve professional excellence and satisfaction.

<table>
<thead>
<tr>
<th>Strategy 1: Provide the highest quality continuing legal education</th>
<th>Strategy 2: Bolster the KBA’s practice management resources</th>
<th>Strategy 3: Provide practical skills training and support/mentoring for new lawyers</th>
<th>Strategy 4: Build participation in sections and divisions</th>
<th>Strategy 5: Increase collaboration between the KBA and local bars to facilitate networking and extend services</th>
</tr>
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<tr>
<td>The KBA has created a Law Practice Task Force, chaired by Robert Young from English, Lucas, Priest &amp; Owsley, LLP, in Bowling Green, Ky. Young is the former chair of the American Bar Association’s Law Practice Division.</td>
<td>Members from the Law Practice Task Force will be making presentations at each of the nine locations of the Kentucky Law Update this fall. The program is titled, “Creating and Growing Your Practice.”</td>
<td>In addition to their presentations, members of the Law Practice Task Force are preparing columns for each issue of the Bench &amp; Bar.</td>
<td>The KBA has also seen a 23 percent increase in section activity and has encouraged sections to submit information for publication in the Bench &amp; Bar regarding their activities or events.</td>
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## GOAL 2:
The KBA strengthens the profession by maintaining and encouraging the highest levels of ethical conduct.

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<th>Strategy 1:</th>
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<th>Strategy 3:</th>
<th>Strategy 4:</th>
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<tr>
<td>Facilitate a swift and fair discipline process that educates and fosters the trust of KBA members and the public.</td>
<td>Increase diversity and inclusion in KBA activities and leadership.</td>
<td>Support the mental and physical well-being of members.</td>
<td>Raise expectations about the role of lawyers in society.</td>
</tr>
</tbody>
</table>

### PROGRESS:

- **Strategy 1:** The Office of Bar Counsel will be making a presentation at each of the Kentucky Law Update programs this fall regarding the “History of the Bar.”
- **Strategy 2:** The Bench & Bar will publish a themed issue regarding attorney discipline in May 2018.
- **Strategy 3:** The KBA established a Kentucky Lawyer Assistance Program (KYLAP) Task Force.
- **Strategy 4:** From that KYLAP Task Force there was a recommendation to contract with an Employee Assistance Program (EAP), which will help provide mental health services from qualified professionals to members who are in crisis. This program was put in place in August 2017.

## GOAL 3:
The KBA ensures that Kentucky citizens have equal access to legal services and to a justice system that affords prompt and fair resolution.

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<th>Strategy 1:</th>
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<tr>
<td>Continue to advocate for adequate resources for the entire justice system.</td>
<td>Strengthen collaboration with the judiciary to address challenges relating to the justice system and courts.</td>
<td>Create and lead innovative efforts to address gaps in legal services.</td>
</tr>
</tbody>
</table>

### PROGRESS:

- **Strategy 1:** The KBA has established the Task Force on Judicial Evaluations and is currently in the process of preparing to do a statewide judicial evaluation.
- **Strategy 2:** The KBA has appointed the Kentucky Commission on the Future of the Legal Profession to evaluate changes in the delivery of legal services and identify tools and strategies to assist our members and the public.

## GOAL 4:
The KBA achieves its goals through organizational excellence.

<table>
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<th>Strategy 1:</th>
<th>Strategy 2:</th>
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<th>Strategy 4:</th>
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<tr>
<td>Increase members’ awareness of KBA program/initiatives through effective communications efforts.</td>
<td>Continue to build the KBA’s technology infrastructure in order to be accessible to members throughout the state.</td>
<td>Explore the impact of the profession’s demographic changes on the KBA.</td>
<td>Engage in succession planning for long-tenured staff.</td>
</tr>
</tbody>
</table>

### PROGRESS:

- **Strategy 1:** The KBA established a new membership database and website portal.
- **Strategy 2:** We have put in place a new case management system for the Office of Bar Counsel and our Disciplinary Clerk.
- **Strategy 3:** In June of this year the staff at the Bar Center started using a Voice Over IP phone system.
- **Strategy 4:** A new CLE reporting and tracking system will go online shortly.

Continue to the next page to find out more about the Strategic Plan.
As you can see, a tremendous amount of work is going into implementing the Strategic Plan. Countless hours have been put in by the officers and members of the KBA Board of Governors. A tremendous number of hours have been put in by our wonderful staff at the Bar Center.

Some of the projects under way that are receiving special attention are: the continued upgrading of our Kentucky Lawyer Assistance Program, the implementing of a state wide Judicial Evaluation Program, the implementing of the Law Practice Task Force with special emphasis on how you can grow your practice and better serve your clients through the effective use of I.T., and the Commission On the Future of the Legal Profession.

All of these projects are going forward with idea of making Kentucky Lawyers, the best lawyers they can be, and by so doing, to better do the job we have sworn to do and that is: TO BE OF SERVICE TO OUR CLIENTS.

ENDNOTES
1. For the executive summary and the executive matrix of the KBA’s Strategic Plan, members may visit https://www.kybar.org/page/StrategicPlan.

2018 Distinguished Service Awards
Call for Nominations

The Kentucky Bar Association is accepting nominations for 2018 Distinguished Judge and Lawyer, Donated Legal Services and Bruce K. Davis Bar Service Awards. Nominations must be received by December 29, 2017. If you are aware of a Kentucky judge or lawyer who has provided exceptional service in these areas, please call (502) 564-3795 to request a nominating form or download it from our website at www.kybar.org.

DISTINGUISHED JUDGE AWARD
DISTINGUISHED LAWYER AWARD
Awards may be given to any judge or lawyer who has distinguished himself or herself through a contribution of outstanding service to the legal profession. The selection process places special emphasis upon community, civic and/or charitable service, which brings honor to the profession.

DONATED LEGAL SERVICES AWARD
Nominees for the Donated Legal Services Award must be members in good standing with the KBA and currently involved in pro bono work. The selection process places special emphasis on the nature of the legal services contributed and the amount of time involved in the provision of free legal services.

BRUCE K. DAVIS BAR SERVICE AWARD
Many lawyers take time from their practices to provide personal, professional and financial support to the KBA. This award expresses the appreciation and respect for such dedicated professional service. All members of the KBA are eligible in any given year except for current officers and members of the Board of Governors.

TERMS EXPIRE ON THE KBA BOARD OF GOVERNORS

On June 30 of each year, terms expire for seven (7) of the fourteen (14) Bar Governors on the KBA Board of Governors. SCR 3.080 provides that notice of the expiration of the terms of the Bar Governors shall be carried in the Bench & Bar. SCR 3.080 also provides that a Board member may serve three consecutive two-year terms. Requirements for being nominated to run for the Board of Governors are contained in Section 4 of the KBA By-Laws and the requirements include filing a written petition signed by not less than twenty (20) KBA members in good standing who are residents of the candidate’s Supreme Court District.

Board policy provides that “No member of the Board of Governors or Inquiry Commission, nor their respective firms, shall represent an attorney in a discipline matter.” In addition any member of the Bar who is considering seeking or plans to seek election to the Board of Governors or to a position as an Officer of the KBA will, if elected, be required to sign a limited waiver of confidentiality regarding any private discipline he or she may have received. Any such petition must be received by the KBA Executive Director at the Kentucky Bar Center in Frankfort prior to the close of business on the last business day in October.

THE CURRENT TERMS OF THE FOLLOWING BOARD MEMBERS WILL EXPIRE ON JUNE 30, 2018:

1st – W. Fletcher Schrock
   Paducah
2nd – Thomas N. Kerrick
   Bowling Green
3rd – Melinda G. Dalton
   Somerset
4th – Bobby Simpson
   Louisville
5th – Eileen M. O’Brien
   Lexington
6th – Gary J. Sergent
   Covington
7th – John Vincent
   Ashland
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By Kentucky Lawyers. For Kentucky Lawyers.
John S. Palmore, who served as chief justice of both the Kentucky Court of Appeals and of the Kentucky Supreme Court, and who guided the judiciary into an era of greater competence and independence, died July 4, 2017, in Frankfort. Justice Palmore was 99.

Justice Palmore was a commanding presence. His white hair and deep voice made him appear as a Hollywood creation of what a chief justice should be. Justice Palmore was a capable court administrator and forceful advocate for the role of courts and lawyers in society.

Most of the contemporary bench and bar were not in practice when Justice Palmore presided over the Supreme Court. But his legacy survives in the unified court system he helped bring into being and helped develop during its formative years.

The bench and bar and the everyday Kentuckian is served today by the power and clarity of the more than 800 reported opinions Justice Palmore authored. He helped to refine and define Kentucky law for his time and perhaps for all time. Imprecision and vagueness would be two literary shortcomings he was never accused of and successfully avoided through his decades of appellate judging.

The criminally accused and all others involved in the criminal justice system had many of their rights and duties made certain by the Kentucky Penal Code Justice Palmore helped to develop, draft, advocate to passage, and later explain.

It is probably tantamount to malpractice for any Kentucky trial lawyer preparing for a jury trial not to study the manual written by Osso Stanley and revised for succeeding generations of judges and practitioners by Justice Palmore, Palmore’s Kentucky Instructions to Juries.

“There is probably no individual who did more to shape the law in Kentucky in the twentieth century than Justice Palmore,” said current Kentucky Supreme Court Chief Justice John D. Minton, Jr.
Justice Palmore was born August 6, 1917, in the Panama Canal Zone, where his father, a Monroe County native, worked as a policeman. The family moved back to Kentucky in 1926, and Justice Palmore graduated from Bowling Green High School. He raved until late in his life about how well he was taught English there.

He attended Western Kentucky University for two years. He did not attain an undergraduate degree, but enrolled at the University of Louisville School of Law, took and passed the bar in 1938, and graduated, cum laude, in 1939. He practiced briefly, then enlisted in the U.S. Navy and served during World War II. During his Navy service he availed himself of the chance to attend Harvard’s Graduate School of Business Administration in order to become a supply officer.

After his discharge, Justice Palmore served as a prosecutor in Henderson and became active in the Clements-Combs (as opposed to the Chandler) faction of the Democratic Party. He was appointed Commonwealth's Attorney in 1955.

He prosecuted a case in which the jury fixed the defendant’s penalty as death in the electric chair. Justice Palmore was among others in Henderson who were troubled by the sentence, and he expressed satisfaction later in life that the result of the first trial was determined to have been tainted by a trifling procedural error and that the defendant’s eventual sentence was reduced to life. Justice Palmore was a Democrat, but was never a sure vote on any side of an issue.

He was elected to the Kentucky Court of Appeals in 1959. From 1966 to 1973, he served as Chief Justice of that Court.

Kentucky voters in 1975 approved by referendum a series of comprehensive court reforms known as the Judicial Article. These reforms amended the Kentucky Constitution to require that all judges be lawyers, provided litigants a Constitutional right to at least one appeal, and subordinated all courts under the authority of a new Kentucky Supreme Court.

Justice Palmore soon ascended to that Court, was quickly elected by his peers in 1977 as Chief Justice and was a forceful advocate for the budgetary support and administrative development of the reconstituted court system.

During his tenure as Chief Justice on both the old and new highest court, he received many professional awards and recognitions. His administrative skill helped to achieve public support for the new court system, and his prodigies as a legal writer and thinker will be celebrated for generations to come.


He was heard as Chief Justice to lament the complications introduced to cases in the modern era, calling them “procedural hocus-pocus.”

HE HAD THIS TO SAY ON THE NATURE OF APPELLATE JUDGING:

“To me, this is how an appellate judge should approach a case. Jurisprudence is a deeper thing than just a matter of logic and the rules. The law is not about a bag of tricks, but a lot of lawyers think it is. They think it’s just a mass of complicated rules and regulations, and you read these things and bring them to a logical result. Law and jurisprudence are far deeper than that. A judge should constantly seek greater understanding and depth so that he comes to the decision of a case with a good philosophical background.”

ENDNOTES

I immediately.

Marvin College did not long survive after Barkley took an Associate’s Degree in 1897. But in the 1940s, and long after had become prominent on the national stage, a friend with a sense of humor erected a sign in front of the school’s lone surviving building that read:

“BARKLEY SWEPT HERE”

After Marvin, Barkley wanted to study law, but he was in debt and unable to afford tuition. He borrowed $200, enough to attend Emory College in Oxford, Ga., for a year of law school.

Returning to Kentucky with little more than a 50-cent piece, the clothes on his back, and a fine ambition. Barkley went to work as a law clerk in the office of Paducah attorney Charles K. Wheeler, then western Kentucky’s Congressman.

Barkley’s pay was access to the Congress-man’s law books. There was no salary.

In the path to the bar of the day, Barkley clerked and read the law, and was admitted in 1901. He opened his own law office and wedged his way out of poverty with the help of a $50 per-month stipend as the official court reporter for the McCracken circuit court. [Barkley’s portrait still hangs in the courtroom.]

Newly-married to his first wife Dorothy and installed in a small house in Paducah, Barkley entered the Democratic primary for county attorney in 1904, in the quaint, long-ago era when winning the Democratic primary was usually tantamount to success in the general election.

The standard technique of McCracken candidates of the day was to come down to Broadway on Saturdays and pass out palm cards. Barkley was setting his own style. He simply out-campaigned the competition.

He canvassed door to door throughout Paducah. Barkley also campaigned in the rural part of the county; what is called in Kentucky politics plowed ground.

To get around in that maiden political venture, Barkley borrowed a mule from his uncle Andrew, and swapped it along with $25 for a one-eyed horse named Dick. He slept where he stopped at the end of a campaign day, spoke before small groups of voters—they were all men then—posted his cards and handbills on fences. He pitched in with voters in their farm chores.

“If there a was single house in the county I missed,” Barkley recalled in 1949, “it must have been a mighty dark night.”

He was developing into a superb debater, and he won the Democratic primary and the office of county attorney decisively.

Then as now, the post is a hybrid. Its occupant is legal advisor to the county judge (the judge-executive since 1977.). The county attorney provides legal advice to the fiscal court and the other courthouse officials, and serves as a prosecutor.

In Barkley’s term, his reviews of county contracts saved taxpayers $35,000 in petty graft. He prosecuted two magistrates for being personally interested in county business.

He was elected county judge in 1909, and in 1912 set his sights on Congress.

In a crowded Democratic primary, he flicked his lash at one of his opponents for job-hopping:

“Why, when the Pope died some years ago, nobody would tell Hendricks for fear he would declare for that office.”

Only 34 that year, Barkley dealt with an age issue of another sort by arguing that his youth would be an asset in fulfilling “the arduous duties of Congress.”

Marvin W. Barkley and his wife alight from a train at Illinois Central Railway Station, decline a proffered motorcade, and stroll up Michigan Avenue to the Conrad Hilton Hotel.

Sitting as Vice President and having served for nearly half a century in Congress, Barkley was a plausible president, but the chattering class wondered about his age. His Chicago stroll was meant to show he was still in good running condition.

“I am just 74,” Barkley joshed at a news conference. “What do they think I’m going to do for the rest of my life?”

His reach for the presidency is rendered along with the other relevant data, well told, about this Kentucky political leviathan in James K. Libbey’s book, “Alben Barkley: A Life in Politics.”

Barkley was born in a log cabin at Wheel, Ky., in northeastern Graves County in 1874, the first of eight children of John and Electa Barkley, who grew dark-fired tobacco on rented acres.

Many hours in the fields as a lad helped Barkley to develop a remarkable physical stamina. Eventually, he became known as the “Iron Man” of politics

Barkley scrambled his way to a decent education. He was admitted to Marvin College, a small Methodist school in Clinton, Ky., on what was called a custodial scholarship. Marvin might be classed these days as a prep school, but in between his duties of firing stoves, cleaning classrooms, and carrying out coal ash, Barkley studied chemistry, trigonometry, surveying, moral philosophy, Greek and Latin, and, crucially, rhetoric and debating, which he took to immediately.

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“Why, when the Pope died some years ago, nobody would tell Hendricks for fear he would declare for that office.”

Only 34 that year, Barkley dealt with an age issue of another sort by arguing that his youth would be an asset in fulfilling “the arduous duties of Congress.”
Espousing better roads, always a popular position in Kentucky, Barkley battled back the charge that this stand made him a socialist. In a four-way race in the decisive Democratic primary, Barkley won 48 percent of the vote, including a combined 67 percent in the three counties where he had resided: Graves, Hickman, and McCracken. His base carried the day.

Including his term as Vice President and thus serving as president of the Senate, Barkley spent more than 50 years in Congress.

Eventually, he became a principal policy-maker for the New Deal, and as effective a spokesman for it as there was, other than Franklin Delano Roosevelt himself.

A prohibition supporter early in his time in Washington, Barkley helped to bring back legal beer, a morale-booster to a Depression-battened country in 1933. He fought for creation of the Civilian Conservation Corps, which put to work young men in the conservation and development of natural resources in every state and territory.

He backed bills to stabilize farm prices by discouraging over-production, and for emergency farm-mortgage relief.

Barkley worked to route federal emergency relief to the poor in a program that eventually became the Works Progress Administration.

He helped to usher into law the National Industrial Recovery Act, which relaxed anti-trust laws in certain industries worked to expand collective bargaining rights, and to create the Public Works Administration.

Always a skilled rhetorician, Barkley dismissed New Deal’s critics, who complained that it “destroyed liberty:”

“Yes, we have destroyed a certain kind of liberty… We have destroyed the liberty of small group to pick the pockets of the American people, of organized greed to pervert the agencies of government. We have destroyed the liberty of the great financial wizards who have engulfed the nation in a wave of frenzied speculation.”

A Purchase-born country boy, Barkley was an internationalist in an era when the national mood was isolationism. He helped to lead public opinion toward intervention in World War II, the conflict that may have saved Western Civilization.

“The only way to stop a tyrant is to defeat him,” he argued. “[A]nd if we do not help Great Britain defeat him over there … We shall some day have to defeat him over here.”

Barkley was a national and international leader for the cause of victims of invidious discrimination. He openly sought the votes of black Kentuckians at the risk of losing white ones. As Senate Parliamentarian in 1949, he made a key ruling in favor of ending a filibuster of a civil-rights bill. He was the first southern senator to vote for anti-lynching legislation, in 1938.

Barkley was a principled advocate for the cause of Jewish refugees. He supported the call for a Jewish homeland. He was friends with Louis Brandeis, the Jewish Kentuckian who was the first of his faith to serve on the U.S. Supreme Court. In 1943, Barkley introduced a Senate resolution calling for punishment of those guilty of atrocities against Jews. He was an advocate for creation by President Franklin Roosevelt of the War Refugee Board, which was credited with saving the lives of some 200,000 European Jews.

Barkley remained in high public favor in Kentucky throughout his time in the Senate. His most remarkable campaign may have been the Democratic primary in 1938 against Albert B. “Happy” Chandler, the sitting governor. Hitting the stump for as many as 4,500 miles per week and making as many as 15 speeches a day, Barkley carried 74 counties, and prevailed by some 70,000 votes. It was the widest margin in a Kentucky primary election up until then.

Hailing from the same part of the country and with appeal to the same sets of voters, Truman and Barkley occupied the same political space but were not personally close, as Truman chose his running mate in 1948.

Anxious to attract liberals tempted by the Progressive Party candidacy of Henry Wallace, Truman courted William Douglas, the associate justice of the Supreme Court. Considering what were thought to be dim Democratic prospects, Douglas declined.

It was a depressed group of delegates who gathered in Philadelphia for the party convention that summer.

The age of political television had dawned. As Truman watched on a 12-inch Dumont TV in his office, and after the band had played “My Old Kentucky Home,” Barkley brought the convention to life with his keynote speech.

He extolled the New Deal. He laid into Republican nominee Thomas E. Dewey’s confessed ambition to “clean the cobwebs” in Washington.

With the perspiration pouring off him in a sweltering arena, Barkley said that he wasn’t any expert on cobwebs, but that when his party had assumed the White House 16 years before, “Even the spiders were so weak from starvation that they could not weave a cobweb in an department of the government in Washington.

Barkley was the instant hero of the convention and became the favorite for the vice presidential nomination. With some hesitation, Truman offered him the job, and Barkley accepted.

The story of the Democratic ticket’s improbable victory in the 1948 presidential derby and of Truman’s great barreling, whistle-stopping train tour of 21,000 miles across the country is the stuff of legend.

But Barkley is Prof. Libby’s lifetime subject, and he reports that the Kentuckian by then known as the “Iron Man” in the final two months of the campaign, at age 70, made 250 speeches in 36 states flying in a DC-3. He was a tireless performer on the political stage to the very end of his life.

The Truman-Barkley ticket prevailed.

As Vice President, Barkley embraced the office’s constitutional role as president of
the Senate. He was the last Vice President not to have an office at or near the White House, the last to identify more closely with the legislative branch than the executive. He also served as a member of the National Security Council and attended Truman’s cabinet meetings.

**********

Barkley lost the Democratic nomination for president in 1952 to Adlai Stevenson. His age weighed against him, especially with labor, then the principal force in the party. Barkley may well have lost, as Stevenson did in a landslide. The country was in the mood for Dwight Eisenhower, a war hero and international celebrity.

As if to prove the point about his age, Barkley returned to Kentucky to run for the U.S. Senate again in 1954.

Eisenhower, Vice President Nixon, and Senate Majority Leader Everett Dirksen each came to Kentucky to campaign for the incumbent John Sherman Cooper, an eminent statesman of impeccable reputation and broad popularity across party lines. Nevertheless, at age 73, but campaigning up to 16 hours a day, Barkley bested Cooper 54-46.

Barkley was the only candidate to have defeated both Cooper and Chandler.

Barkley suffered a fatal heart attack on April 30, 1956, just as he was finishing an address at Washington and Lee University in Lexington, Virginia.

His body was brought on a special train to Paducah, where his funeral was attended by a dozen of his Senate colleagues, and Chandler, governor again, and New York Gov. Averell Harriman

“I always thought Senator Barkley was indestructible,” Chandler said at the funeral.

Barkley joins Jefferson Davis, Abraham Lincoln, Ephraim McDowell, and Henry Clay as Kentuckians who have merited statues in the Capitol Rotunda in Frankfort.

**********

The new book on Barkley is the second on his subject of Mr. Libbey’s following one brought out for the University Press of Kentucky’s estimable Bicentennial Bookshelf series, “Dear Alben: Mr. Barkley of Kentucky,” 1979, University Press of Kentucky.

Mr. Libbey was happy with the reviews of the earlier book, but the reviewers said that a full-length biography of Barkley was still needed.

“I agreed with the reviews,” Mr. Libbey said in an e-mail.

He related that he interviewed dozens of people who knew Barkley since the first book. He burrowed in at the libraries of Presidents Wilson, Franklin D. Roosevelt, and Truman, revisited Barkley’s papers at UK, read at the papers of several senators close to Barkley, read hundreds of books and thousands of newspaper articles, researched and produced encyclopedia entries, and contributed Barkley articles for the popular press.

Thirty-seven years later, “Alben Barkley: A Life in Politics” emerged. Mr. Libbey quotes a colleague to say about him, “I built a cottage industry around Barkley.”

ABOUT THE AUTHOR

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

ENDNOTES

SAVE THE DATE

2018 KENTUCKY BAR ASSOCIATION ANNUAL CONVENTION
LEXINGTON CONVENTION CENTER
LEXINGTON, KY | JUNE 13-15, 2018
Regulatory Twilight: Kentucky’s New Regulations Sunset Scheme

BY: ERICA HORN AND QUINN HILL

Fact: Regulations are in the crosshairs. Regardless of their history, applicable industries or agencies, or initial justifications, regulations are running headlong into a de-regulation firing squad. No matter your particular political leanings or feelings on the subject, it cannot be denied that the zeitgeist opposes too many regulations and regulators; popular sentiment views regulations as the kudzu suffocating the life out of American industry and the American worker.

Public sentiment partly explains the swath of politicians waving the de-regulation banner. And those politicians are currently on a bit of a winning streak. During the presidential campaign, then-candidate Trump repeatedly lambasted government regulations and promised to rein them in. Within weeks of taking office, the regulation roll-back was officially underway, beginning with President Trump’s Executive Orders requiring federal agencies to establish “Regulatory Reform Task Forces” to eliminate so-called red tape in the form of “costly and unnecessary regulations,” and to nix two regulations for every new one promulgated by any federal agency.1

The idea behind the de-regulation fervor is simple: regulations act as a hurdle to the regulated industries, cramping those industries’ ability to grow and develop, which means fewer jobs and stagnant wages for the affected workers.

As terms, however, “regulation” and “de-regulation” are vague, and Americans are not so certain about the propriety of a wholesale reduction in regulations once the details come into view. Americans are sharply divided on whether “business regulations” as a general matter do more harm than good, and even fewer Americans approve of reducing environmental regulations in particular.2 Of course, ask an American worker whether he or she supports the regulations that apply to his or her industry, and you can predict the response.3 In other words, as with so much else, the devil is in the details.

Kentucky is no exception to the national trend. Former Kentucky Governor Steve Beshear fought back against the Environmental Protection Agency’s perceived heavy-handedness when it came to regulating Kentucky’s fragile and faltering coal industry, even going so far as to sue the EPA for blocking permits pursuant to enforcement of the Clean Water Act.4

Kentucky’s current Governor, Matt Bevin, has embraced a broader skepticism vis a vis government regulations. Shortly after entering office, Bevin unrolled his “Red Tape Reduction” aimed at eliminating unnecessary, duplicative, and excessively costly regulations in an effort to spur Kentucky’s economic growth.5 According to the Red Tape Reduction website, Kentucky has over 4,700 regulations, with “approximately 85 percent of them” having never undergone a review concerning their effectiveness.6 Not only do those potentially ineffective regulations cost businesses time and money, but there is no comprehensive mechanism for submitting for review those regulations that may no longer be necessary or are obsolete.7

If one complaint behind Governor Bevin’s initiative is that there is no tool available for the systematic review and repeal of costly and unnecessary regulations, then the Kentucky legislature took a

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giant leap toward filling the toolbox on March 21, 2017, when it passed House Bill 50. Proffered as Kentucky’s “Sunset” legislation, HB 50 implements two very broad, and very powerful, de-regulation devices: first, it requires that administrative bodies continually review current regulations to determine whether they shall remain in effect as written, or be amended or repealed; second, it mandates that all regulations not affirmatively designated to remain on the books and in force shall automatically expire after a pre-determined time period.

If all goes according to plan, then there will be a drastic reduction in the number of regulations on Kentucky’s books. For supporters of blanket de-regulation, that’s a welcomed development. But because a regulation automatically expires only if the administrative agency tasked with promulgating, amending, and enforcing that regulation fails to trigger HB 50’s savings provisions, there will still be much wrangling and discretion when determining which particular regulations go the way of the dinosaur.

HOUSE BILL 50’S LEGISLATIVE HISTORY
Representative Kenny Imes, R-Murray, sponsored HB 50. While bringing the bill forward in committee, Rep. Imes indicated that Kentucky’s “regulatory authorities [had] kind of gone overboard,” and that the resultant copious regulations had worked to hurt small businesses in the Commonwealth. He further noted that some of Kentucky’s regulations “have been on the books since 1974,” and that the bill was primarily an attempt to require administrative agencies to “be more diligent and review their process” for maintaining and enforcing their promulgated regulations. After describing its general workings, the bill passed through committee by a 14-1 vote.

HB 50 took a similar path in the Senate subcommittee, where it was stated at the outset that the bill was part of Governor Bevin’s Red Tape Initiative and marked a definitive step toward ridding the Commonwealth of unneeded regulations. Although there was slightly more discussion than in the House Committee, with one Senator making clear that he thought there was a place for administrative regulations, and another stating that he felt that “final authority of administrative regulations should lie with the legislative body,” the bill eventually passed by a 10-1 vote.

When brought for an official vote, HB 50 received overwhelming—and bipartisan—support, garnering an 80-9 vote in the House and a 37-0 vote in the Senate. The comments from both the House and Senate subcommittee hearings were echoed on the floor of each Chamber. In the House, it was stated that the bill would reduce regulations that had been on the books and not reviewed for decades, and impose greater accountability on administrative agencies to review their regulations. It was also commented that the bill would save precious resources by streamlining a regulation’s amendment and renewal by circumventing the standard review process.

In the Senate, Rep. John Schickel, R-Union, spoke on the bill to note that his constituents were very worried about regulations, and that a mandatory and predictable review process would help adapt to changing business operations over time. Senate President Robert Stivers, R-Manchester, likewise reiterated that the bill was designed to help businesses, stating that regulations often create unnecessary and egregious litigation costs when an administrative agency attempts to enforce a regulation against a citizen or corporation and that citizen or corporation consequently sues to prevent the enforcement. It is unclear how HB 50 addresses that predicament, because an administrative body will continue enforcement of the regulations that remain effective.

HB 50’s eliciting nearly unanimous support from both parties clearly evidences the trend in favor of reducing the number of purported unnecessary, outdated, and costly regulations.

H.B. 50’S PLAIN LANGUAGE AND MECHANICS
Essentially, HB 50 amends KRS Chapter 13A to establish an automatic sunset provision for regulations that reach a certain age. More particularly, the bill creates a new section of Chapter 13A, which mandates:

1. An ordinary administrative regulation with a last effective date on or after July 1, 2012 shall expire on July 1, 2019, except as provided by the certification process in Section 5 of this Act.

2. An ordinary administrative regulation with a last effective date before July 1, 2012 shall expire on July 1, 2019, except as provided by the certification process in Section 5 of this Act.

The bill further directs the regulations compiler to delete the expired regulations from the Kentucky Administrative Regulations Service and add them to a list of ineffective administrative regulations. The compiler is directed to update the list of expired regulations every six months.

The bill likewise creates a new provision in Chapter 13A that acts as a savings clause for regulations that are scheduled to expire but that the administrative agency feels are still necessary or, in the least, should not yet see their twilight. This savings clause provides:

1. If an administrative body does not want an administrative regulation to expire under Section 4 of this Act, the administrative body shall:

   a. Review the administrative regulation in its entirety for compliance with the requirements of KRS Chapter 13A and current law governing the subject matter of the administrative regulation; and

   b. Prior to the expiration date, file a certification letter with the regulations compiler stating whether the administrative regulation shall be amended or remain in effect without amendment.

If an administrative agency determines that the regulation should remain in effect as is, the certification letter will provide a statement to that effect, along with some brief comments in support. Likewise, if an agency determines that the regulation should be
amended, the certification letter will state that the agency intends to amend the regulation. If an administrative agency chooses to amend the regulation, it has 18 months to do so after the filing of the certification letter. The regulation remains in effect during the amendment process, but will expire immediately if that process is halted or the amendment withdrawn. Finally, the compiler is directed to update the regulation’s last effective date to reflect either the date the administrative agency provides a certification letter stating that the amendment shall remain in effect or the amended regulation finishes going through the regulation process. Thus, amending a regulation or certifying that it is to remain on the books effectively provides it a seven-year renewal. After seven years, the process begins anew.

A few elements of HB 50’s mechanics are worth noting. First and fundamentally, the bill provides the executive branch and agencies with sole authority to determine the fate of administrative regulations—that is, the agencies’ own regulations. An agency faced with an expiration of its own regulation, and thus its own power to regulate, will have only to file a certification letter stating that the regulation shall remain effective for the agency’s regulatory power to remain intact.

Second, the bill’s automatic sunset provision establishes a very streamlined process for eliminating regulations that an agency deems unnecessary or past their time. An agency’s refusal to act once it receives notice that a regulation is set to expire will result in that regulation’s expiration.

Third, given that each agency is tasked with determining whether its regulations shall sunset, remain, or be amended, the new scheme places great responsibility upon each agency to maintain a constant audit of its regulations to determine their efficacy and necessity. On one hand, this means that an agency will be forced to consistently account for its regulations and determine whether and why they should or should not remain in effect. On the other hand, it also creates a very simple scheme for an administrative agency to simply keep its regulations effective by filing a certification letter. Consequently, if an administrative agency is not incentivized to reduce its unnecessary regulations, then the scheme may cost more than it’s worth due to the administrative burden of having to file a letter every few months to let the Commonwealth know that the agency is not changing or eliminating the regulation.

Fourth, it is important to note the complete absence of the public and the legislature from HB 50’s sunset scheme. As the ultimate arbiter of an agency’s regulatory authority, the legislature’s place in crafting the Commonwealth’s body of government regulations is anything but abolished. However, for purposes of HB 50’s particular sunset provisions, the legislature and the public are bypassed, seemingly in favor of a simpler, more efficient mechanism of ridding the books of unnecessary regulations without the wrangling that might accompany the process were others involved.

OTHER STATES’ SUNSET PROVISIONS
It should come as no surprise that Kentucky is not the first state in the country to implement some legislative mechanism for sunsetting regulations. Colorado was the first state to do so as far back as 1976.13 Also, Texas has a “sunsetting” statute, but it is far more aggressive than the type of sunsetting contemplated by HB 50. In Texas, an entire administrative agency or program may sunset. Texas’s scheme is worth expounding upon, since it has a relatively well-documented history and track record and may be a precursor of things to come.

Pursuant to the Texas Sunset Act,14 every administrative agency and program is subject to periodic review by the Sunset Advisory Commission (SAC), a 12-member review board comprised of five members of each house and two public appointees.15 The Commission will review an agency’s performance and the ongoing need for its services or programs according to pre-established criteria, and recommend that it be abolished, continue as is, or improved.16 Once the Commission publishes its initial findings, the public is permitted to comment either through live testimony or in writing regarding the Commission’s report.17 The Commission may then revise its report and submit its final recommendations to the legislature.18 The legislature drafts a bill in accordance with the Commission’s recommendations, and that bill proceeds just as any other bill. If the bill recommends improvements to an agency and passes the legislature, the agency continues with the improvements. If the bill fails, the agency is abolished.19

According to the SAC, Texas’s Sunset Act has resulted in the abolishment of 37 agencies and programs, saving state taxpayers an estimated $980 million over the life of the program, or $23 for every $1 spent on administering the Act.20 Savings in dollars and cents may be hard to quantify exactly and fail to tell the whole story. For instance, according to the SAC, after a review of the Texas Department of Criminal Justice in 2007 resulted in the SAC’s recommending diverting funds from new prison construction to offender treatment and rehabilitation programs, the state realized a $210 million savings in the year after implementation and the first ever closing of a state prison.21 Assuming the treatment and rehabilitation programs continue to bear fruit, the savings to those who may have been victims of crime without the SAC’s recommended and adopted plan of action is perhaps immeasurable.

CONCLUSION
Inevitably, both the federal and state governments, Kentucky included, will experience varying levels of success by implementing mechanisms for the automatic elimination of regulations. Kentucky’s particular scheme could perhaps be stronger if three areas were addressed.

First, HB 50 is executive-centric. There is little to no role for the public or the legislature in providing input or oversight concerning the regulations scheduled to sunset. The administrative agency alone is the final arbiter of whether a regulation expires.

Second, HB 50 gives additional power to administrative agencies. As the legislature has provided no guidance or rubric that each administrative agency is to follow when determining whether to
keep, amend, or allow to expire a particular regulation, that agency has wide latitude in making its determination. Indeed, although Governor Bevin’s Red Tape Initiative is designed to eliminate “costly” regulations, there is no requirement that an administrative agency actually determine a regulation’s cost prior to deciding its fate.

Third, HB 50 sets up an ostensibly apolitical expiration process. Legislators are elected and subject to the desires of their constituents. Legislators are also subject to the heavy lobbying and rent-seeking that occurs at all levels of government. Administrative agencies, however, are not—at least not to the same extent. Though they may be subject to removal by the executive, administrative agencies are by and large insulated from the vast sea of special interests. On one hand, this is good because it means that administrative agencies are more inclined to make rational decisions regarding the good of the Commonwealth instead of satisfying a particular group. On another hand, it means less public oversight and accountability, and assumes that the administrative agency knows what is good for the Commonwealth and will act accordingly.

It will take time, of course, to know how Kentucky’s sunset scheme will be implemented and whether it will translate into real results. This is especially true when it comes to ascertaining dollars saved by virtue of de-regulation. But, it is clear that, whatever “de-regulation” means, Kentucky is on board. 

ABOUT THE AUTHORS
Attorney ERICA HORN is a member of Stoll Keenon Ogden’s Tax and Public Benefit Corporation Services Practices. She has represented clients with regard to nearly all of Kentucky’s taxes and fees, including income, sales and use, property and severance. Horn has successfully appealed assessments issued by taxing authorities and pursued refund claims for her clients, saving them millions of dollars in Kentucky taxes. She is a licensed CPA, prolific author and frequent speaker on state and local tax topics.

QUINN HILL is an associate attorney in Stoll Keenon Ogden’s Business Litigation, Tort, Trial and Insurance Services, and Criminal Law Practices. His focus is commercial litigation and white-collar criminal defense.

ENDNOTES
6. Id.
7. See id.
9. Id.
16. Id. at p. 2.
17. Id. at pp. 2–3.
18. Id.
19. Id.
20. Id. at p. 7.
21. Id.

A link to an additional article, “HB 309 Public-Private Partnerships: A Primer for Kentucky Lawyers,” by James C. Seiffert has been placed on the KBA website under the Hot Topics page. Look for this logo at www.kybar.org to find this additional article.
The topic of medical review panels is not one new to the Commonwealth. For many years, health care providers and hospitals have pushed for legislation to force litigation into a panel of health care providers before allowing claims to be filed in court. During the 2017 session, a bill finally passed, but only after several modifications were made to help with consumer advocates’ concerns. Despite the adjustments, many are concerned that the bill is unconstitutional. In fact, a challenge already has been filed in Franklin Circuit Court.

KRS 216C (also known as Senate Bill 4) establishes medical review panels to review proposed complaints. The intended purpose of the statute is to evaluate the merits of medical negligence claims before proceeding to court. Unless all parties agree to bypass the medical review panel or the claim is subject to a valid and binding arbitration agreement, all medical negligence claims must first be filed with the Cabinet for Health and Family Services before proceeding to circuit court. While the legislation is modeled after the Indiana statute, there are significant differences. The two most notable differences are that (1) if the panel does not render a decision within nine months, the plaintiff may file suit in circuit court while the panel continues its work, and (2) the panel decision is not automatically admissible in the Circuit Court action.

The Kentucky statute defines “health care providers” very broadly, much more so than the Indiana statute. Included in the definition of providers are the following:

- KRS 216B.015 - Health care facilities such as hospitals,
nursing homes, boarding homes, rehabilitation hospitals, home health agencies, personal care homes, primary care centers, rural health clinics, community centers for mental health, continuing care retirement communities, and psychiatric hospitals;

- KRS 194A - Assisted living communities;
- KRS 310 - Dietitians and nutritionists;
- KRS 311 - Physicians, osteopaths, podiatrists, acupuncturists, physician assistants, surgical assistants, and athletic trainers;
- KRS 311A - Ambulances, EMTs, first responders, paramedics, ambulance providers, emergency medical services personnel, and emergency medical facilities;
- KRS 311B - Medical imagining technologists, advanced imaging professionals, radiation therapists, nuclear medicine technologists, and x-ray machine operators;
- KRS 312 - Chiropractors;
- KRS 313 - Dentists, dental hygienists, and dental assistants;
- KRS 314 - Registered nurses and advanced practice registered nurses;
- KRS 314A.010 - Respiratory care therapists;
- KRS 315 - Pharmacists and pharmacies;
- KRS 319 - Psychologists;
- KRS 319A - Occupational therapists and occupational therapy assistants;
- KRS 320 - Optometrists;
- KRS 327 - Physical therapists;
- KRS 333 - Medical laboratories including laboratory supervisors, personnel, technologists, and technicians;
- KRS 334A - Speech language pathologists and audiologists; and
- KRS 335 - Social workers, licensed marriage and family therapists, licensed professional certified counselors, and Kentucky licensed pastoral counselors. 5

The statute also includes the current and former officers, directors, administrators, agents, or employees of the above who are acting within the course and scope of their office, employment, or agency. 6

The statute defines "malpractice" as a tort based on, or arising out of, health care professional services that were provided or should have been provided by the health care provider to a patient. 7 It is unclear whether this would include claims for a sexual assault or battery that occur in a health care facility. "Malpractice-related claims" are similarly defined as a tort or violation of a statute or administrative regulation, right, or rule based on, or arising out of, health care or professional services that were provided or should have been provided by the health care provider to a patient. 8 The act covers not only patients but also derivative claims, which include the claims of spouses, parents, children, and the estate of the deceased patient. 9

Malpractice and malpractice-related claims against health care providers may not be commenced in circuit court before the claim has been presented to a medical review panel and an opinion is given by the panel. However, there is a caveat to this section that allows the claimant to proceed with filing an action in court if the panel has not rendered its opinion within nine months of the filing of the proposed complaint. 10 But even if a case is filed after that nine-month period, the panel may continue its work and reach a decision. 11 The filing of the proposed complaint tolls the applicable statute of limitations until 90 days after the claimant has received the opinion of the medical review panel. 12

Because the medical review panel process is convened by a "proposed complaint," arguably no expert is required prior to filing. A proposed complaint is considered filed when the complaint and filing fees are delivered or mailed by registered or certified mail to the Cabinet. 13 While the statute contemplates electronic filing, to date, the Cabinet has not set up an electronic filing system. The Cabinet’s administrative regulations set the filing fees at $125 plus a $12 mailing fee for each defendant. Tolling is thus dependent on delivering or mailing the proposed complaint and filing fees to the Cabinet. It is unclear whether the date of filing is the date the complaint is received by the Cabinet or the date it is postmarked by the postal service for delivery by registered or certified mail. If the complaint is timely delivered to the Cabinet, but the amount of the filing fees are incorrect, then per the Cabinet’s website the complaint is not considered filed. 14

The legislation requires that once the proposed complaint and filing fees are received, the Cabinet shall serve copies of the complaint by registered or certified mail on each health care provider named as a defendant. 15 The statute makes no provision for defendants who cannot be served by registered or certified mail or when service may be had upon the Secretary of State for out-of-state defendants under the long-arm statute. The statute also does not address instances when defendants avoid service by mail. Service is considered complete upon receipt by the Cabinet of the return-mail receipt showing delivery of the proposed complaint to the defendant. 16

Once the defendants are served, the medical review panel may be convened. The first step in the process is the selection of a panel chairperson. Within 10 days after service of the complaint on all defendants, the Cabinet shall notify the parties to select a panel chairperson by agreement. 17 If no agreement can be reached within 20 days after notification, any party may request the Cabinet select a list of potential panel chairpersons. 18 Such a request must be accompanied by a $25 fee. 19

In the event the parties cannot agree upon a panel chairperson, the Cabinet will draw at random a list of five names of attorneys who are licensed to practice law in Kentucky and have applied to serve as a panel chairperson. 20 The Cabinet is responsible for maintaining a list of attorneys who have applied to act as panel chairperson. 21 The panel chairperson also must practice in the Kentucky Supreme
Court district in which the case would be filed.\textsuperscript{22} If five attorneys cannot be drawn from that district, then the Cabinet draws from an adjacent district.\textsuperscript{23} The statute allows each party two strikes from the five names drawn, with the remaining person as the panel chairperson.\textsuperscript{24} The plaintiff must strike first.\textsuperscript{25} The party making the last strike is required to notify the chairperson and all other parties of the named panel chairperson.\textsuperscript{26} Failure to strike results in the Cabinet drawing a name at random to strike on that party’s behalf.\textsuperscript{27} Within five days after a panel chairperson is chosen, the Cabinet shall notify the panel chairperson and all other parties of the name of the chairperson.\textsuperscript{28} The panel chairperson is then required to send an acknowledgment of the appointment or show good cause for relief from serving within 15 days after being notified.\textsuperscript{29} Selection of the medical review panel is overseen by the attorney chairperson. Specifically, the panel chairperson is in charge of selecting the names of the potential medical review panelists and has the authority to remove a panel member who is not fulfilling his or her duties.\textsuperscript{30} The chairperson has a duty to ensure all panel members have an opportunity to review all evidence submitted.\textsuperscript{31} Any health care provider with a valid, active license to practice in his or her profession is eligible for selection as a member of the medical review panel.\textsuperscript{32} However, the statute requires that prospective panelists be chosen from the profession and within the specialty fields of one or more of the defendants and, to the extent possible, include panelists who are licensed in Kentucky.\textsuperscript{33} Within five days of his or her appointment, the chairperson is to provide the parties with two lists of persons eligible for panel membership.\textsuperscript{34} The statute does not provide guidance on where the chairperson will obtain lists of prospective panel members or if the chairperson can pick panelists. (Apparently, the Cabinet is compiling a list of physicians by medical specialty.) Each list shall contain three names of prospective panelists.\textsuperscript{35} The plaintiff shall strike a name from each list, and then the defendant shall strike a name from each list.\textsuperscript{36} If there are multiple parties, they must strike collectively.\textsuperscript{37} The remaining names on each list shall serve as panel members. The two selected panelists shall then select the third panel member.\textsuperscript{38} The statute does not address which specialties are represented if more than three defendants are named. The parties may suggest what specialties comprise the panel, but they cannot suggest a specific person.

Upon formation of the medical review panel, the chairperson shall, within five days, notify the Cabinet and the parties by registered or certified mail of the names and addresses of the panel members and the date the last member was selected.\textsuperscript{39} Either party can challenge a panel member for conflict or bias.\textsuperscript{40} Either a panel chairperson or panel member may be removed for failure to fulfill their duties.\textsuperscript{41} A panelist who is selected shall serve unless challenged, excused by agreement of the parties, or for good cause shown.\textsuperscript{42}

The plaintiff’s evidence shall be submitted to the panel within 60 days after the panel chairperson has notified the parties of the formation of the panel.\textsuperscript{43} The defendant’s evidence shall then be submitted 45 days after receipt of the plaintiff’s submission.\textsuperscript{44} These deadlines may be extended by the panel chairperson in the event of extenuating circumstances, if requested by a party.\textsuperscript{45} Obviously, it would be difficult to complete discovery within 60 days after panel formation.

After the panel convenes and before it reaches a decision, either party may file a petition with the circuit court to entertain motions to compel, limit discovery, or challenge a decision by the chairperson.\textsuperscript{46} The court has jurisdiction only after the proposed complaint is filed with the Cabinet and before the panel gives its written opinion.\textsuperscript{51} Any time the jurisdiction of the court is invoked, a petition with a copy of the proposed complaint and motion shall be filed with the clerk, with copies to the Cabinet, each nonmoving party, and the panel chairperson.\textsuperscript{52} Once the court’s jurisdiction has been invoked, the proceedings before the medical review panel are automatically stayed until the court rules on the motion.\textsuperscript{53}

A significant difference from the Indiana statute is that the Kentucky medical review panel has a right to request information and consult with medical authorities.\textsuperscript{54} The panel also may conduct a hearing to question counsel or ask parties to answer specific questions.\textsuperscript{55} The panel chairperson does not vote; rather, his or her role is to advise the panel relative to any legal questions involved in the review proceeding and to prepare the opinion of the panel.\textsuperscript{56} After reviewing the evidence, the panel shall, within 30 days of receipt of the defendant’s submission, render one of the following opinions:

1. The evidence supports the conclusion that the specifically identified defendant failed to comply with the appropriate...
standard of care as charged in the complaint, and the conduct was a substantial factor in producing a negative outcome for the patient;

2. The evidence supports the conclusion that the specifically identified defendant failed to comply with the appropriate standard of care as charged in the complaint, but the conduct was not a substantial factor in producing a negative outcome for the patient; or

3. The evidence does not support the conclusion that the specifically identified defendant failed to meet the applicable standard of care as charged in the complaint.57

A panel member may be qualified to render an opinion on the standard of care but not on causation, or a panel member may be qualified to render an opinion on the standard of care for one but not all defendants. For example, a nurse may be on the panel in a case involving alleged negligent nursing and medical care. Under the panel system, a nurse would be allowed to opine on the standard of care of a physician and medical causation. However, in a typical medical negligence trial, a nurse is prohibited from testifying to such opinions.

Two or more members of the panel must agree on the conclusion.58 Once the panel gives its opinion as to each defendant, the panel is dissolved.59 The panel’s opinion is only admissible upon motion by a party and a finding by the trial court that the expert opinion, subject to cross-examination, would assist the trier of fact and otherwise complies with the Kentucky Rules of Evidence.60 The opinion is not conclusive, and either party may call any member of the medical review panel as a witness.61 If a panel member appears and testifies, he or she is entitled to reasonable compensation by the party calling the panel member.62

Compensation for panel members is set forth in KRS 216C.220(1) & (2). Each member of the medical review panel is entitled to up to $350 for all work performed as a member of the panel, exclusive of time involved if called as a witness to testify, as well as reasonable travel expenses.63 The panel chairperson is entitled $250 per diem, not to exceed $2,000 per case and reasonable travel expenses.64 The fees of the panel, including travel expenses, shall be paid by the party or parties in whose favor the opinion is written.65 The statute does not address payment of the panel’s fees in situations where there is a finding in favor of one defendant and against another. Technically, the opinion is in favor of the plaintiff and one defendant; whether and how they share the cost is unclear.

Indiana has implemented a database for patients and attorneys to obtain information about panelists, such as whether they have had claims made against them, whether they have paid claims, who their insurer is, whether they have served on panels in the past, and how they have voted. Hopefully, Kentucky will implement a similar system so that attorneys have this information about prospective panelists and are able to select unbiased panel members.66

ENDNOTES

1. See Ky. Rev. Stat. ch. 216C.
3. Id. §§ 216C.020(1) & .030.
4. See id. §§ 216C.190 & .200.
5. Id. § 216C.010(4).
6. Id.
7. Id. § 216C.010(5).
8. Id. § 216C.010(6).
9. Id. § 216C.010(7).
10. See id. § 216C.190.
11. Id.
12. Id. § 216C.040(1).
13. Id. § 216C.040(2).
16. Id.
17. Id. § 216C.070(1).
18. Id.
19. Id. § 216C.070(2).
20. Id. § 216C.070(2)(a)–(b).
21. Id. § 216C.070(8).
22. Id. § 216C.070(2)(c).
23. Id.
24. Id. § 216C.070(3).
25. Id.
26. Id. § 216C.070(4).
27. Id. § 216C.070(5).
28. Id. § 216C.070(6).
29. Id. § 216C.070(7).
30. Id. §§ 216C.090(1) & .150.
31. Id. § 216C.160(5).
32. Id. § 216C.080.
33. Id. § 216C.090(1).
34. Id. § 216C.090(1).
35. Id. § 216C.090(1).
36. Id. § 216C.090(2).
37. Id. § 216C.090(2).
38. Id. § 216C.090(2).
39. Id. § 216C.110.
40. Id. § 216C.100(1).
41. Id. §§ 216C.140 & .150.
42. Id. § 216C.120(1)(a)–(c).

ABOUT THE AUTHOR

LIZ SHEPHERD has focused primarily on medical negligence, product liability and auto accident cases since she graduated from law school. Shepherd has been with the firm Dolt, Thompson Shepherd and Conway since 1993. She is the current president of the Kentucky Justice Association. She served on the Board of Governors of the Kentucky Academy of Trial Attorneys (now known as the Kentucky Justice Association) and also served as Fourth District vice president. Shepherd has lectured in the areas of medical negligence, personal injury and auto insurance law. Shepherd is a graduate of Transylvania University and the University of Louisville School of Law. She is a member of the Kentucky Justice Association, American Association of Justice and the Kentucky and Louisville Bar associations. She is married and has three children.

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Senate Bill 120 has recently gone into effect. Designed as a criminal justice reform bill, criminal defense attorneys should be aware of the changes made by the new law and how those will affect clients. The following provides a summary of the most notable aspects:

- **Indigent Clients and Payment of Fines.** SB 120 amends KRS 453.190 to define “poor person” as one who has income at or below 100 percent on the Kentucky Supreme Court’s sliding scale of indigency. This amendment thus makes the definition of a “poor person” uniform throughout the Commonwealth, which should simplify the determination for individual courts.

  Additionally, the procedure by which a defendant may be incarcerated for not paying fines and costs has been amended. Previously, a defendant was required to prove that his or her failure to pay was not willful. SB 120 has shifted the burden away from the defendant to require the court to determine whether the failure to pay was willful and not due to an inability to pay.

  Finally, SB 120 requires jails to release defendants once they have reached the credit required to pay any fines or costs ($50/day if the inmate does not work for a community labor program, and up to $100/day if the inmate...
commonly jailed for failing to pay fines and costs. It also makes the credit mandatory, so courts may no longer sentence defendants to jail for failing to pay fines and costs. These changes will hopefully lead to lower inmate populations by reducing the incarceration of defendants who simply cannot afford to pay, especially in those counties where indigent defendants are commonly jailed for failing to pay fines and costs.

- **Angel Initiative.** SB 120 codifies the “Angel Initiative” program, originally established in Massachusetts, which allows local law enforcement offices to create referral programs for persons who come into a police station and request substance abuse treatment. It also prohibits arrests or criminal charges that could result from drugs or paraphernalia being found on a person requesting a referral. Like many of the reforms in SB 120, the initiative is further evidence of Kentucky’s move towards treatment-based programs for those suffering from substance abuse—programs which consistently prove to be more effective than incarceration.

- **Occupational Licenses.** SB 120 removes the previous barrier for convicted felons that prohibited them from being able to obtain occupational licenses. Licensing boards now have the discretion to grant such licenses on a case-by-case basis, and licenses may not be denied simply because of a previous felony conviction. This is a significant step forward in allowing convicted felons to move on with their lives and become productive members of society once they have served their sentences, and should also result in a decrease of recidivism.

- **Compliance Credits for Parolees.** SB 120 creates a system of compliance credits for parolees who have been convicted of certain Class D and C felonies. The new system grants 30 days of credit for every month of compliance while under supervision. The credits should allow parolees to cut their remaining sentences in half once they become eligible to receive the credits (after one year of supervision for Class D felons, and after two years of supervision for Class C felons).

- **Graduated Sanctions.** SB 120 extends the amount of time that a probation or parole officer may place an offender in discretionary detention. Probationers now may be incarcerated for up to 10 days at a time and 60 days per calendar year, while parolees may be incarcerated for up to 30 days at a time and 60 days per calendar year. Additionally, probation and parole officers now have the authority to incarcerate an offender while awaiting a bed at a treatment facility. If this change works as intended, the extended options for sanctions will result in a decrease of revocation proceedings against defendants, which should lead to a lower inmate population.

- **Sex Offender Registration Requirements for Juveniles.** Persons convicted of an out-of-state sex offense committed as a juvenile, who would not have to register in Kentucky if convicted of the same crime, will no longer have to register as sex offenders. Registration requirements vary significantly from state to state, and some even require sex-offender registration for public urination.

- **Drug Treatment Reentry Program.** Following the success of the Drug Court program at reducing recidivism and treating drug addiction, SB 120 creates a pilot program for inmates and parolees convicted of nonviolent offenses who suffer from addiction. If eligible, offenders may be referred to participate in the program at sentencing or at their parole-revocation hearing, instead of serving their sentence. The program will follow a model like that of the Drug Court program, with a goal of reducing recidivism and treating the underlying issues that lead to criminal behavior.

As a whole, Senate Bill 120 has the potential to significantly reduce incarceration rates and lower recidivism throughout the state. Unfortunately, some proposed reforms were not included in the final bill, including the much anticipated bail reform that would have eliminated money bail for some offenses, giving poor defendants the ability to await trial out of custody like their wealthier counterparts. Other reforms that did not make it in the final bill include an increase to the felony theft threshold, currently set at $500 (less than the cost of an iPhone); an increase to the felony nonsupport threshold, currently set at $1,000; and an increase in the felony fraud threshold.

**ABOUT THE AUTHOR**

*SARAH E. CLAY* is an attorney at Clay Law Office, PLLC, which she opened in 2016 after four successful years as a public defender in Louisville. She specializes in criminal defense, but also practices in the areas of personal injury, estate, and family law.

**ENDNOTES**

2. See id. §§ 23A.205(3) & 24A.175(4).
3. Id. § 534.070(3)(B).
4. Id.
5. See id. § 15.525.
6. Id. § 15.525(2)(b).
7. See generally id. ch. 335B.
8. Id. § 335B.030(2).
9. See id. § 439.345.
10. Id. § 439.345(2)–(3).
11. Id. § 439.3108(1)(b)–(c).
12. Id. § 439.3108(1)(d).
13. Id. § 17.510(6)(b).
14. See id. §§ 441.005(9), 146, 148.
15. Id. § 441.146(3).
17. Id. § 197.105(8).
The Kentucky Bar Association is home to some of the best and brightest young lawyers in the country. The Kentucky Bar Association also prides itself as having one of the most active and robust Young Lawyers Divisions. Membership in the Kentucky Bar Association Young Lawyers Division (“YLD”) is open to any Kentucky attorney who is 40 years of age or younger, or who has practiced law 10 or fewer years. Annual membership dues for the YLD are only $20.

YLD members enjoy numerous benefits, including:

- Several free Continuing Legal Education (“CLE”) courses offered statewide, focusing on practical skills for young lawyers.
- Access to free online CLE courses.
- Free networking and social events throughout the state.
- Alternative career development programs, such as the Road Less Traveled series.
- Discounted registration to the Kentucky Bar Association Annual Convention, where the YLD features CLE courses and professional development programs designed by and for young lawyers.

- Professional development and marketing through publication and public speaking opportunities.
- Numerous public service programs, including the Legal Food Frenzy, BullyProof, U@18, Voices Against Violence, and legal assistance to disaster survivors.
- Programming for the advancement and promotion of diversity in the legal profession.
- Leadership opportunities through service on the YLD Executive Committee or one of the several YLD committees.
The YLD is extremely fortunate and grateful to have the support of its sponsors Lawyers Mutual Insurance Company of Kentucky (“LMICK”) and National Insurance Agency (“NIA”), which enables the YLD to present many of the YLD’s public service programs. Below I will highlight just a few of the programs the YLD presents, thanks in large part to the support of LMICK and NIA.

The YLD, along with the Kentucky Association of Food Banks and Attorney General Beshear, held the first annual Legal Food Frenzy in March/April 2017, raising the equivalent of approximately $70,000 for Kentucky’s food banks in only two weeks! The YLD intends to build upon the immense success of the first Legal Food Frenzy in 2018 with the second annual Legal Food Frenzy, which will take place in March/April 2018. The YLD also organizes the YLD Disaster Legal Services programs, which provides immediate temporary legal assistance to disaster survivors in the Commonwealth at no charge.

The YLD continues to encourage and lead in promoting diversity in the legal profession. The Why Choose Law/Pipeline program will be held in the spring of 2018, and will provide high school and undergraduate students from diverse backgrounds and from all parts of the Commonwealth with an introduction to the legal profession, an introduction they otherwise might not have had. The YLD also awards the Nathaniel R. Harper Diversity Award annually to a Kentucky lawyer who has promoted and improved diversity in the legal profession.

As part of education outreach, YLD volunteers present the U@18 and BullyProof programs at high schools and middle schools across the Commonwealth. In the law schools, the YLD presents the Road Less Traveled series, where panelists who have a law degree, but non-traditional legal careers, describe their career paths to Kentucky’s law students in order to give the students an idea of the many different things you can do with a law degree.

The YLD also awards $2,000 in bar study scholarships to Kentucky’s law students each year, and sponsors networking events at which the law students have an opportunity to interact with attorneys in their areas.

The programming highlighted above is just a sampling of all the YLD does to service its members and give back to the community. The YLD is extremely grateful to its sponsors LMICK and NIA, and to its members for making all of its programming possible. The YLD strives to do as much good as it can for its members and the community at large.

I encourage all young lawyers to please consider investing in your practice by joining and becoming actively involved in the YLD. There is no finer professional development organization for young lawyers in Kentucky. Whether it is helping to deliver public service benefits across the state, or enhancing our profession through publications and presentations, there are real and ongoing opportunities for every member of the YLD to take part in improving the profession and the community.

For more information concerning YLD membership, leadership, activities, and opportunities, please visit www.kbayld.org or our Facebook page. If you have any questions concerning the Division or are interested in serving on a committee, please contact me at eric.weihe@skofirm.com.

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About the Author

Eric M. Weihe is a member with Stoll Keenon Ogden PLLC in their Louisville, KY office.
CHASE BUILDS ON A 125-YEAR LEGACY
If every building tells a story, then the buildings that have been homes to Salmon P. Chase College of Law as it approaches its 125th anniversary are stories of innovation, expectation, and imagination.

Chase will launch its anniversary year October 7 with a gala celebration that will include prominent alumni and their stories of how what occurred in the buildings they knew as Chase shaped their careers.

THE STORY BEGINS
It is October 17, 1893, and an innovation in legal education is occurring in the tower room of the downtown Cincinnati YMCA building. Chase is holding its first class, as the third part-time, evening law school in the nation. Access to legal education is expanding, and the Chase association with the YMCA makes it the model for evening programs the YMCA spreads throughout the nation. (The schools that continued in operation later merged with other higher education institutions, and expanded – as Chase would.)

A PAGE TURNS
About 24 years after its founding, Chase moves with the YMCA to a new building, with a cornerstone set in 1917 by former United States President William Howard Taft. It is the beginning of a period of growing expectations, as Chase graduates increase in numbers and influence in law firms, courtrooms, politics, and business.

With the return of service members from World War II and a later influx of baby boomers, the quirky location, with YMCA facilities above and below classroom floors and an annex linked by an enclosed foot-bridge, is inadequate. Administratively independent of the YMCA, the Chase board is evaluating academic affiliations and new locations.

THE KENTUCKY CHAPTER OPENS
Chase is part of Northern Kentucky State College when classes begin in autumn 1972. Its new home is a hilltop building in Park Hills, Ky., that had been constructed in 1961 for a Kentucky undergraduate extension program. The site gives Chase not only a topographic vista, but also opens a symbolic horizon on which to imagine the future. It is where Chase in 1973 publishes its first law review and in 1975 adds full-time, day classes to its evening program.

A CONCLUSION WITH A BEGINNING
Chase begins the January 1982 semester at its current location in Louie B. Nunn Hall on the Northern Kentucky University campus, in Highland Heights, Ky. It is the end of a physical journey that began with 17 students in a YMCA building; it is the beginning of an academic journey on a campus that now enrolls more than 14,000 students.

A $1.5 million renovation of Nunn Hall – equivalent to about $4 million in current dollars – creates the facilities that allow Chase deans and faculty members to begin directing their imaginations to programs that introduce new approaches to instruction, practice-oriented centers, expanded clinical programs, and additional degrees.

Even though the storyline of buildings is complete, the stories Chase graduates will tell about their experiences as students inside a building continue to develop each new year.

A GALA EPILOGUE
The Chase Anniversary Gala will begin at 6 p.m. October 7 at the Underground Railroad Freedom Center, a landmark building near where Salmon P. Chase had his Cincinnati law office prior to becoming Ohio governor, United States Senator, Secretary of the Treasury, and Chief Justice of the United States. Details about the event are available from Chase.
Richard C. Ausness, Associate Dean for Faculty Research and Everett H. Metcalf, Jr. Professor of Law at University of Kentucky College of Law, recently participated in an international broadcast on “America’s Opioid Nightmare,” which aired in an edition of Business Daily on BBC World Service.

The broadcast, which aired on June 15, discussed America’s battle against opioid abuse – an epidemic that began to spread across the U.S. more than 20 years ago. Today, roughly 50,000 people die annually from opioid overdose in the U.S. To listen to the broadcast, visit http://www.bbc.co.uk/programmes/p0558ks6.

When asked if pharmaceutical distributors could be held accountable for the opioid epidemic, Prof. Ausness replied that he was skeptical. “There are a couple of problems,” said Prof. Ausness. “The main one is that you have other actors involved, particularly the addicts themselves who are misusing the products, and so the drug companies will say it’s not our fault, it’s their fault. I don’t know if that will work or not.”

He went on to say that with this type of litigation, most reach a settlement because they don’t really want to try these cases. “They don’t have to have a winning theory, they just have to have a plausible one,” he said.

Prof. Ausness was then asked when a line will be drawn, if the issue of who bears the blame will ever be resolved. His response: “Well, I don’t know if that will ever happen.” He concludes by saying, “There are a lot of companies out there that have acted badly and so they are prime targets for lawsuits of this sort.”

Listeners can also hear from the Mayor of Huntington, W. Va., Prof. Angus Deaton of Princeton University, and Dr. Dwight Timothy Gammons, an addiction specialist in Detroit, Mich.

Prof. Ausness joined the UK Law faculty in 1973. He currently teaches property, trusts & estates and products liability. His other teaching interests include legal history, land use planning, water law and environmental law. In addition, he is a co-author of “A Model Water Code” (University of Florida Press 1973) with Frank Maloney and Scott Morris, as well as “Florida Water Law” (1979). Finally, Prof. Ausness has published more than 60 articles on various subjects, such as products liability, trusts and estates, property, torts, environmental law and water law.
As the culmination of her 2016-17 University Research Professorship, Mary J. Davis, Brown, Todd & Heyburn Professor of Law at the University of Kentucky College of Law, served as a visiting research professor at the University of Edinburgh School of Law in Scotland. While serving as a University Research Professor at the University of Kentucky, Prof. Davis explored the liability regimes for pharmaceutical related injuries. Because Scotland has a unique mixed common law and civil law heritage, and is connected to the European Union in ways that the rest of the United Kingdom is not, she decided to study the philosophical and doctrinal differences in these two legal systems, as well as the procedural differences in how liability is assessed and compensation is provided for pharmaceutical-related injuries.

“One of the primary reasons the U.S. drug regulatory system is the way it is today is the failure of the civil justice system in the United Kingdom to respond to the tragedy of birth-defects in children of pregnant women who took thalidomide in the United Kingdom in the 1960s,” said Prof. Davis. “Several of the faculty members of the Edinburgh law school study tort law, or ‘obligations law’ as they call it. They shared their research with me, as well as provided me with a deeper understanding of the procedural differences.”

Although Prof. Davis did not have any teaching obligations while abroad, she was invited to participate broadly in the life of the law school. She participated in seminars with faculty whom are affiliated with the Edinburgh Centre for Private Law and in activities encompassing a wide range of private law topics, from the law of property to commercial law subjects. In addition, the United Kingdom Supreme Court heard arguments in Edinburgh – for the first time in its history – during her visit there. In honor of the occasion, the law school hosted a number of events that Prof. Davis attended.

“My favorite experience was having a fascinating conversation with Lady Brenda Hale, Deputy President and justice of the Supreme Court, about their recent constitutional law decision on Brexit. That was a highlight!” exclaimed Prof. Davis. “Of course, traveling around Scotland, Ireland and England comes in a close second.”

As a result of her visit to Scotland, she connected with a faculty colleague who has been very involved in her research subject from the European Union/United Kingdom perspective. He has been preparing a collection of papers to be published within the year, and asked Prof. Davis to contribute, to which she happily agreed.

“The connections I made while at Edinburgh have already proven very beneficial to my scholarship, and to my professional life. The Edinburgh Law faculty is a wonderful group of people at a world-class university and I am very pleased to have had the opportunity to visit there,” said Prof. Davis.
HONORING DAVID ARMSTRONG
AND A LIFE REFLECTIVE OF
BRANDEIS PRINCIPLES

Dave Armstrong, the last elected mayor of the old City of Louisville and who served two earlier terms as Jefferson County judge-executive, died June 15, 2017, at age 75.

Armstrong was a 1969 alumnus of the Brandeis School of Law and was named an outstanding alumnus in 2008.

Professor Laura Rothstein reflects on Armstrong’s legacy as a public servant and how his values reflected those of another prominent Louisvillian, Justice Louis Brandeis.

Louis Brandeis was an example during his time and still today on so many issues. Among them were a commitment to service and a belief that the most important political office is that of private citizen. He also believed in states (and local governments) as laboratories of democracy. By experimenting with ideas, state and local policies could be tested and then adopted by other communities.

As we note the passing of former Louisville Mayor David Armstrong, we can be reminded that he exemplified the principles of another Louisvillian known for his affection for and commitment to his home city.

David Armstrong certainly not only exemplified the value of being an active private citizen, but he showed extraordinary service to his community throughout his years. This service included work as a prosecutor, as a judge (juvenile court, Kentucky Department of Health and the Jefferson County Board of Health), as commonwealth attorney, as Kentucky attorney general, as Jefferson County judge executive, and as mayor from 1999 to 2003.

In each of those roles, he made a mark by developing and implementing policies and programs of value to the community and often as models for other communities.

In her June 16, 2017, Courier-Journal commentary, Marcia Roth recognizes Mayor Armstrong’s legacy for establishing the victim rights legislation that has been not only an important part of the Kentucky criminal justice system, but has served as a model adopted in many other jurisdictions and resulted in a national network for victim notification.

This is but one example of how Mayor Armstrong’s leadership made our community a “laboratory of democracy.” Other examples of his work that have served as models for other communities are his commitment to historic preservation and his implementation in the late 1970s of one of the first nonfederal prosecutor offices to use computer-assisted programs for case tracking.

He was a leader of leaders — as demonstrated by his roles in national organizations (president of the National Council of Elected County Executives, vice-chair of the National Association of Attorneys General and president of the National District Attorneys Association). These roles allowed him a platform to share the programs from Louisville that could serve as models in other communities.

Like Louis Brandeis, David Armstrong was also interested in international matters. In 1980, he served as a member of the first delegation of U.S. prosecutors to visit the Soviet Union on a fact-finding tour. In 1981, he served as one of two delegates from the United Nations to Vienna, Austria, where he provided perspectives on the issue of prosecutorial discretion.

We are proud that Mayor Armstrong was a graduate of the Brandeis School of Law, and that he represented such outstanding service, leadership, and commitment to community. Not only is Louisville better off for his work, but so is the state of Kentucky, the nation, and the world.

ABOUT THE AUTHOR
LAURA ROTHSTEIN is a professor and Distinguished University Scholar at the University of Louisville Brandeis School of Law, where she served as dean from 2000-2005.

2017 UNIVERSITY OF LOUISVILLE
LOUIS D. BRANDEIS SCHOOL OF LAW
ALUMNI AWARDS LUNCHEON

The University of Louisville Louis D. Brandeis School of Law will host a luncheon on Oct. 12, 2017, from 11:30 a.m. to 1:00 p.m. at the Galt House,
140 N. Fourth St., Louisville, KY 40202.

For more information on the recipients and to register for the event, visit: louisville.edu/law/events.
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Headings, combined with strong topic sentences, outline the argument for the reader. Effective headings and topic sentences in legal writing help readers navigate through briefs and memoranda. They make legal writing clear and understandable. Like journalists writing headlines, lawyers use headings and topic sentences at the very beginning of a unit of discourse or paragraph to guide their readers. Placed in a unique position of emphasis in legal writing, headings and topic sentences powerfully persuade readers. Much like special teams on the football field, effective headings and topic sentences kick off the lawyer’s argument. Below are a few pointers on writing effective, persuasive, headings and topic sentences.

1. USE HEADINGS AND TOPIC SENTENCES TO OUTLINE YOUR ARGUMENT

The most helpful and significant guides and persuaders for readers of legal writing are boldface headings. Bolded and standing alone, headings are placed in the highest position of emphasis in any legal document. Use lots of them liberally. Boldface headings combined with subheadings and topic sentences are all about signaling transitions from one section of the writing to another. They signal a change in topic and announce what the new topic is going to be. For example, if there are two issues in a persuasive brief, the two bolded headings will mirror and answer the questions raised. Remember that the lawyer’s foremost job is to answer the question for the reader. Headings that are written as questions do not do the job of answering the questions and do nothing to help the reader. The lawyer should use persuasive argument or discussion point headings, in complete sentences, to outline his or her argument or the individual points made. Below are some examples of point headings, from least effective to most effective.

**LEAST EFFECTIVE:**

**THE STATUTE OF LIMITATIONS BARS PLAINTIFF’S BREACH OF CONTRACT CLAIM.**

This is better because it at least answers the question presented and it is a full, assertive sentence. It is the conclusion that the writer wants the reader to reach, but the writer has provided the reader no reason to reach it. A better point heading would include a bit of the writer’s reasoning. Without it the reader has no sense of the “why” or “because.” It does nothing to advance the writer’s rhetoric.

**MORE EFFECTIVE:**

**THE STATUTE OF LIMITATIONS BARS PLAINTIFF’S CLAIM FOR BREACH OF AN ORAL CONTRACT BECAUSE IT WAS NOT BROUGHT WITHIN THREE YEARS.**

This heading is much more effective. After reading the “because” part, the reader knows exactly where the writer is going with his argument.
Briefs with multiple arguments will have multiple levels of subheadings, signaling to the reader that the brief is about to transition from one argument or unit of discourse to another. Multiple levels of subheadings help crystallize the argument if the writer continues to use powerful language to sway the reader.

2. USE TOPIC SENTENCES TO OUTLINE YOUR ARGUMENT

Topic sentences at the beginning of each paragraph, throughout the document, provide the reader with even more direction and detailed outline of the argument. Paragraphs that begin with strong topic sentences warn the reader, “We’re changing focus now.” Moreover, topic sentences signal and inform the reader what the paragraph is about. Whenever possible, do not miss the opportunity to persuade the reader. Start each paragraph with a favorable statement or “basic premise.”

Basically, the lawyer should start the party’s argument in a persuasive brief with the argument or basic premise the lawyer seeks to advance. Avoid topic sentences that simply state whether or not a particular case can be reconciled with the facts in the client’s case. The basic premise should be short, to the point, and should expressly mention the element at issue. When writing topic sentences, remember that readers usually grasp what they see first and view the rest of the information in the paragraph through the lens of the topic sentence. Like headings, topic sentences are in a unique position of high emphasis at the beginning of a paragraph and should be very powerful. An effective topic sentence, topping off a paragraph, should contain a “winning phrase or phrase that pays.” The phrase that pays is the key phrase from a statute or case that helps determine the outcome and is pivotal to the lawyer’s analysis.

CONCLUSION

Make your writing reader friendly. Help your reader navigate legal writing and stay oriented through the use of persuasive headings that outline the arguments for the reader. Make the outline even clearer through the use of strong topic sentences that provide the reader with even more direction and a detailed outline of your argument.

ABOUT THE AUTHOR

Professor JENNIFER JOLLY-RYAN teaches writing at Salmon P. Chase College of Law, Northern Kentucky University. She is a member of the Kentucky Bar Association and a graduate of Salmon P. Chase College of Law, Northern Kentucky University. She is a former law clerk for Judge S. Arthur Spiegel of the United States District Court, Southern District of Ohio and Kentucky Commissioner on Human Rights. She practiced law with the law firms of Dinsmore & Shohl and Jolly & Blau before joining the Chase College of Law faculty.

ENDNOTES

1. These examples are modifications of sample headings and critiques from ANNE ENQUIST & LAUREL CURRIE OATES, JUST BRIEFS (Teacher’s Edition).
3. MARY BETH BEAZLEY, A PRACTICAL GUIDE TO APPELLATE ADVOCACY, 84-86 (3rd ed. 2010). For more on writing effective topic sentences for paragraphs describing cases, see Jennifer Jolly Ryan, Top it Off: Describe Cases Using Effective Topic Sentences, Ky. BENCH & BAR (March 2015).
4. Id. See also K.K. DuVivier, Play it Again Sam: Repetition-Part II, 30 Colo. Law. 49 (November 2001).
Avvo Legal Services: A2J Solution or Barbarian at the Gate?

By: Stephen Embry

Avvo, the sometimes scorned and sometimes praised lawyer rating service, has recently began offering a program called Avvo Legal Services in some 26 states. Many believe that this service may offer at least a partial solution to the access to justice (A2J) problem. Others believe it’s just another assault on the legal profession as we know it. While Avvo has yet to offer this service in Kentucky it no doubt will. And Kentucky will then be faced with the decision whether Avvo Legal Services is appropriate here. How we approach the issue may be important.

Here’s how Avvo Legal Services works. Attorneys can sign up for Avvo Legal Services and offer set services at a price sometimes as low as $40. Those in need of legal services can go to the Avvo website and fill out an online form describing what they need along with their credit card information. Avvo then matches that need with an attorney offering the service. If, and only if, there are services actually rendered, does Avvo charge the credit card. It then pays the attorney rendering the service but keeps a small “marketing fee.”

Clear violation of the ethical rules preventing fee splitting with non-lawyers? At least one state Bar Commission recently thought so. In an Opinion issued by three Committees of the New Jersey Bar Association on June 21, 2017, New Jersey barred its lawyers from participating in the plan on the grounds that a portion of the fee was going to a non-lawyer service and that this constituted impermissible fee splitting. Advisory Committee on Professional Ethics Joint Opinion 732, Committee on Attorney Advertising Joint Opinion 44 and Committee on the Unauthorized Practice of Law, Join Opinion 54, issued June 21, 2017. The Committees rejected Avvo’s argument that this marketing fee in fact constituted a permissible advertising or service fee. The Committees cited the opinions of the state bars of Pennsylvania and South Carolina in support of their conclusions.

So it’s a far gone conclusion, right? Maybe. Maybe not. And how you approach the question may not only determine the result but how we as lawyers are perceived by the public.

The basis for the fee splitting rule (in Kentucky it’s found at SCR 3.130 (5.4)) is that fee splitting might interfere with a lawyer’s professional judgement. Indeed, the Kentucky Rule is found under a section entitled “Professional Independence of a Lawyer.”

But even the New Jersey Committees specifically found that Avvo Legal Services program did not in fact impose any restraints on a lawyer’s professional judgment. (“Avvo does not insert itself into the legal consultation in a manner that would interfere with the lawyers professional judgement”). The Committees then said “sharing fees with a non-lawyer is prohibited without qualification.” Period. A rule is a rule.

It’s not clear what the KBA would or should do when or if presented with this issue. Certainly, there is no Kentucky case or Opinion dealing with an identical situation. But in Oliver v. Kentucky Board of Governors, 779 S.W.2d 212 (1989), the Kentucky Supreme Court considered somewhat similar issues in looking at issues involving the use of temporary lawyers. The Supreme Court noted with approval an ABA Ethics opinion that approved “an arrangement whereby a law firm pays to a temporary lawyer compensation in a fixed dollar amount…and pays a placement agency a fee based upon a percentage of the lawyers compensation…”The Placement agency is compensated for locating, recruiting, screening and providing the temporary lawyer for the law firm just as agencies are compensate for placing with law firms nonlawyer personal. Id.

Is the Avvo Legal Services program substantively different? Does Avvo Legal Services present a danger to the public? Several other states looking at Avvo Legal Services type arrangements seem to think not only does Avvo Legal Services not harm the public but actually provides a benefit. Oregon’s Bar, for example, recently initiated a Futures Commission to look at the practice of law and it proposed changing the ethical rules to allow this sort of arrangement. And Virginia reportedly started to issue a ruling like New Jersey but then tabled it presumably for further study.

And there are policy considerations that may suggest these kinds of programs like Avvo Legal Services are indeed beneficial. Unlike subscription programs like LegalZoom and Rocketlawyer (both of which were Avvo Legal Services in issue in New Jersey for different reasons) which require client subscribers to pay monthly or yearly fees, Avvo Legal Services allows those with individual short lived and discrete legal problems to get an answer at a low cost.

But for a service like Avvo Legal Services, these individuals might never consult a lawyer at all. Even though they may be the ones who need to the most. Thus Avvo Legal Services satisfies a need that other similar providers do not. Given the fact that some 85 percent of Americans don’t think of using a lawyer when a need arises and that most people would expect to be able to do a quick
internet search and find a lawyer to get what they need, (just like with anything else), Avvo Legal Service type programs may provide the exact access to justice opportunity needed.

And at a time when there is an oversupply of lawyers and many in the profession are having trouble making ends meet, Avvo Legal Services supplies a market and allows those lawyers willing to work for a certain price to have work. Avvo fills a void by letting those who want to work find those who are willing to pay. And the marketing fee Avvo keeps? Avvo argues is akin to the service charge a credit card imposes to help pay for the convenience being offered.

Is there any real interference of judgment posed by Avvo Legal Services? Its hard to see since Avvo really has no role in the providing of the advice, which the New Jersey Committees recognized. Most lawyers know how to recognize and resist interference. Most lawyers have no problem representing their client zealously. For example, the legal profession has for years allowed fees based on success (contingent fees) without thinking that this automatically somehow interferes with a lawyer’s professional judgment. The insurance defense bar has long faced issues of independence where legal fees are paid by an insurance carrier but the lawyer represents an insured with the resulting occasional pull and tug.

And certainly lawyers can advertise, use for profit advertising agencies and even split fees among themselves to the extent there are problems, the solution in all these areas have relied on individual adjudications not wholesale prohibition.

And finally, there are issues of public perception. In an era where there are too many lawyers and vast numbers of people with legal needs underserved, an effort by Bar Associations made up of lawyers attempting to prohibit a program that tries to link the two together may not come out looking so good. While public perception should not necessarily rule, having the long term trust of and credibility with the public is important. One need only recall the efforts of the Texas Bar Association in the late 1990s to try to bar the use of the Quicken Family Lawyer only to have its determination overruled by the Texas Legislature. See Unauthorized Practice of Law Comm. V. Parsons Tech, Inc. 179 F.3d 956, (5th Cir. 1999) (vacating the District Court’s injunction banning Quicken Family Lawyer after the Texas Legislature amended its 1939 unauthorized practice of law statute).

The most enlightened approach to the issues posed by Avvo Legal Services may have recently come from North Carolina. Rather than a knee jerk rejection to Avvo Legal Services, North Carolina engaged in a thoughtful, deliberative process, appointing a sub-committee that held several meetings to discuss Avvo Legal Services and invited Avvo representatives to be part of the process and be heard from.

The result of this studied approach was a unanimous recommendation that the North Carolina Ethical Rules be amended to create an exception to the fee splitting provisions to allow the payment of a reasonable portion of a legal fee to “credit card processors, group advertising providers, or online platforms” for hiring a lawyer. See Proposed Amendments to Rule 5.4, Approved by the Subcommittee on Avvo Legal Services, July 26, 2017. The recommendation cautioned however that this approval was contingent on there being no “interference with the lawyer’s independence of professional judgment or with the client–lawyer relationship.”

In its Comments, the North Carolina Committee recognized that it is the lawyer who must determine whether any such interference would exist and that Avvo confirm its intention of noninterference. The Committee recommended that lawyer using the Avvo or similar service must Avvo Legal Services investigate the “reliability, stability and vitality” of the service. By doing so, the North Carolina Committee tried to strike the right balance between the benefits of Avvo Legal Services to the public and the need to preserve lawyers’ independence.

As the KBA noted in its 2008 Opinion E–429 (2008), “the Rules of Professional Conduct were not designed to specifically address many of the issues that arise in an age of advanced technology and sophisticated marketing schemes.” Technology among other things challenges our legal system and analysis as new issues and innovation must be considered under laws developed at another time and to address other issues. Any evaluation of Avvo Legal Services and similar services should therefore start with an analysis of the A2J problem, the potential harm, risk and benefit of the program rather than a strict application of Rules just for the sake of the Rules. As Chief Justice Warren Burger so eloquently put it, “The notion that most people want black-robed judges, well-dressed lawyers, and fine paneled courtrooms as the setting to resolve their dispute is not correct. People with problems, like people with pains, want relief, and they want it as quickly and inexpensively as possible.”

Since the time this article was prepared, the New York State Bar Association has also issued an advisory opinion that Avvo Legal Service program violates New York fee splitting rules.

ABOUT THE AUTHOR

STEPHEN EMBRY is a member of Frost Brown Todd LLC and the firm’s class action, privacy and mass tort groups. Embry is a national litigator and advisor who is experienced in developing solutions to complex litigation and corporate problems. He is also a frequent speaker and writer. In addition to practicing law, Embry’s passions include education, officiating swimming on national and local levels and all things tech. He is a husband and proud father. And, finally, he is unabashedly and unapologetically a University of Kentucky basketball fan.
FORMAL
JUDICIAL ETHICS OPINION JE-128

July 5, 2017

This opinion addresses the following question:

MAY A CIRCUIT JUDGE APPOINT HIS OR HER SIBLING TO THE POSITION OF MASTER COMMISSIONER?

Answer: No.

A Circuit Judge has requested an opinion from the Judicial Ethics Committee, asking whether the judge may or may not appoint a sibling as Master Commissioner, the sibling being otherwise qualified. The Committee has concluded that the sibling may not be appointed, for two reasons.

First, Canon 3C (4) of the Kentucky Code of Judicial Conduct provides, in part:

A judge shall exercise the power of appointment impartially and on the basis of merit. A judge shall avoid nepotism and favoritism.

By definition, as stated in the Terminology section of the Code, the sibling is a “Member of the judge’s family” and is within the “Third degree of relationship” to the judge. The Committee believes that the cited Canon and Terminology preclude appointment of the sibling.

The Committee is aware of Caudill vs. Judicial Ethics Committee, 986 SW2d 435 (1999), and will not presume to redefine “nepotism”. However, that decision relied on the content of a Canon different from the current version of Canon 3C (4). The former version stated that a judge “should exercise his appointments only on the basis of merit, avoiding nepotism and favoritism.” The Caudill holding could be rationally based on the former version being hortatory only, but the current Canon provides that the judge shall avoid nepotism. This difference is a change that the Court has made since Caudill was adopted, and the change is not insignificant. In the Preamble to the Kentucky Code of Judicial Conduct it is stated:

When the text uses “shall” or “shall not,” it is intended to impose binding obligations the violation of which can result in disciplinary action.

Second, despite the sibling being qualified to serve as Master Commissioner, the Committee believes that the appointment would violate Canon 2A, which provides:

A judge… shall act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

The Commentary to Canon 2A states:

The test for appearance of impropriety is whether the conduct would create in reasonable minds a perception that the judge's ability to carry out judicial responsibilities with integrity, impartiality and competence is impaired.

The duties and powers of a Master Commissioner are broad. See, Administrative Procedures of the Court of Justice IV Sect. 1 et seq. and CR 53.01 et seq. Focusing on only two of those duties demonstrates the distinct possibility that appointment of the sibling “would create in reasonable minds a perception that the judge’s… impartiality” was impaired.

First, it is commonplace for a Master Commissioner to handle foreclosures, a part of which is to report to the Circuit Court for approval of a final judgment. Second, the Master Commissioner may be referred matters by the Circuit Court and directed to take testimony. The Master may be required to make findings of fact and conclusions of law, which findings and conclusions are approved or disapproved by the Court. The potential mindset of a losing litigant is not hard to imagine. The Committee believes that the appearance of impropriety militates against appointment of the sibling.

Sincerely,

/ss/
Arnold Taylor, Esq.
Chair, The Ethics Committee of the Kentucky Judiciary

Accordingly, it is the opinion of the Committee that Canon 3C (4) prohibits appointment of the judge's sibling.

The Honorable Irv Maze, Judge (Via E-Mail)
Donald H. Combs, Esq. (Via E-Mail)
The Honorable Jean Chenault Logue, Judge (Via E-Mail)
The Honorable Jeffrey Scott Lawless, Judge (Via E-Mail)
Jean Collier, Esq. (Via E-Mail)
Question 1: What is “limited scope representation?”
Answer: When the lawyer and client agree that the lawyer’s representation will be limited to matters specifically defined in the agreement.

Authority: SCR 3.130(1.2(c); Persels

Question 2: What are the requirements of a “limited scope representation” in litigation?
Answer: 1) Informed consent by the client; 2) a writing adequately describing the agreement; and; and 3) the limitation is reasonable.

Authority: Rule 1.2(c); Persels, which adds to Rule 1.2(c) the requirement that the agreement be signed by the client or confirmed in writing. Rule 1.0(e).

Question 3: What is required of an attorney who “ghost writes” an initial pleading (complaint, answer, cross-claim or counter-claim) for a pro se litigant?
Answer: 1) The attorney must investigate the matter sufficiently to reasonably conclude that the pleading is supported by a non-frivolous basis in law and fact; and 2) the attorney must indicate on the pleading that it was prepared “with the assistance of counsel.” The attorney is not required to sign the pleading or indicate the name of counsel.


Question 4: What is required of an attorney who provides assistance to a pro se litigant beyond preparation of the initial pleadings?
Answer: The attorney must provide the following information to the court and opposing counsel: the attorney’s contact information (name address, phone number) and the scope of the limited representation agreement. This is not an entry of appearance.

Authority: Persels

Question 5: May opposing counsel contact a party directly who has filed a pleading that indicates it was prepared with the assistance of counsel?
Answer: Yes, the attorney should ask the opposing party for the scope of the limited representation. If it appears that the opposing party is, or may be, represented by counsel on the matter at issue, the attorney should ask the party for the name of counsel and contact that person to confirm the scope of the limited representation. The attorney should deal directly with the opposing party if the limited representation has concluded or is otherwise not applicable.

attorney to delve into facts underlying a client’s statement would be inconsistent with Persels’ aim of encouraging attorneys to provide unbundled services.

If an attorney represents the litigant beyond the initial pleadings, the attorney must disclose contact information and the scope of representation to the court and opposing counsel. The attorney may not be required to enter an appearance. The purpose of this requirement is to notify the court and opposing counsel of the scope of the agreement so they will know whom to contact on a particular matter. For example, an attorney might help a client obtain a divorce but not provide representation on property issues. The court and opposing counsel need to know who is responsible on particular matters.

Rule 1.2(c), as interpreted by Persels, requires that the client give informed consent, in writing, to the limited scope representation, and that the limitation be reasonable. The attorney must make sure that the client knows what the attorney is, and is not, responsible for. An attorney, retained only to help with the initial pleading, should, nonetheless, warn the client about foreseeable dangers. For example, an attorney retained to help draft an answer to a complaint should tell the client about the compulsory counterclaim rule.

The attorney must inform the client of Persels’ requirements: a written agreement specifying the lawyer’s services, that “prepared with the assistance of counsel” appear on the initial pleading, and that any further assistance (for example advising the pro se litigant on procedural steps) must be reflected in a written agreement. The attorney must inform the client that the opposing party or counsel may contact the client directly on all matters except those within the limited scope agreement.

Note to Reader:

This ethics opinion has been formally adopted by the Board of Governors of the Kentucky Bar Association under the provisions of Kentucky Supreme Court Rule 3.530. This Rule provides that formal opinions are advisory only.
KENTUCKY BAR ASSOCIATION
Unauthorized Practice of Law Opinion
KBA U-65
Issued: July 2017

Question: May an insurance or claims adjuster, who is an employee of a Workers’ Compensation insurer, its third-party administrator or a self-insured employer, complete and file on behalf of the insured a Form 110–Settlement Agreement with the Department of Workers’ Claims?

Answer: No.

References: KRS 342.265(1); KRS 304.9-070; KRS 304.9-430; 806 KAR 9:030; SCR 3.020; KBA U-3; KBA U-4; KBA U-15; KBA U-12; KBA U-17; KBA U-27; KBA U-37; KBA U-45; KBA U-48; KBA U-52; KBA U-56; KBA U-57; KBA U-61; KBA U-64; Winkenhofer v. Chaney, 369 S.W.2d 113 (Ky. 1963); Kentucky State Bar Assn. v. Henry Vogt Machine Co., 416 S.W.2d 727 (Ky. 1967); Kentucky State Bar Association v. Lakes, 443 S.W.2d 248 (Ky. 1969).

OPINION

The question has been raised as to whether a non-attorney employee of a Workers’ Compensation insurer or another similarly situated entity may prepare forms required for the settlement of a Workers’ Compensation claim. There is ample authority in Kentucky jurisprudence supporting the conclusion that such an action, when engaged in by a non-attorney, constitutes the unauthorized practice of law in this jurisdiction.

I. It is well established that the representation of parties before Kentucky administrative agencies constitutes the practice of law in Kentucky.

The practice of law is defined in SCR 3.020 as follows:

[A]ny service rendered involving legal knowledge or legal advice, whether of representation, counsel or advocacy in or out of court, rendered in respect to the rights, duties, obligations, liabilities, or business relations of one requiring the services.

It has been well established in Kentucky that representation of parties before an administrative agency falls under the definition of SCR 3.020. This issue was specifically addressed in relation to the Kentucky Department of Workers’ Claims in KBA U-64 and in KBA U-52:

The KBA, in Opinion U-52, addressed these issues in part when presented with the question of whether or not a non-lawyer may represent parties before the Kentucky Department of Workers’ Claims. The opinion held that non-lawyers may not represent parties before the agency because “[r]epresentation of parties before administrative agencies is the practice of law, as it necessarily involves legal advice, counsel and advocacy.”

Also, U-52, summarizing previous related opinions, stated:

Non-lawyers have been prohibited from representing corporations and individuals before the Kentucky Department of Transportation (Opinion KBA U-3); before a city civil service commission (Opinion KBA U-12); before the Kentucky Unemployment Insurance Commission (Opinion KBA U-15); before the Kentucky Board of Tax Appeals (Opinion KBA U-17) and in quasi-adjudicative proceedings before zoning boards and zoning authorities (Opinion KBA U-43). See also Kentucky State Bar Assn. v. Henry Vogt Machine Co., Ky., 416 S.W.2d 727 (1967).

This position is consistent with numerous other KBA Opinions which indicate that dealing with legal claims pending before administrative bodies falls within the purview of SCR 3.020, without significant exception.1

II. The practice of law is implicit in the initiation, preparation, and settlement of administrative claims, and can extend to the preparation of standard forms if said preparation implies the application of skills set forth in SCR 3.020.

The practice of law is not limited to the actual appearance of a party at the formal litigation of claims (or e.g., the deposition of witnesses, the filing of petitions and motions before adjudicative bodies), but may extend into preparation, negotiation, evaluation, and extrajudicial settlement of legal issues (even if those functions appear to be perfunctory or ministerial) if carrying out those functions requires “legal knowledge or legal advice, whether of representation, counsel or advocacy in or out of court, rendered in respect to the rights, duties, obligations, liabilities, or business relations of one requiring the services.” See SCR 3.020.

It may sometimes be assumed that filling out a form as part of an administrative process might not fall under this definition. Many administrative functions employed today do depend on the promulgation of standard forms as well as the perfunctory collection and reporting of information. Many such set forms and standard processes have been put into place in order to assist with the efficient administration of justice and to speed up the processing of recurrent matters that are handled in a more or less predictable fashion.

It is tempting for lay-persons to assume that only a layman’s understanding of the legal principles at play may be necessary to fulfill some of the more ministerial tasks associated with such administration. However, it is well recognized that while the promulgation of set and accepted forms and standard procedures increases efficiency and permits more uniform administration of justice, they do not, in and of themselves, supplant the need for a trained legal understanding of the legal implications inherent within those processes. Such an understanding is essential, and the legal implications of information submitted in this manner cannot be dismissed.2

It is well recognized in Kentucky that the practice of law may be assumed to have taken place through the application of legal
analysis and advice implied in what might otherwise be considered purely ministerial aspects of claim adjudication and extrajudicial resolution.\(^3\)

KBA U-61 specifically applied this principle with regard to insurance adjustor involvement in the settlement of claims which are properly before an adjudicative body at a court ordered mediation:

“Court ordered Mediation” is more than settlement negotiations. The process involves assessment of the strength of legal claims and defenses, damage calculations, proof problems, procedural compliance, evidentiary considerations, knowledge of venue specific issues and other matters which require legal skill and knowledge. Certainly those appearing on behalf of third parties at mediation are “representing” them. As such this activity falls within the definition of “the practice of law” and may be conducted only by licensed attorneys.

Certainly, the same factors at play in the settlement contemplated in KBA U-61 are equally at play in other settlements as well. The same set of skills and the same considerations must be applied to effectively assist a party contemplating such a resolution.

Therefore, it must be concluded that fulfillment of ministerial functions relating to settlement of claims and other administrative and procedural matters meets the standard set forth in SCR 3.020 if those functions require the application of “legal knowledge or legal advice, whether of representation, counsel or advocacy in or out of court, rendered in respect to the rights, duties, obligations, liabilities, or business relations of one requiring the services.”

III. Filing out a form seeking approval of the settlement of administrative claims constitutes the practice of law under SCR 3.020 because it requires a legal analysis of claims and procedures.

It is evident from a cursory examination of “Form 110–Agreement as to Compensation” that completing and filing such a form extends well beyond the mere ministerial act of providing basic information to the court relating to the claimant–respondent (name, date of birth, nature of injury), and that completing and submitting this form implies a somewhat sophisticated and detailed knowledge as to the legal implications inherent in the various parties’ claims and defenses. It would be impossible to properly complete and submit this form without making a legal analysis of the claim at hand (specifically, a rather detailed and involved analysis).

For example, properly filling out the date and nature of the injury presupposes a knowledge of the statute of limitations inherent in the claims to be settled, as well as a knowledge as to the appropriateness of the forum for addressing those claims and understanding the implication that, by so doing, other avenues of recovery are most likely going to be waived without further recourse.
The question of whether any injuries arising outside the scope of the Worker's Compensation adjudication process exist, and a decision as to whether those claims should be addressed in tort litigation is presupposed. Moreover, questions as to whether there are any claims or defenses being waived by the parties at issue in this settlement, and whether the injuries reflected in the settlement are fairly accounted for under the scheme of recovery employed therein, are also apparent.

The fact that issues of waiver of claims are specifically dealt with on the face of the form, in and of itself presupposes a legal analysis inherent in this process, as well as consultation with the parties involved in the claim and the adjudication thereof.

There is, frankly, no way that this form could be properly completed without making a substantial legal analysis of the applicant’s claims, the value of those claims, the applicant’s entitlement to recovery, and the opposing parties’ defenses as to said claims, much less the appropriateness of the forum and other technical legal questions that would require the assistance of an attorney with significant experience in this area of practice to evaluate properly.

Accordingly, the preparation and filing of “Form 110–Agreement as to Compensation” constitutes the practice of law under SCR 3.020.

CONCLUSION
Where a non-attorney insurance or claims adjuster, who is an employee of a Worker’s Compensation insurer, its third-party administrator or a self-insured employer, completes and files on behalf of the insured a Form 110–Settlement Agreement with the Department of Workers’ Claims, said individual has engaged in the unauthorized practice of law.

Note to Reader
This unauthorized practice opinion has been formally adopted by the Board of Governors of the Kentucky Bar Association under the provisions of Kentucky Supreme Court Rule 3.530 (or its predecessor rule). Note that the Rule provides in part: “Both informal and formal opinions shall be advisory only.”

ENDNOTES
1. KBA U-3 (“[A] layman may not represent persons or entities before quasi-judicial bodies.” In relation to representation before the Kentucky Department of Motor Transportation.; KBA U-15 (A layman may not represent a claimant at a hearing before a referee of the Unemployment Insurance Commission without constituting the unauthorized practice of law.; KBA U-17 (“Appearances by non-lawyers representing corporations or individuals before administrative agencies is the practice of law in that it necessarily involves advice and procedures affecting the legal rights and obligations of such parties.”); KBA U-27 (“There can be no doubt that a person who represents a client before the Department of Insurance of the Commonwealth of Kentucky is engaged in the practice of law.”); KBA U-52 (Non-lawyers may not represent parties before the Kentucky Department of Workers’ Claims. Non-lawyers may not serve as “workers compensa-
Announcement:

The Kentucky Cabinet for Health and Family Services is accepting applications for persons willing to serve as a chairperson of a Medical Review Panel pursuant to KRS 216C. Eligible applicants must be licensed to practice law in the Commonwealth of Kentucky.

Chairpersons will be selected on a case by case basis. This is a great opportunity to hone your management and mediation skills. Reimbursement shall be in accordance with KRS 216C, Section 23(2).

To apply, please complete the application found at mrp.ky.gov and submit to mrp@ky.gov. The Cabinet for Health and Family Services will maintain a list of all applicants by Supreme Court district for use pursuant to KRS 216C, Section 8(2).

By Mail: CHFS, ATTN: MRP
275 East Main Street, 5W-A (MRP)
Frankfort, Kentucky 40621

Electronically: mrp@ky.gov

Taylor Richard Named Winning Author of the 2017 KBA Student Writing Competition

Congratulations to Taylor Richard, the winning author of the 2017 Kentucky Bar Association Student Writing Competition. His article, “From Warrior to Guardian: Reducing Excessive Police Use of Force,” was selected as the first place entry by members of the student writing competition judging panel. Richard is a 3L at the University of Louisville Louis D. Brandeis School of Law.

Richard was born in Jackson, Wyo., where he grew up skiing and loving the outdoors. He eventually moved to the beaches of South Carolina where he received his bachelor’s degree in business marketing from Coastal Carolina University. He moved to Louisville to start law school in the fall of 2015. After his 1L year he was hired as a law clerk at The Poppe Law Firm, where he has continued to work throughout the past year. The mentorship he has received and experiences garnered at the firm have been incredible. It confirmed his desire to become a litigator and pursue the ideal of Equal Justice Under Law. Richard’s hobbies include cheering on the Chicago Cubs and playing fetch with his chocolate lab, Bella.

To read his winning entry, visit: http://www.kybar.org/page/hottopics.
THE KBA HEALTH CARE LAW SECTION INTRODUCES ITS VOLUNTEER SPEAKER SERVICE

The KBA Health Care Law Section has created a speaker service to provide a mechanism for eligible organizations to obtain speakers knowledgeable in health law subjects to provide presentations at meetings, classes, and related events in order to be of better service to the Commonwealth. The service is available to civic clubs, schools and educational organizations, churches, not-for-profit organizations, and corporate training programs. Individuals are not eligible to use this service.

The panel of volunteer speakers is listed on the KBA website at www.kybar.org/page/healthvss along with their contact information and the list of topics they are willing to present. If your organization is interested in inviting a speaker to an upcoming event, you will need to contact one of the panel members directly for scheduling purposes.

If you have questions regarding this service, please contact Health Care Law Section Chair Mark R. Brengelman at Mark@MarkRBrengelmanPLLC.attorney or (502) 696-3992.

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On Sept. 26, 2016, my life changed forever. I just didn’t know it yet. I was wet, cold, hungry, and tired. I had been walking aimlessly in the pouring rain for hours with nowhere to go. I hadn’t had any sleep or eaten a decent meal in days. I had been kicked out of the home I was living in, I had no friends, and I had burned every bridge (I thought) with my family. I had no money, and no cell phone. I had nothing. I was an alcoholic and an intravenous drug user, and I had hit rock bottom.

I took my first drink of alcohol when I was 13. Three shots of Jim Beam to be exact. It didn’t go well. I ended up passing out in the fetal position laying in my friend’s backyard in my own vomit. If I were a normal individual, this would have been my first and last drink, but I know today I am not normal when it comes to alcohol or drugs. Despite my first experience with alcohol, my drinking continued unabated during my teenage years. Alcohol was the main substance I consumed during my middle and high school years, but there was also the occasional use of marijuana and LSD.

Looking back, however, there were signs of my growing problem. I was always the “drunk” guy at the party. Once such party stands out in my memory. I was at a classmate’s house, and I got so drunk that I vomited on myself and ended up in his parents’ bed. Comments from friends in my middle school yearbooks reflect my excessive partying. High school was no different. I excelled academically, earning an academic scholarship to the University of Kentucky, all while I continued to drink and occasionally use marijuana and LSD.

In college my alcohol consumption increased exponentially. I drank daily but despite many drunken evenings, I excelled in the classroom. It wasn’t until my sophomore year that I felt my first real negative consequences from alcohol. In 1998, I was cited for “minor in possession” of alcohol while in Florida on Spring Break, and that fall, I was fired from my position as resident advisor after a classmate and I were caught, while under the influence of alcohol, marijuana, and LSD, breaking into a building on campus.

One would think that these incidents would cause me to re-evaluate the role alcohol played in my life, but they didn’t. The consequences for drinking and using drugs were minor, plus, I wasn’t using “real” drugs. The notion of becoming an intravenous drug user never entered my mind.

I drank and used drugs for all the typical reasons teenage children do, i.e., peer pressure, I enjoyed the way alcohol made me feel, it made me feel “part of” and “cool.” Also, I did not see a reason not to drink or use drugs at this point in my life because there were no negative consequences. I was well-liked by my friends, neighbors, classmates, and teachers. I was consistently on the honor roll.
In 2000 I graduated from college and started law school. Alcohol was freely and readily available at law school functions, and I over-indulged most of the time. I was arrested for DUI during my first year of law school.

After graduating in 2003, I was hired by the Jefferson County Attorney’s Office. I drank almost every night. I avoided any alcohol-related trouble until 2008, when I was arrested for alcohol intoxication. My boss ordered that I have an alcohol assessment, which I did. I then completely ignored the advice of the substance abuse counselor. I continued to excel professionally and my star continued to rise.

The next year I was arrested and charged with two felonies. This was really the beginning of the end for me. I was suspended from my job (I later resigned), and my image—along with the story—were plastered all over the evening news and the local paper. Shortly thereafter I was again arrested for DUI (twice), and served home incarceration. In spite of all of these devastating personal and professional consequences, I continued to drink.

Two years later I picked up my third DUI and served time in jail. The following year, the Kentucky Supreme Court suspended my law license, and ordered me to sign a five-year monitoring agreement with the Kentucky Lawyer Assistance Program (KYLAP), and do a 30-day inpatient treatment.

I did the inpatient rehab treatment as ordered, but did not listen to one thing that was said or taught there. Why should I? I didn’t have a problem, I just drank alcohol, and the men in the program were all intravenous drug users. We had nothing in common. That was something I had never done, and would never do, or so I thought. Upon release from that treatment facility, I immediately drank again and did not comply with the KYLAP agreement. I lied about attending AA meetings. I didn’t need AA, only drunks needed AA, right? And I was not a drunk.

Over the years, I had isolated from family and friends, and rebuked their efforts to help me. During my isolation and downward spiral I was eventually introduced to meth and heroin. I became the one thing that I never thought a smart, well-educated kid from a middle-class family would become—an intravenous drug user. In fact, I stopped drinking almost all together and just injected meth and heroin. I put down the bottle and picked up the needle.

Remarkably, I was employed intermittently, even at a law firm as a law clerk. Understandably, I could not maintain any long-term employment. I continued to have encounters with the police, but avoided any arrests until 2016. A few months later, I found myself walking down the road aimlessly. I had an overwhelming sense that I should call my brother, so I went into a Kroger and did just that. He graciously agreed to pick me up, and allowed me to stay on his couch and detox for a week. Then he took me to the place where he had recovered over 12 years ago, The Healing Place. That was on Oct. 4, 2016.

It is simply impossible to describe the experience I have had over the last 10 months. The Healing Place, or more aptly, the people at the Healing Place saved my life. I will forever be grateful for this homeless shelter.

I am sober today. I am employed today. I have my own apartment and God willing, I will soon be re-applying for admission to the bar. My life is not perfect and I have accepted that it never will be. I am still cleaning up some of the wreckage of my past for which I am responsible, but I’m doing it, one day at a time sober. I’m actively participating in KYLAP, and I’m sharing my story with lawyers and law students. I do this to let them know that everyone is vulnerable to addiction, and to hopefully help them avoid the disastrous path my life took.

My life story was not special, unique, or otherwise filled with traumatic life experiences. Yet, I ended up an intravenous drug addict hooked on meth and heroin. But that is precisely the point! It’s important to be reminded that the disease of addiction has accomplished what society and the legal system have not, i.e., ending discrimination. You see, anyone—regardless of race, color, creed, social status, or education—can become addicted to alcohol and/or drugs.

This article was prompted by the recent New York Times article titled “The Lawyer, The Addict.” The article, about a Silicon Valley lawyer from a top-drawer firm who was also an IV drug-user, has sent shock-waves through the profession. But for many of us in the legal profession and recovery community, we know this story is far more common than most people know.

I agreed to pen this article mainly to try to lessen the shame and stigma that still surrounds alcoholism and addiction. It must cease! It causes far too many people, lawyers included, to hide their problem instead of seeking help. To me, the only real shame is in failing to seek help when you know you need it. And, for today’s generation of heroin users, continued use means death. Opiate overdose is the leading cause of death in Americans under 50.

I was offered the chance to write this article anonymously, but I respectfully declined. It was my failure to be open and honest about who and what I truly was that kept me trapped in the problem for years. Also, if the problems associated with my alcoholism/addiction could be publicly broadcasted, why shouldn’t my recovery?

ENDNOTES


If you or someone you care about is suffering because of drugs, alcohol, or any other issue that may cause impairment, please call KYLAP. All contact with KYLAP is confidential pursuant to SCR 3.990. You may call us directly at (502) 226-9373.
The Kentucky Lawyer Assistance Program offers weekly open recovery meetings for lawyers, law students and judges in Northern Kentucky and Lexington. The Northern Kentucky Lawyers in Recovery meeting is held at 5:00 p.m., on Tuesdays at 510 Washington Avenue, Newport, KY 41071. Please bring your own coffee. The Lexington Kentucky Lawyers in Recovery meeting is held at 7:30 a.m. on Wednesdays at the Alano Club downtown, 370 East Second Street, Lexington, KY 40508.

All meetings are open to law students, lawyers and judges who are already involved or who are interested in a 12-step program of recovery, including but not limited to Alcoholics Anonymous, Narcotics Anonymous, Overeaters Anonymous and Al-Anon. Come meet other attorneys and network. All meetings and contacts are confidential. SCR 3.990. For additional information, please visit www.kylap.org, call (502) 226-9373, or email abeitz@kylap.org.

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The CLE Column for this issue has been hijacked. KBA Director for CLE Mary Beth Cutter asked (i.e. ordered) me to write an article reporting on some of my adventurers while running a marathon on all seven continents. Since Mary Beth is the boss, here are Seven Stories from Seven Continents:

**ASIA**

**2014 TOKYO MARATHON**

Sunday evening, several hours after finishing the marathon, I met my friend Michelle for the first time when we were both wandering the streets of Tokyo looking for the location of our tour group’s reception. Within five minutes of meeting Michelle, we figured out that she lives next door to one of my wife’s college roommates in Evansville, Indiana. The world is big, but is small at the same time.

**NORTH AMERICA**

**2014 BOSTON MARATHON**

Right on Hereford, Left on Boylston. These are the last two (and essentially only) turns on the Boston Marathon course, and they are hallowed ground for anyone who has run this race. In 2014, the first year after the bombing, the people of Boston crowded the downtown area to provide the most electric atmosphere I have ever experienced. I wish I could bottle the emotion of crossing that finish line and seeing my parents waiting for me. I still get goose bumps today just thinking about it. Boston Strong!

**AFRICA**

**2017 VICTORIA FALLS MARATHON**

Teembah, a young man aged 19-20, operates a small souvenir shop in Victoria Falls, Zimbabwe. I asked him on my second trip to his store if he had a particular lion figurine. “Not here,” he said, “but you stay here and mind the store and I’ll go get one!” So, I became a temporary shopkeeper until Teembah returned 10-15 minutes later, lion in hand. The people of Zimbabwe are amazing.

Rabie is the hotel manager at Caesar Park on Ipanema Beach where I stayed. Approximately two hours after finishing this marathon, I began to lose consciousness from what turned out to be the early stages of rhabdomyolysis (caused by extreme dehydration), which can be fatal if not treated. Rabie, fluent in five languages (the most important at the time being English and Portuguese), took me to the hospital and ensured that I was admitted for treatment. Without his help, I am not sure I would have received the immediate care that I needed so badly. Thank you again, my friend!
Along these journeys there were elephants, penguins, people dressed as elephants and penguins (Tokyo), and people barely dressed at all (Rio), but what a ride it was! God has blessed me beyond measure. To close this column with a complete non sequitur that has nothing to do with legal education or running marathons, here is a picture of Pharoah (yes, I named him after the horse), the cutest little dog in the history of the universe.

**EUROPE**

**2014 BERLIN MARATHON**

The Berlin Marathon is widely regarded as being the fastest course in the world. The night before the race, I looked at the weather report (which was almost ideal) and told my wife there would be a new world record set tomorrow. Dennis Kimetto indeed set a new world record time that still stands today with a time of 2:02:57. To put that in perspective, I ran a 3:05:45 that day which put me in the top five percent of almost 29,000 finishers, and he beat me by over an hour. The elite marathoners are simply incredible.

**ANTARCTICA**

**2017 WHITE CONTINENT MARATHON**

I first met my friend Roosevelt when we ran the Rio de Janeiro Marathon in 2016. It was there when he told me that he had made a promise to his dying brother that he would run a marathon in all 50 states and on all seven continents. I watched as Roosevelt crossed the finish line in Antarctica, tears in his eyes, fulfilling that deathbed promise to his brother.

**AUSTRALIA**

**2016 AUSTRALIAN OUTBACK MARATHON**

I was honored and privileged to meet and run with several United States Marines who were stationed nearby at the time. Along the way we dodged countless piles of kangaroo and dingo poo, and conquered the hilly sand dunes of the Outback. Semper Fi guys, OoRah!
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 certificates of attendance. Programs are approved and added in the order of receipt. 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.

Looking for upcoming KBA accredited CLE events? Look no further...check out kybar.org/clelistprograms.
Find a Mentor and Take Charge of Your Future!

The KBA **Find a Mentor** program is designed to connect experienced attorneys with new attorneys who are seeking advice and guidance in balancing the personal and professional demands of the practice of law.

**How it works:**
Qualified mentors sign up and volunteer to participate in the GPS mentor program. New attorneys looking for assistance (mentees) may locate a mentor through the GPS website by the mentor’s location or area of practice. The mentee can view detailed information about potential mentors and then initiate first contact. This self-initiated contact may involve a single issue, or entail a more lasting, formal mentor relationship. The limits of the relationship are determined by the preferences of the participants.

This service is available to new attorneys admitted to practice in Kentucky for five years or less. For more detailed information visit [www.kbagps.org](http://www.kbagps.org) and see what the program has to offer.
WILLIAM L. ALDRED, JR. practices law in Clarksville, Tennessee. A graduate of Middle Tennessee State University and the University of Memphis Cecil C. Humphreys School of Law, he was admitted to the Kentucky Bar in 1979 as well as being a member of the Tennessee Bar. Mr. Aldred is a Life Fellow.

ERICH EUGENE BLACKBURN practices law in Pikeville with East Kentucky Law Group, P.S.C. A graduate of Morehead State University and the University of Kentucky College of Law, he was admitted to the Kentucky Bar in 1996. Mr. Blackburn is a Life Fellow.

RHONDA JENNINGS BLACKBURN practices law in Pikeville with the law firm of Gary C. Johnson, P.S.C. A graduate of Morehead State University and the University of Kentucky College of Law, she was admitted to the Kentucky Bar in 1996 and is also a member of the Virginia and West Virginia Bars. She currently serves as a member of the Kentucky Bar Association Board of Governors. Ms. Blackburn is a Life Fellow.

MARY E. CUTTER of Frankfort serves as Director for Continuing Legal Education for the Kentucky Bar Association. A graduate of Centre College and the University of Kentucky College of Law, she was admitted to the Kentucky Bar in 1997.

THOMAS HARRISON DONNELLY serves as a law clerk with the law firm of Reynolds Johnston Hinton & Pepper LLP in Bowling Green. A graduate of the University of Kentucky and the University of Louisville Brandeis School of Law, he was admitted to the Kentucky Bar in 2016.

ANGELINE B. GOLDEN of Prospect is retired from the practice of law. A graduate of the University of Louisville and the University of Louisville Brandeis School of Law, she was admitted to the Kentucky Bar in 1989. Ms. Golden is a Life Fellow.

JOSEPH J. GOLDEN of Prospect is semi-retired and is a former Quarterly Court Judge and former Assistant U.S. Trustee. A graduate of the University of Louisville and the University of Louisville Brandeis School of Law, he was admitted to the Kentucky Bar in 1967. Mr. Golden is a Life Fellow.

ZACHARY A. HORN practices law in Frankfort with the law firm of McBrayer, McGinnis, Leslie & Kirkland. A graduate of Transylvania University and the University of Kentucky College of Law, he was admitted to the Kentucky Bar in 2011. Mr. Horn previously served as the Young Lawyers Division Representative on the Kentucky Bar Foundation Board of Directors. He currently serves as Vice Chair on the Executive Committee of the Kentucky Bar Association Young Lawyers Division.

GUION L. JOHNSTONE is the Executive Director of the Kentucky Bar Foundation and Kentucky IOLTA Fund. She previously served as Program Director and Immigration Attorney at the Maxwell Street Legal Clinic in Lexington. A graduate of Transylvania University and the University of Louisville Brandeis School of Law, she was admitted to the Kentucky Bar in 2011. Ms. Johnstone is a Life Fellow.
Your submission of a photograph constitutes your permission for it to be used by the Kentucky Bar Foundation, as well as the Kentucky Bar Association, in their programs, publications, e-newsletter, websites, social media pages, and any and all other print and online materials. By submitting, you acknowledge that you hold the rights to the photo for publication in all KBF or KBA materials.

Thanks to the support and generosity of these and hundreds of other KBF Fellows, the Kentucky Bar Foundation is able to award significant annual grants to support law-related nonprofit programs and projects throughout the Commonwealth.

**LESLIE M. NEWMAN** practices law in Henderson with the law firm of King Deep & Brananman. A graduate of the University of the South and the University of Kentucky College of Law, she was admitted to the Kentucky Bar in 1988. Ms. Newman is a Life Fellow.

**BONNIE J. RICKERT** practices law in Covington with the law firm of Grubbs Rickert Landry, PLLC. A graduate of Northern Kentucky University and Northern Kentucky University Chase College of Law, she was admitted to the Kentucky Bar in 2002 and is also a member of the Ohio Bar. Ms. Rickert is a Life Fellow.

**KIF SKIDMORE** is counsel to the firm of Stoll Keenon Ogden PLLC in Lexington. A graduate of Berea College and the University of Kentucky College of Law, she was admitted to the Kentucky Bar in 2002.

**BRENT M. STINNETT** practices law in Bowling Green. A graduate of Western Kentucky University and Northern Kentucky University Chase College of Law, he was admitted to the Kentucky Bar in 2007. Mr. Stinnett currently serves as President of the Bowling Green-Warren County Bar Association.

**THOMAS W. VOLK** practices law in Louisville with the law firm of Morgan & Pottinger PSC. A graduate of Wake Forest University and the University of Louisville Brandeis School of Law, he was admitted to the Kentucky Bar in 1977.

**EMILY E. WALTERS** practices law in Florence with the law firm of Lucas & Dietz, PLLC. A graduate of Thomas More College and the University of Cincinnati College of Law, she was admitted to the Kentucky Bar in 2009. Ms. Walters is a Life Fellow.

**JUDGE ALISON C. WELLS** of Hazard serves as Circuit Judge for Perry County. A graduate of the University of Kentucky and the University of Kentucky College of Law, she was admitted to the Kentucky Bar in 1987.

We are actively seeking new Fellows. Please visit www.kybarfoundation.org/donate/fellow or contact the Kentucky Bar Foundation at (800) 874-6582 to see how you can become a Fellow.

Make Your Submission to Kentucky Attorneys Doing Good

The Kentucky Bar Foundation seeks to highlight attorneys’ volunteer work in its “Kentucky Attorneys Doing Good” campaign. For a chance to be featured, please email pictures of you “in action” to KBF Executive Director Guion Johnstone at gjohnstone@kybar.org. We’re excited to spotlight the good work that Kentucky attorneys do for their communities!
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.

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<tr>
<th>NAME</th>
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<tr>
<td>William Roger Fry</td>
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<td>Amy Broecker Kessler</td>
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<td>Michael Quinlan Murray</td>
<td>Irwindale</td>
<td>CA</td>
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<td>Frankfort</td>
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<td>Leonard W. Taylor III</td>
<td>Louisville</td>
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<td>Park Hills</td>
<td>KY</td>
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**COLONEL CHARLES BURTON** USAF (Ret) age 96, of Winter Park, Fla., passed away on Tuesday, May 23, 2017. Burton was born on Oct. 3, 1920, in Carlisle, Ky. After graduating from Henry Clay High School in Lexington, he earned a B.A. degree in economics and an R.O.T.C. commission as a 2nd Lieutenant from the University of Kentucky in 1942. He reported for active duty at Hill Field with the Army Air Corps in March 1942 and returned to the university to be the first student to graduate in uniform in June of that year. He was admitted to the Kentucky Bar in 1949 and graduated from the University of Kentucky College of Law in 1950. Following graduation and prior to his recall to active duty during the Korean Conflict as a Captain and Judge Advocate in the U.S. Air Force, he was in private practice in Taylorsville, Ky. In 1952 he accepted a regular commission in The Judge Advocate General Department of the Air Force and served until his retirement in 1977. He is survived by his wife of 68 years, Marydel Miller Burton and 3 daughters, Martha Allen Lyons (Robert) of Senoia, Ga., Maryanna Koziar (Robert) of Anderson, S.C., and Linnell Burton of Winter Park, Fla. Also, three grandchildren; David Robert Lyons, Philip Charles Lyons and Mary Katherine Koziar.

The above information for Charles Burton was pulled from a version that appeared in the Orlando Sentinel from May 26 to May 28. To access the full obituary, visit: [http://www.legacy.com/obituaries/orlandosentinel/obituary.aspx?pid=185623401](http://www.legacy.com/obituaries/orlandosentinel/obituary.aspx?pid=185623401).
RAYMOND CLOONEY, 69, passed away Wednesday, July 19, 2017. Clooney was born June 21, 1948, in Maysville, Ky. He volunteered and served his country as an infantryman in the United States Army, First Air Cavalry Division (2/8), Vietnam (1969–70). He was awarded the Bronze Star for combat operations in Tay Ninh Province, Republic of South Vietnam. He received his B.A. from the University of Kentucky, 1972; and his J.D. from the University of Louisville Louis D. Brandeis School of Law, 1975. His career and passion as an attorney was serving the indigent through the Louisville Metro Public Defender’s Office. He is survived by his loving wife of 50 years, Suzanne; son, Andrew Clooney (Christel); daughter, Kelly Clooney; grandchildren, Shea Clooney, Luke Clooney, Tyler Bieckert, Trevor Bieckert, and Kaden Bieckert.

The above information for Raymond Clooney was pulled from a version that appeared in the Courier-Journal on July 22. To access the full obituary, visit: http://www.legacy.com/obituaries/louisville/obituary.aspx?page=lifestory&pid=185896791.

WILLIAM A “MAC” MACKENZIE JR., 95, of Louisville, passed away on Friday, June 16, 2017. He was born July 18, 1921. He attended the University of Richmond on a baseball scholarship. He later entered Columbia Law School, and upon graduation, moved to Louisville where he practiced law for over 65 years. Along with being a very competent, compassionate and conscientious attorney, he was a devoted father, an avid gardener, a competitive golfer and tennis player, and a great bridge player. He is preceded in death by his wife Anne, and is survived by his sister Verna, a daughter Anne Boyle (Dave Boyle), son Bill (Crystal), son Doug (Evelyn), 7 grandchildren, and 13 great-grandchildren.

The above information for William A. “Mac” MacKenzie, Jr., was pulled from a version that appeared in the Courier-Journal on June 19. To access the full obituary, visit: http://www.legacy.com/obituaries/louisville/obituary.aspx?page=lifestory&pid=185842671.

JUDGE THOMAS BLAKE MERRILL, 79, died on Wednesday, June 21, 2017 at his home with his wife Gloria by his side. He was born on Sept. 14, 1937, in Westminster, Md. He spent his preteen years living with his family in Guam, and then Tokyo, where he attended high school at the American School in Tokyo, Japan. He earned his B.A. at the University of Hawaii in 1960, and his J.D. at the University of Louisville in 1965. After graduation, he made Louisville his permanent home and practiced law until he was appointed as a Quarterly Quart Judge in 1970. In 1977, he was elected to the Commonwealth of Kentucky District Court, where he served for 17 years. In 1994 he served in the family court until he retired in 1999. In 2015, Judge Merrill was honored by the Kentucky Bar Association as a Senior Counselor in recognition of his 50 years of service. He loved being a judge and an attorney. He is survived by his loving wife, Gloria French Merrill; a son, Thomas Carl Merrill of Bloomington, In., a daughter, Lena Elizabeth Merrill and her husband Brad Kloza of Rutherford, N.J., and two grandchildren, Elena Turner Kloza and Zoe Merrill Kloza.

The above information for Judge Thomas Merrill was pulled from a version that appeared in the Courier-Journal on June 25. To access the full obituary, visit: http://www.legacy.com/obituaries/louisville/obituary.aspx?page=lifestory&pid=185896791.

KAMILLA MILDRED MAZANEC, a pathfinder for women in legal education and a faculty mainstay at Chase Law School, died May 23, 2017. She was 82 and had lived in retirement in Milford, Ohio. Prof. Mazanec was among the earliest of her gender to win tenure-track status at an ABA-accredited law school, beginning in 1964 at Drake, and again in 1975 at Chase. In her first year of law school, a professor called upon her to recite in 31 of the course’s first 32 meetings, espousing the opinion that women in the profession were competing with men who needed the jobs to support their families. Once she became a law professor, Prof. Mazanec looked for ways to give a hand up to the women in her classes, who faced some of the same professional challenges as she had. Her classes in contracts, family law, and the UCC were laboratories in which she taught her charges how to fashion facts around a legal theory into a cogent argument. Prof. Mazanec taught for nearly 30 years at Chase, and for 10 years before that at Drake University in Des Moines, Iowa. She earned her undergraduate degree in English from Washington University in St. Louis, her LLB from the University of Missouri, Kansas City, and her LLM from Yale. Prof. Mazanec was a professional-caliber quilter, loved the theater, and indulged her poodle, Socrates.

She is survived by her son Rocky Hensley, his wife Paula, two grandchildren, many friends and colleagues, and generations of former students who recall her graciousness and her lessons in how to be a lawyer.

JUDGE FRANK O. TRUSTY, II, at age 77, died at his home in Park Hills, Ky., on June 8, 2017, after illness that spanned the last several months of his life. Judge Trusty was born in Jackson, Ky., on July 2, 1939. Judge Trusty earned his law degree at the University of Kentucky College of Law and was admitted to practice in 1964. Over the course of his legal career, he served the people of Kenton County as Commonwealth’s Attorney, Director of the Public Defender Program, Circuit Court Judge, District Court Judge, and Assistant Commonwealth’s Attorney between 1970 and 2016. Judge Trusty is survived by his beloved wife, Marilyn (nee: Carpenter); sons, Frank, III, Michael, Stephen; steps-son, Robert Bradford; and eight grandchildren. At Judge Trusty’s request, there was no funeral or other services. Judge Trusty donated his body to the University Of Cincinnati College Of Medicine for organ donation and education of the next generation of physicians. Judge Trusty requested that anyone wishing to do something in his memory make a donation to the Wood-Hudson Cancer Research Laboratory, Inc., 931 Isabella Street, Newport, KY 41071. Tel. (859) 581-7249.
Have an item for **Who, What, When & Where?** The *Bench & Bar* welcomes brief announcements about member placements, promotions, relocations and honors. Notices are printed at no cost and must be submitted in writing to: Managing Editor, *Bench & Bar*, 514 West Main Street, Frankfort, KY 40601 or by email to sroberts@kybar.org. Digital photos must be a minimum of 300 dpi and two (2) inches tall from top of head to shoulders. There is a $10 fee per photograph appearing with announcements. Paid professional announcements are also available. Please make checks payable to the Kentucky Bar Association.

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**Fowler Bell PLLC** announces that **Shawn D. Chapman** has joined the law firm as an associate in the firm’s litigation and commercial & business law groups. His practice will focus on trial and appellate litigation and appellate consultations for other attorneys. He holds a B.A. in English from the University of Kentucky, where he graduated *cum laude*, was elected to Phi Beta Kappa, and was awarded a John R. and Joan B. Gaines Fellowship in the Humanities. He received his J.D. from the University of Kentucky College of Law, where he was an articles editor for the Kentucky Law Journal and a member of the Moot Court Board.

**Bingham Greenebaum Doll LLP** announces that attorney **Aaron W. Marcus** has joined the firm as an associate and is now a member of the litigation department. He will continue to build his practice from the Louisville office. Marcus focuses his practice on handling a broad range of securities litigation issues. He is currently serving as a board member and as board development committee co-chair for Family and Children’s Place. Marcus also serves on the board of the St. George’s Scholar Institute. He is a member of the University of Louisville Law Alumni Council and is the former chair of the University of Louisville Law School Alumni Diversity Council. He received his J.D., *cum laude*, from the University of Louisville Louis D. Brandeis School of Law, where he was elected the Class of 2014 Most Outstanding Graduate by the law school faculty and staff.

**DelCotto Law Group PLLC** announces the addition of attorney **Heather M. Thacker** to the firm’s Lexington office. Heather received her law degree, *cum laude*, from the Louis D. Brandeis School of Law at the University of Louisville, and her bachelor’s degree from the University of Notre Dame. Before moving to Lexington, Thacker practiced with a Cincinnati law firm where she focused primarily on creditors’ rights. Here, she looks forward to concentrating her practice on consumer, business and municipal bankruptcies.

**Goss Samford, PLLC**, announces that **L. Allyson Honaker** has been named as the general counsel of the Kentucky Gas Association. Honaker is the Association’s first general counsel and will provide counsel on a wide range of legal issues to the Association and its 170 members, which is comprised of municipal and investor owned natural gas utilities and affiliates. She is a 1999 graduate of the University of Kentucky College of Law and a 1996 graduate of the University of Pikeville.

**Wyatt** welcomes **Thomas Travis** to the firm’s Lexington office. Travis will concentrate his practice in litigation & dispute resolution and transactional matters. Prior to joining Wyatt, he served as law clerk for Chief Justice John D. Minton, Jr., of the Supreme Court of Kentucky. He earned his J.D., *cum laude*, from the University of Kentucky College of Law and his B.S. (finance), *summa cum laude*, from Western Kentucky University. During law school, Travis served as the executive editor of the Kentucky Journal of Equine, Agriculture and Natural Resources Law and as a legal fellow for United States Senator Rand Paul.

**Park Community Credit Union** announces that **Kate McKune** has been named as general counsel. She has extensive experience with contract disputes, employment matters, and trustee breaches of fiduciary duties, among other areas. As general counsel for Park Community Credit Union, she will provide legal advice and support to the credit union in all aspects of its business. She received her undergraduate degree from Wake Forest University and her law school degree from the University of Virginia School of Law. McKune has volunteered
her time in roles for the Legal Aid Society and Dress for Success Louisville, is a past member of the Louis D. Brandeis American Inn of Court, and currently serves on the Board of Directors for the United Way of Kentucky.

As healthcare regulations mount, McBrayer increases its resources for providers with the addition of Bill George in the firm's Lexington office. George began his legal career as a prosecutor at the Fayette County Attorney's Office in 2007. After working in medical malpractice, he joined Frost Brown Todd and for the next six years helped defend long term care providers, but also provided critical assistance to national and international insurance carriers. In this role, he supported clients’ insurance regulatory and compliance operations, market conduct examinations, insurance product development and insolvency proceedings while coordinating and conducting regulatory and administrative hearings across the United States.

Adams, Stepner, Woltermann & Dusing, PLLC, announces that Olivia F. Amlung has joined the firm as an associate attorney. Amlung plans to practice in general litigation, insurance defense and family law. She received her B.A. degree in psychology from the University of Louisville, cum laude, and she graduated from the University of Cincinnati College of Law with a J.D. in 2016. Amlung served as a research assistant with the Office of State Senator Wil Schroder and worked as a staff attorney to the Honorable Richard Brueggemann.

Derek R. Durbin has joined the Fort Mitchell, Ky., office of Reminger Co., LPA. Durbin focuses his legal practice on Kentucky workers’ compensation, estate planning/probate, appellate advocacy, criminal defense, real estate, and government legal issues. Before joining Reminger, he maintained a private practice focusing on civil defense, creditors’ rights, estate planning/probate, real estate, criminal defense and appellate advocacy. Durbin also served as the chief juvenile prosecutor and an assistant county attorney for Campbell County, Ky., where he protected the welfare of children from abusive caretakers and assisted with municipal civil matters. He received his J.D. from the Salmon P. Chase College of Law, and his undergraduate degree from Western Kentucky University.

Wyatt, Tarrant & Combs, LLP, welcomes Julie A. Laemmle and Damon McCormick to its Louisville office. Laemmle joins the firm’s litigation & dispute resolution service team and concentrates her practice in the areas of commercial disputes, healthcare litigation and employment matters. She earned her J.D. in 2014 from Indiana University Maurer School of Law and her B.A., magna cum laude, from Saint Mary’s College (mass communication). Prior to graduating from law school, she was the senior managing editor of the Indiana Journal of Law and Social Equality and participated in the Sherman Minton Moot Court competition as a competitor and member of the Competition Board. McCormick joins the firm’s real estate and lending team and concentrates his practice on commercial lending transactions and the sale, acquisition, leasing and development of commercial property. He earned his J.D., cum laude, in 2014 from the University of Louisville Louis D. Brandeis School of Law and his B.S. from Valparaiso University (finance). While in law school, he was a Brandeis Academic Fellow and the supervising editor for the Journal of Law and Education.

Mooser & Associates, LLC, announces that Michael B. Hayes has joined the firm as an associate. Hayes received his J.D. in 1980 from the University of Louisville Brandeis School of Law and most recently served in private practice and as deputy master commissioner of Jefferson Circuit Court. Hayes will focus his practice primarily in the areas of real estate transactions, probate and trust administration, estate planning, and corporation planning.

C. Patrick Fulton and Judson F. Devlin are pleased to announce that Lyn D. Powers has been joined as a named partner and the Louisville firm of Fulton & Devlin, LLC, is now Fulton, Devlin & Powers, LLC. Powers is a 1995 graduate of Bellarmine University and a 1998 graduate of University of Kentucky College of Law. Fulton, Devlin & Powers practice is concentrated in workers’ compensation defense.
Russell & Ireland Law Group, LLC, of Covington, announces that LeAnna Homandberg joined the firm as an associate attorney in May 2017. She is a graduate of Regent University in Virginia Beach, Va., and received her J.D. from Salmon P. Chase College of Law in 2016. She concentrates her practice on personal injury litigation, but also assists clients with family and domestic and criminal issues. She is a Board Member of the Child Sexual Abuse and Exploitation Prevention Board of the Commonwealth of Kentucky.

Sturgill, Turner, Barker & Moloney, PLLC, welcomes Megan K. George. George joins Sturgill Turner after clerking for Judge Laurence VanMeter during his tenure on the Kentucky Court of Appeals, and most recently served as an Assistant Attorney General in the Kentucky Attorney General’s Office of Criminal Appeals. At Sturgill Turner, George’s focus will be on employment law and education law (K-12 schools and higher education). She earned her law degree and her bachelor’s degree from the University of Kentucky. She is a member of the Kentucky and Fayette County Bar associations, the Kentucky Council of School Board Attorneys, and the Junior League of Lexington.

Dinsmore & Shohl LLP welcomes Shaye Page Johnson to the firm’s Lexington office. Johnson is an experienced litigator, representing clients at depositions, mediations/arbitrations, hearings, trials and oral argument in state and federal courtrooms throughout the Commonwealth of Kentucky. Johnson will practice out of the firm’s litigation department and focus her practice in complex commercial litigation, tort litigation and insurance coverage and bad faith litigation. Johnson earned her J.D. from the University of Kentucky College of Law and her B.A. in political science from the University of Kentucky.

Vaughn Petitt Legal Group, PLLC, announces that Laura L. Tapp has joined the firm as an associate. Tapp received her J.D. in 2016 from the University of Louisville Brandeis School of Law. She will concentrate her practice on civil defense litigation.

Jennifer M. Jabroski has joined the Lexington office of Reminger Co., LPA. Jabroski focuses primarily in the areas of medical negligence, professional liability, premises liability, products liability, trucking and transportation litigation, and insurance matters. She graduated from the University of Kentucky in 2006 with a double major in political science and honors history, summa cum laude, before attending the University of Kentucky College of Law. A 2009 graduate, Jabroski was a participant in the American College of Trial Lawyers National Trial Competition and was awarded the CALI Award for Professional Responsibility. She was also published in the Kentucky Journal of Equine, Agricultural, and Natural Resources Law while at the University of Kentucky College of Law.

Masten Childers, III, joins Whiteford Taylor & Preston. Prior to joining Whiteford, Taylor & Preston, LLP, Childers spent years representing insurance, healthcare, banking and general business clients in their capacities as both plaintiffs and defendants by helping them resolve a wide range of disputes, including tort liability; lender liability; complex business disputes; breach of contract; shareholder/member disputes; breach of fiduciary duty; breach of non-compete agreement; insurance coverage disputes; slander and libel. Childers also brings with him extensive experience in representing plaintiffs in personal injury actions throughout the Commonwealth. In addition to continuing to provide litigation services in the corporate/business and banking world, Childers represents plaintiffs in medical malpractice actions, personal injury claims, wrongful death and toxic tort litigation.

Daniel Cameron, who has served as legal counsel to U.S. Senate Majority Leader Mitch McConnell since March 2015, has been hired as a principal of CivicPoint, Frost Brown Todd’s (FBT) full-service public affairs subsidiary. He will also serve as a senior associate in FBT’s Litigation Department. In Washington, D.C., Cameron was responsible for compliance and procedures promulgated by the Senate Select Committee on Rules and Administration. He handled an extensive legislative portfolio, including matters pertaining to the federal judiciary, law enforcement and criminal justice, patent and trademark issues, as well as telecommunications and broadband access. He attended the University of Louisville, where he was a member of the football team and graduated with a B.S. in political science in 2008. He
VanCleave received his J.D. from Salmon P. Chase College of Law in May 2012, graduating with a major in psychology. VanCleave served as a judicial clerk with the 30th Judicial Circuit, Division 2 in Louisville.

Frost Brown Todd (FBT) has added two new associate attorneys in its Louisville office. Nelson D. Rodes has joined the firm’s tax law practice group, where he focuses on civil and criminal tax litigation matters. He assists with the formation of non-profit entities and with the tax implications and general business transactions. He earned his J.D. at the University of Kentucky School of Law in 2013. He also has a Masters of Law degree from Georgetown University Law Center. Samuel W. Wardle is an associate in FBT’s business litigation practice group. He divides his practice between complex commercial and administrative actions and appeals in the Kentucky and federal courts. Wardle earned his J.D at the University of Miami School of Law in 2013, summa cum laude. Before law school, he worked as a newspaper reporter covering state and local government, business, and sports in North Carolina, and earned his B.A. in journalism from UNC-Chapel Hill.

Managing Intellectual Property magazine recently selected Stites & Harbison, PLLC, attorney Mandy Wilson Decker to the 2017 edition of Managing Intellectual Property’s “Top 250 Women in IP.” This is the third time Decker has been honored on this list. Decker is a member (partner) of Stites & Harbison based in Louisville and is a member of the firm’s management committee. She is a registered patent attorney. Her practice focuses on intellectual property protection strategy, including counseling clients on infringement, validity and patentability, transfer of intellectual property, patent drafting, and patent prosecution.

Heather Crabbe, assistant dean of students at Northern Kentucky University Chase College of Law, is one of just 40 young lawyers the American Bar Association (ABA) is recognizing nationally this year for professional accomplishments. Crabbe has received the “On the Rise—Top 40 Young Lawyers Award” of the ABA Young Lawyers Division that recognizes achievement, innovation, and leadership. The recognition of her accomplishments includes her work as assistant dean at Chase, as a Kentucky public defender prior to becoming an administrator, and as an entrepreneur in a virtual reality training program she is developing. Crabbe graduated from Chase in 2007, and worked for six years as a public defender in the Kentucky Department of Public Advocacy. She joined the Chase administration as outreach officer in 2014, to focus on increasing diversity in the student body. Her efforts, which included visits to historically black colleges and numerous telephone calls to prospective students, helped enroll the most diverse entering classes in Chase’s history in 2014 and 2015. She was named assistant dean of students in 2015.
Bingham Greenebaum Doll LLP announces that James R. Irving, chair of the bankruptcy and restructuring practice group, has been named the new managing partner of the Louisville office. Irving joined the firm in 2014 from the Chicago office of DLA Piper LLP (US). Irving focuses his practice on bankruptcy and restructuring matters. He has experience representing debtors, committees, trustees, purchasers, creditors and interested third parties in chapter 11 and chapter 7 bankruptcy cases, foreclosures, and out of court workouts. He received his B.A. in history and political science from Williams College and his J.D. from Vanderbilt University Law School.

Wyatt, Tarrant & Combs, LLP, announces that Allison L. Brown has been selected by Louisville Business First for its “Forty Under 40” award. According to Business First, “Forty Under 40 is a select group of up-and-comers who are on the leading edge in their occupations and share their time and talents in community service.” Brown is a member of the firm’s litigation and dispute resolution service team. She represents clients in a variety of cases, including health care litigation, employment matters and commercial disputes. She is based in the firm’s Louisville office. Brown is a member of the Women Lawyers Association of Jefferson County and participated in the Leadership Louisville Institute’s Ignite Louisville program in Spring 2016. She’s a cancer survivor and dedicated triathlete, which led her to become part of the Leukemia & Lymphoma Society’s Team in Training starting in 2011. Brown also serves on the Board of Directors for Kids Cancer Alliance, an assistant coach for Girls on the Run Louisville and is an active member of the Louisville Landsharks Multisport Club. She earned her undergraduate degree from Boston University, summa cum laude, and her law degree in 2010 from the University of Washington School of Law, with high honors.

Legacy, Greater Cincinnati’s Young Professional Organization, has selected Ashlee Coomer Foltz as a 2017 Next Generation Leader Award honoree. The award salutes the region’s young professionals under the age of 40 for significant accomplishments in their chosen professional field, demonstrated leadership, as well as their contribution to the community. Foltz serves as chief compliance officer at Cintas where she leads the global compliance and ethics program across a $4.9B enterprise with over 42,000 employees and 400+ locations in North America, Latin America and Asia. She earned a B.A. in English from Centre College and a J.D. from the University of Dayton School of Law. She is admitted to practice law in Kentucky, is a Certified Compliance & Ethics Professional, and holds an International Business Ethics and Compliance Certificate from Xavier University.

Stoll Keenon Ogden PLLC (“SKO”) and Bamberger, Foreman, Oswald & Hahn, LLP, (“Bamberger”) have closed the previously announced merger of the firms. The merged firm is now operating as Stoll Keenon Ogden PLLC, comprising 144 attorneys with offices in Louisville, Lexington and Frankfort, Ky.; Indianapolis and Evansville, Ind.; and Pittsburgh, Pa. With the addition of Bamberger, SKO more than doubles its number of lawyers licensed to practice law in Indiana. Bamberger was founded in Evansville in 1959, establishing its Indianapolis office in 1998. Kentucky-based SKO traces its roots to 1897 and is currently celebrating its 120th anniversary.

Adams, Stepner, Woltermann & Dusing, PLLC, announces that Kenton County Judge Executive Kris Knochelmann has appointed Scott M. Guenther to the Board of Directors for the Transit Authority of Northern Kentucky (TANK). His term is effective immediately and will expire on July 1, 2021. TANK is one of our region’s most important public agencies, as it provides reliable, safe, and affordable public transit essential to connecting Northern Kentucky’s businesses and communities. A member of the firm’s civil litigation, employment law, and business representation practice groups, Guenther is no stranger to public leadership. He has previously served on the Northern Kentucky Chamber of Commerce’s Board of Advisors, as chairperson on the Covington Business Council Board of Directors, and as a member of Edgewood City Council.

Stites & Harbison, PLLC, attorney **Adam Smith** has been selected as a member of Leadership Lexington’s Class of 2017-18. Commerce Lexington Inc.’s Leadership Lexington Program is a leadership development program directed toward individuals who demonstrate leadership qualities. The program gives participants the opportunity to better understand Lexington and to prepare for the challenges it faces by meeting with and learning from today’s leaders. Smith is a member (partner) of Stites & Harbison based in the Lexington office. He is a member of the construction service group and his litigation practice is focused on representing owners, contractors and subcontractors in construction disputes.

**Scott McIntyre**, a partner at BakerHostetler and leader of the Cincinnati office’s employment and labor practice, has been selected as a Fellow of the American Bar Foundation. The Fellows is an honorary organization of attorneys, judges, law faculty, and legal scholars whose public and private careers have demonstrated outstanding dedication to the welfare of their communities and to the highest principles of the legal profession. Membership in the Fellows is limited to one percent of lawyers licensed to practice in each jurisdiction. McIntyre is president of the Cincinnati and Northern Kentucky Federal Bar Association and a member of the Ohio Supreme Court’s Commission on the Rules of Practice and Procedure.

Wyatt, Tarrant & Combs, LLP, announces that the American Health Lawyers Association (AHLA) has selected **Michael N. Fine** as its chair of the tax and finance practice group. The AHLA is the nation’s largest, non-partisan educational organization that has been devoted to legal issues in the health care field for the past 50 years. The Association provides a platform for interaction and information exchange, produces non-partisan educational programs, products and services and serves as a public resource on health care legal issues. The tax and finance practice group addresses a wide range of issues such as IRS audits and rulings, tax-exempt status, intermediate sanctions, bond financing, joint ventures, physician and executive compensation, and other issues faced by nonprofit and for-profit health lawyers. Fine is a partner in the firm’s health care service team.

**Thompson Miller & Simpson** announces that **Lon S. Hays** has become a partner with the firm. Hays focuses his practice on the defense of healthcare providers in litigation. He has successfully represented hospitals, physicians, and health professionals in complex cases across the country. He received his undergraduate degree from Centre College and his J.D. from the University of Kentucky College of Law.

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Dinsmore & Shohl LLP’s Matthew P. Gunn has been elected chapter chair for the Mid-South Chapter of the American Immigration Lawyers Association (AILA). Gunn also holds the chapter’s seat on the AILA Board of Directors and continues to serve on AILA’s National Business Immigration Committee. AILA is a national immigration bar association of 15,000 members committed to promoting justice, fair immigration laws and policies and enhancing the professional development of its members. Gunn is a member of Dinsmore’s Labor & Employment Department where he concentrates his practice on business immigration law.

Hare, Wynn, Newell & Newton announces that trial lawyer Matt Minner of Lexington has earned a spot on the 2017 Lawdragon 500 list of the leading lawyers in America. Lawdragon’s “500 Leading Lawyers in America” recognizes the leadership and actions of attorneys who are shaping the practice of law in their respective areas. Less than than .01 percent of all lawyers in the United States were included as a member of the Lawdragon 500 and honorees were chosen based on a combination of peer nominations, online submissions and research conducted by Lawdragon’s editorial team.

Frost Brown Todd’s members have elected Adam Hall from the Cincinnati office to follow George Yund as the firm’s CEO when Yund steps down from that position next year. John Crockett of the firm’s Louisville office was re-elected as chairman of the firm. Crockett and Yund have served as the top leadership team for the firm’s 500+ lawyers and 500 additional staff members since 2009, opening new offices in Dallas and Pittsburgh, expanding the firm’s presence in Indianapolis, Nashville and Columbus, and moving the firm’s large Cincinnati office to the Great American Tower. Hall is a graduate of The Ohio State University and Case Western Reserve School of Law. Hall has represented the firm’s largest clients in complex litigation matters in many trials and appeals.

Vince Aprile, who practices with Lynch, Cox, Gilman and Goodman P.S.C. in Louisville, has been re-appointed to the editorial board of Criminal Justice magazine, the quarterly publication of the American Bar Association’s Criminal Justice Section. Aprile has previously been a member of the magazine’s editorial board (1989-2012, 2014-2017) and twice served as its chair (2005-09, 1991-93). He continues as the author of his column, Criminal Justice Matters, a regular feature of the magazine (1992 to present). He was also the featured continuing legal education presenter and critiquer at a special interactive two-day workshop on appellate brief writing at the Arizona Public Defender’s Association’s annual conference in Tempe, Az., June 19-21.

Kentuckians for Better Transportation (KBT) recently appointed Stites & Harbison, PLLC, attorney Steven Henderson to its Board of Directors through January of 2019. KBT is a statewide transportation association established in 1977 with a mission to educate and advocate for all modes of transportation in order to provide a safe, sustainable transportation network that fosters economic growth in Kentucky. Henderson is a member (partner) of Stites & Harbison based in Louisville and is a member of the firm’s construction service group. As a registered professional engineer and attorney, Henderson represents owners, contractors and design professionals in all aspects of the construction and design process.

A. J. Ullman, CEO of A & A Legal Nurse Practitioner Consultants, LLC, of Blue Ash, Ohio announces that Moonshine Cove Publishing, LLC, has signed him to a contract for his novel, “Drifting, Falling -- Diary of a Call Girl Suicide,” which focuses on mental health, crime and punishment. It will be available in print and digitally from the publisher and Amazon in October 2017.

The Million Dollar Advocates Forum announces that attorney David G. Bryant of Louisville, has been certified as a member.

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The Million Dollar Advocates Forum is recognized as one of the most prestigious groups of trial lawyers in the United States. Membership is limited to attorneys who have won million and multi-million dollar verdicts, awards and settlements. The organization was founded in 1993 and there are approximately 5,000 members located throughout the country. Bryant is a graduate of the University of Kentucky School of Law and specializes in personal injury litigation, including wrongful death, product liability, nursing home neglect and abuse, traumatic brain injury, and sexual abuse cases.

Connie M. Payne, who heads Kentucky Drug Court and other specialty court programs for the Administrative Office of the Courts, has been named to the National Association of Drug Court Professionals Hall of Fame for her lasting contributions to the treatment court field. Payne was inducted into NADCP's Stanley M. Goldstein Drug Court Hall of Fame on July 12. This is the highest honor bestowed by the NADCP. Named in honor of the nation's first Drug Court judge, the Goldstein Hall of Fame honors individuals whose work has not only improved individual treatment court programs but also enhanced the treatment court model and movement. Payne is the third Kentuckian to be inducted into the NADCP Hall of Fame. Supreme Court Justice Mary C. Noble (ret.) received the honor in 2004 and Court of Appeals Judge Debra Hembree Lambert received the honor in 2002.

Managing Intellectual Property magazine has named three Stites & Harbison, PLLC, attorneys to the 2017 “IP Stars” list. The publication recognizes the most highly regarded intellectual property attorneys in the U.S. “IP Stars” further separates honorees into two categories: Trademark Stars and Patent Stars. The following is a listing of Stites & Harbison's Trademark Stars and Patent Stars:

Kentucky (Patent Stars): - Joel T. Beres
- Mandy Wilson Decker
- David W. Nagle, Jr.

Kentucky (Trademark Stars): - Joel T. Beres and David W. Nagle, Jr.

Yvette Hourigan, the director of the Kentucky Lawyer Assistance Program (KYLAP) will be presenting with Court of Appeals Judge Debra Lamberti at the Kentucky Law Updates this fall. The issue is suicide among lawyers. The topic is "Ask a Question, Save a Life—What Can I Do to Help or Get Help?" The purpose of the discussion is to empower you to recognize a potential suicide crisis and what to do if you encounter one. Please join them as they explore this important and timely topic. A list of the remaining dates and locations for KLU 2017 is below. VISIT WWW.KYBAR.ORG/PAGE/KLUDATESANDLOCATIONS for information on how to register.

The Institute for Compassion in Justice (ICJ) promoted R. Ryan Maxwell to serve as office and project manager on July 25, 2017. Maxwell completed his undergraduate studies at Asbury University, majoring in political science with a minor in philosophy. He went on to graduate from the Brandeis School of Law at the University of Louisville. Maxwell began with the ICJ as a law clerk in the winter of 2015 and became staff attorney upon passing the bar in the summer of 2016.

Thompson Miller & Simpson announces that Chad O. Propst has become a partner with the firm. Propst’s practice focuses on healthcare litigation and consulting, as well as appellate, telemedicine, and contract litigation. He is a 2010 graduate of the University of Louisville Louis D. Brandeis School of Law.

The 2017 DATES & LOCATIONS

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September 28-29 (TH/F)

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October 5-6 (TH/F)

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EASTERN KENTUCKY EXPO CENTER
October 12-13 (TH/F)

OWENSBORO
OWENSBORO CONVENTION CENTER
October 19-20 (TH/F)

BOWLING GREEN
HOLIDAY INN & SLOAN CONVENTION CENTER
November 2-3 (TH/F)

PADUCAH
JULIAN CARROLL CONVENTION CENTER
November 15-16 (W/TH)

LEXINGTON
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December 12-13 (T/W)
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