

A Series

By Professor Rick Bales
with Wayne Schiess

Cultured Writing

In an ABA Journal essay on legal writing about twenty years ago, the late Irving Younger found it appalling that only 10 of 150 students in his evidence class recognized Patroclus as a character in the Iliad, and only one student recognized "The Rest is Silence" as Hamlet's last words.¹ Lamenting the quality of secondary and undergraduate education is certainly nothing new. But consider the other side of the coin for a moment: what is the value of a reference that less than 10% of the audience understands?

Writers must walk a fine line when adding cultural references to their writing. On the one hand, an apt or clever reference can make the reader smile or nod or pause for reflection, and can be a valuable way to sustain the reader's attention on what otherwise may be a less-than-titillating legal topic. On the other hand, a writer does not want to alienate the reader by making the reader feel excluded because the reader didn't understand the reference, or trivialize the subject material by adding a reference that seems flippant.

Before using a cultural reference, consider the purpose you intend the reference to serve. If its purpose is to impress the reader with your wit or cultural erudition, resist the temptation. Wit for the sake of wit is likely to distract the reader from the legal point you are trying to make. Similarly, trying to impress the reader with cultural knowledge often backfires. That's because it relies on exclusion: it strokes the ego of the cultured reader because she knows that the lumpen² masses won't understand. But if your reader didn't take a college class on Twentieth Century Russian Literature, she may not understand the meaning of "lumpen masses" and will resent you for making her feel ignorant.

Moreover, it's easier to make readers feel ignorant today than it was several years ago. Forty or fifty years ago, the concept of culture was more homogenous; a

writer could assume that a college-educated reader had read the Greek classics, most if not all of Shakespeare's plays, and a variety of other works of Western European literature. Today, however, the concept of culture has expanded significantly to include works from around the world, and some of the Western European classics have

been put aside to make room. Consequently, while most college-educated people likely have read one or a few of Shakespeare's plays, few people have read them all, and the ones you have read may not be the same ones your reader has read.



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One of my favorite recent cultural references is courtesy of Judge Karen Moore, of the United States Court of Appeals for the Sixth Circuit. Writing on the issue of how courts should approach consumer arbitration agreements that

shift arbitration fees to consumers, Judge Moore explained:

[T]he *post hoc* judicial review approach places plaintiffs in a kind of "Catch-22." They cannot claim, in advance of arbitration, that the risk of incurring arbitration costs would deter them from arbitrating their claims because they do not know what the costs will be, but if they arbitrate and actually incur costs, they cannot then argue that the costs deterred them because they have already arbitrated their claims. Just as Yossarian could not escape flying combat missions by claiming that he was crazy because anyone wanting to be released from combat must be sane, under this approach potential litigants cannot escape arbitration by claiming that the costs are prohibitive until after arbitration, at which point the costs were not

prohibitive, because the litigants actually arbitrated their disputes.³

Even if I had not read Joseph Heller's "Catch-22," I would understand Judge Moore's point that under the *post hoc* judicial review approach, there is no effective way for a consumer to object to the imposition of arbitration fees. Judge Moore had the best of both worlds: she used her cultural reference to make her point, but she didn't risk alienating the reader.

Here are some suggestions for using cultural references in legal writing:

First, read non-legal material regularly. This may enhance your understanding of other writers' cultural

references, but more importantly, it will help give you a non-legal frame of reference for what is good writing and what is not.

Second, keep a running list of cultural references, metaphors, and other phrases that enhanced your understanding of a subject. You might later have an opportunity to use them in your own writing.

Third, consider using popular references or references that are largely self-explanatory, such as Judge Moore's reference to "Catch-22."

Finally, remember that your goal is to lead your reader to a deeper understanding of your topic – not to impress the judge with your wit or your knowledge of cultural arcana.

Footnotes

1. Irving Younger, *Culture's the Thing*, reprinted in 8 SCRIBES J. LEG. WRITING 137 (2001-02).
2. "[O]f or pertaining to disfranchised and uprooted individuals or groups." WEBSTER'S NEW UNIVERSAL UNABRIDGED DICTIONARY 853 (1989). The term "lumpen masses" was frequently used as a derogatory term by Russian cultural elites in the 1920s and early 1930s to describe the target audience for the culture – socialist realism – that Stalin directed the cultural elites to create for the masses. The term fell into disfavor after Stalin had most of the cultural elites shot.
3. *Morrison v. Circuit City Stores*, 317 F.3d 646 (6th Cir. 2003) (en banc).

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J. William Howerton of Paducah retired from the Kentucky Court of Appeals in October 1996, having served as Chief Judge from 1986 through 1990. He currently has a limited practice and is also active as a mediator and arbitrator. A graduate of the University of Kentucky and the University of Kentucky College of Law, he was admitted to the Kentucky Bar in 1961. Judge Howerton is a Life Fellow.

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Endnotes

continued from page 10

52. 18 U.S.C. § 3742(e).
53. 18 U.S.C. § 3553(c). (Upon request, the U.S.S.C. must make these records and data available to the House and Senate Judiciary Committees.)
54. 18 U.S.C. § 3742(e).
55. 18 U.S.C. § 3742(g). For a more complete discussion of the Sarbanes-Oxley Act, see Steven Reed and Kent Wicker, *Keeping the Corporation Clean: Criminal Liability and Compliance After Enron*, and Joseph H. Terry and Emily M. Mooring, *The Sarbanes-Oxley Act and its Application to Private Companies*, BENCH & BAR, May 2003, Vol. 67, No. 3.
56. Pub. L. No. 107-204, 116 Stat. 745 (2002).
57. 116 Stat. 745, §§ 803-807.
58. *Id.* at § 903.
59. *Id.* at § 905.
60. *Id.* at § 1102.
61. U.S. SENTENCING GUIDELINES MANUAL, Amendment §§ 2B1.1, 2K1.3, 2K1.4, 2M5.3, 2M6.1, 2Q1.4, 2S1.1, 2X2.1, and 2X3.1.
62. Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Observe Terrorism Act of 2001, Pub. L. No. 107-56 (2001).
63. Pub. L. No. 107-188 (2002).
64. Pub. L. No. 107-197 (2002).
65. U.S. SENTENCING GUIDELINES MANUAL, § 2M6.1.
66. *Id.* at § 2K1.4.
67. *Id.* at § 2Q1.4.
68. *Id.* at § 2B1.1, § 2B2.3, § 2B3.2, and § 2M3.2.
69. *Id.*
70. *Id.* at § 2D1.1.
71. *Id.*
72. For a comprehensive discussion of recent Guideline changes, see the Sentencing Commission's website at www.ussc.gov.

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Ethics 2000 Comes To Kentucky

Kentucky's Rules of Professional Conduct Under Review

Ethics 2000 is the shorthand title given to the ABA commission chartered in 1997 to conduct the first comprehensive review of the Model Rules of Professional Conduct since their adoption in 1983. By the time the ABA approved an updated version of the rules in February 2002 virtually every rule was modified to some degree and rule comments were extensively embellished throughout.¹ Events subsequent to approval such as the Securities and Exchange Commission's final rule implementing the Sarbanes-Oxley Act resulted in further Model Rule modifications. It is perhaps more appropriate to describe where we are now in the process as "Ethics 2000 Plus."



Del O'Roark is the Loss Prevention Consultant for Lawyers Mutual Insurance Company of Kentucky.

Last June, in recognition of the advancement the revised Model Rules represent, then-KBA President Steve Catron formed the KBA Ethics 2000 Committee to review the revision and make recommendations to the KBA Board of Governors for changes to Kentucky's rules.² Ric Cusick was appointed chair of the committee and initiated work by holding an organization meeting at the Bar Center last September. Ric is particularly well qualified for this assignment. He is a former member of the KBA Board of Governors, worked extensively with the development of our current rules, and is a highly regarded expert in both lawyer and government ethics.

The purpose of this article is to highlight some of the more significant issues the committee will consider in making its evaluation of the revised Model Rules. It is intended to give you a feel for what's at stake, stimulate your inter-

est, and assist you in your own evaluation of needed changes in Kentucky's rules.

How We Got To Where We Are

For perspective, what follows is a brief look at how Kentucky arrived at its current professional conduct rules. Like all states Kentucky in the early days had no formal set of lawyer ethics standards. What developed in Kentucky, and in all other states, was an evolutionary process consisting of the adoption of a series of ethics standards, each more comprehensive than its predecessor. This process began in Kentucky in 1903 with the adoption of the Kentucky Code of Legal Ethics. It was replaced in 1946 with the Canons of Professional Ethics, which were in turn replaced in 1971 by the Code of Professional Responsibility. Kentucky was near the middle of the pack when it adopted its version of the Model Rules of Professional Conduct in 1990.³ At last count 45 states have adopted some version of the Model Rules in whole or part.

Some commentators philosophically disagree with this evolution and describe the process as the dumbing down of lawyer ethics standards. We have gone from "canons" (with a religious connotation) to "codes" (bringing to mind the great Roman and Napoleonic codes) to mere pedestrian rules. In so doing the core values and aspirational goals of the profession articulated in earlier versions of lawyer ethics standards have been subordinated to nitty-gritty, bureaucratic rule making.

The rejoinder is that earlier standards simply did not work well as a basis for lawyer discipline. Describing lawyer ethics in terms of core values and aspirational goals does not translate into a disciplinary system that adequately puts lawyers on notice of prohibited conduct. Much of the language in earlier ethics standards was

vague, subject to a variety of interpretations, and often lawyer friendly to the disadvantage of clients. The driving force behind the development of the Model Rules was to bring specificity to what is required of lawyers to meet their professional responsibility. After all, if a lawyer can face the professional death penalty of disbarment for ethics violations, the rules to afford due process must be as clear and precise as possible.

The 1983 Model Rules were a major step forward in achieving this goal, but experience revealed shortcomings in them. States, including Kentucky, adopted versions of the 1983 Model Rules with changes that to some extent diminished their effectiveness. These circumstances along with developments in ethics concepts over time led to the ABA Ethics 2000 Commission. The result is a new version of the Model Rules that is a significant improvement over the original. This gives the Kentucky Bar the opportunity to reconsider its rules with the benefit of the impressive work done by the ABA.

Did We Get the Rules Right in Kentucky in 1990?

The short answer is for the most part – yes. UK College of Law Professor Eugene Gaetke in his article *Kentucky's New Rules of Professional Conduct for Lawyers*⁴ provides an excellent review and evaluation of Kentucky's 1990 version of the Model Rules. While finding much good in the rules, he is critical of the decision to delete the duty to disclose adverse law from Rule 3.3, Candor Toward The Tribunal, and the failure to adopt Model Rule 8.3, Reporting Professional Misconduct. Professor Gaetke expresses concern with changes to the Model Rules that diminish their strength. Examples are changing the operative word "shall" to "should" in some rules, thereby relaxing the force of a rule,⁵ and deleting certain disclosure provisions.⁶ For a solid foundation in analyzing Kentucky's current rules in terms of the revised Model Rules start with Professor Gaetke's article.

The Big Picture of Changes in the Revised Model Rules

In the article "Overview of Ethics 2000 Commission And Report" Charlotte (Becky) Stretch provides this helpful summary of the thrust of rule revisions:

1. Clarified and strengthened a lawyer's duty to communicate with the client;
2. Clarified and strengthened a lawyer's duty to clients in certain specific problem areas;
3. Responded to the changing organization and structure of modern law practice;
4. Responded to new issues and questions raised by the influence that technical developments are having on the delivery of legal services;
5. Clarified existing rules to provide better guidance and explanation to lawyers;
6. Clarified and strengthened a lawyer's obligation to the tribunal and to the justice system;
7. Responded to the need for changes in the delivery of legal services to low and middle income persons; and
8. Increased protection of third parties.⁷

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Significant Rule Change Issues

Getting down to specifics, the key matters for the KBA committee to review concern carryover issues resulting from changes the Supreme Court made to the Model Rules in 1990 and the significant changes to several key rules in the Ethics 2000 Model Rules.

Carryover issues from Kentucky's 1990 Version of the Model Rules include the following:

- We did not adopt the Preamble to the Model Rules thereby eliminating the narrative describing a lawyer's responsibilities and the scope of the rules. Would our rules be improved if the Preamble were adopted now?
- We did not adopt Model RPC 1.17, Sale of Law Practice. Solo practitioners would benefit from its adoption.
- Should disclosing directly adverse legal authority to a tribunal be added to RPC 3.3, Candor Toward The Tribunal? We appear to be out by ourselves as a state in deleting this disclosure requirement.
- Should Model RPC 3.4(f), Fairness to Opposing Party, that was not adopted in 1990 be adopted now? This paragraph concerns requesting a person other than a client to refrain from giving relevant information to another party. This omission is an example of how Kentucky's rules are more lawyer friendly than the Model Rules.
- Should Model RPC 4.1(b), Truthfulness in Statements to Others, that was not adopted in 1990 be adopted now? This paragraph requires disclosure of material facts in certain circumstances. This omission is another example of how Kentucky's rules are more lawyer friendly than the Model Rules.
- Should Model Rule 8.3, Reporting Professional Misconduct, be adopted? Again, we appear to be out by ourselves in deleting this rule from our disciplinary system.
- Is it time to go along with the Model Rules and change "should" back to "shall" in several of our rules to strengthen them?

The KBA Ethics 2000 Committee in its organization meeting identified the following revised Model Rules as involving the most important changes in terms of Kentucky's rules:

- Rule 1.5, Fees
- Rule 1.6, Confidentiality of Information
- Conflict of Interest rules: 1.7 – 1.12
- Rule 1.13, Organization as Client
- Rule 3.6, Trial Publicity
- Rule 5.5 Unauthorized Practice of Law; Multijurisdictional Practice of Law
- Rule 8.5, Disciplinary Authority; Choice of Law

Additionally, the revised Model Rules:

- Add new rule, RPC 1.18, Prospective Clients
- Delete Rule 2.2, Intermediary
- Replace Rule 2.2 with new Rule 2.4, Lawyer Serving As Third-party Neutral

It is beyond the scope of this article to go into the details of these changes. Paragraph (b)(2) - (4) of revised Model Rule 1.6 however, is a good example of how significant some changes are. It now allows permissive disclosure of confidential information in the following circumstances that are not currently part of Kentucky's rule:

- (2) to prevent the client from committing a crime or fraud that is reasonably certain to result in substantial injury to the financial interests or property of another and in furtherance of which the client has used or is using the lawyer's services;
- (3) to prevent, mitigate or rectify substantial injury to the financial interests or property of another that is reasonably certain to result or has resulted from the client's commission of a crime or fraud in furtherance of which the client has used the lawyer's services;
- (4) to secure legal advice about the lawyer's compliance with these Rules....

If you are interested in reviewing a redlined version of the revised Model Rules, visit the ABA National Center for Professional Responsibility website at www.abanet.org/cpr.

continued

Summing Up

Kentucky's 1990 Rules of Professional Conduct represented a major step forward in establishing uniform standards for lawyer ethics. Some of the changes under consideration then were such a departure from past practice that it is fair to suppose we were simply not ready to move that fast and did not adopt them. With the passage of time these departures may not seem as extreme and after reconsideration may be more readily acceptable. What is important is that Kentucky lawyers are provided rules that are clear, comprehensive, and insofar as feasible, consistent with national ethics standards. The KBA Ethics 2000 Committee has a golden opportunity to take our Bar to a new and improved level of professional responsibility. ■

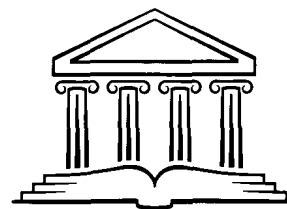
ENDNOTES

1. See Love, *The Revised ABA Model Rules of Professional Conduct: Summary Of The Work Of Ethics 2000*, 15 Georgetown Journal of Legal Ethics 441 (2002).
2. Committee members are: Chair, Robert I. Cusick; John T. Ballantine; Professor Edward C. Brewer; Stephen B. Catron; Donald H. Combs; Benjamin Cowgill; Jane Winkler Dyche; Professor Linda S. Ewald; Sheldon G. Gilman; Linda A. Gosnell; Jane E. Graham; Janet Jakubowicz; William E. Johnson; Chief Justice Joseph E. Lambert; Judge John D. Minton, Jr.; Michael J. O'Connell; Peter L. Ostermiller; Dulaney L. O'Roark; Peter L. Ostermiller; Olu A. Stevens; Professor Richard H. Underwood; and C.A. Woodall, III.
3. SCR 3.130; See Eberle & Underwood, *Kentucky Legal Ethics Opinions and Professional Responsibility Deskbook* (2d ed.), UK/CLE, for a compilation of current and former Kentucky ethics standards.
4. Gaetke, *Kentucky's New Rules of Professional Conduct for Lawyers*, 78 Kentucky Law Journal 767 (1989-90).
5. E.g., Rule 1.4, Communication.
6. Gaetke, *supra*, note 4, at 789.
7. This article is available on the ABA Center for Professional Responsibility website at www.abanet.org/cpr.

LEGALLY INSANE
BY JIM HERRICK



"Well, I think the confidentiality provisions are enforceable, but I'm not sure about this 'self-destruct' clause."



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Director

Stress in the Legal Profession

In my experience as a practicing lawyer for 33 years and as the director of the Kentucky Lawyer Assistance program, I have noticed that stress is becoming more and more prevalent throughout the legal profession.

Success is the goal of most, if not all, lawyers. It is one of the cornerstones of American society and it can bring admiration, promotion and a good income. Yet, with success, comes stress...large amounts of it.

What is stress? It is the physiological and psychological response to internal and external stimuli. In other words, it is our response to what is going on in our world that we are sensing, and our interpretation of what is going on and what it means.

Everyone experiences situational stress, such as marital or family difficulties, sickness, death of a loved one or friend, or loss of employment. In these and many other personal and professional situations, the only thing over which we have any control is how we deal with and cope with the situation.

Stress can be a good thing. It is a normal adaptation to preserve. Most lawyers say that moderate levels of stress motivate them to get urgent tasks accomplished and meet deadlines. In the short term, feeling stress can allow us to work at greater speed and effectiveness. Yet, if levels of stress remain high and constant, it begins to impinge on our work effectiveness and decrease our sense of satisfaction in all areas of our lives. It can be the result of our own doing and be self induced. Examples include worrying and getting upset about things over which we have no control, cannot change or are none of our business.

Symptoms of ongoing, excessive stress may include:

- Tension/agitation/impatience/cynicism
- Hypervigilance
- Sleep disorders
- Increased drug or alcohol use
- Excessive worry, fear and/or anxiety
- Guilt
- Physical exhaustion

Stress, if untreated, can become a way of life that is all-encompassing. As success demands more success, and work demands more work, the lawyer sets up a cycle in which he/she can never enjoy that success and work overwhelms personal life. It is a state of tension and preoccupation with maintaining high standards of performance, until those standards seriously strain physical, emotional, mental and relational limits. Life is out of balance.

Suggested stress prevention techniques include:

- HALT (Don't become too Hungry, Angry, Lonely or Tired.)
- Focusing on things you can change and control, remembering that the only person you can control is yourself.
- Breaking down projects into manageable pieces.
- Taking it one day at a time and one piece at a time.
- Keeping your head where your feet are.
- Accepting people, places and things. Acceptance does not necessarily mean agreement or approval.
- Taking care of your physical, mental, emotional and spiritual health.
- Maintaining integrity of your behavior and values.
- Taking time for yourself (alone) in meditation.
- Taking time for family and friends.

The good news is that there is a solution to the problem of excessive stress involving a gradual process of change of values and lifestyle. There are professionals who can walk you through this process and help you be accountable to yourself.

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Following is a list of **TENTATIVE** upcoming CLE programs. REMEMBER circumstances may arise which result in program changes or cancellations. **You must contact the listed program sponsor** if you have questions regarding specific CLE programs and/or registration. ETHICS credits are included in many of these programs — please check with the program sponsor for program details.

JANUARY 2004

- 7 Criminal Law from a
Prosecutor's Perspective
Cincinnati Bar Association
- 14 From the Halls of Justice: An
Inside Look at New Judges
Cincinnati Bar Association
- 21 How Much Should I Ask For:
The Proper Way to Value
Damages in PI Cases
Cincinnati Bar Association
- 22-23 New Lawyer Training
Cincinnati Bar Association
- 27 Tough Issues in Buy-Sell
Planning
Cincinnati Bar Association
- 28 Electronic Discovery
Cincinnati Bar Association

FEBRUARY 2004

- 4 Show Me the Money:
Collecting on a Judgment
When the Loser Refuses to
Pay
Cincinnati Bar Association
- 6 Civil Rights Seminar
Cincinnati Bar Association
- 11 Immigration Law
Cincinnati Bar Association

- 13 Heart to Heart Racial Justice
Breakfast
Cincinnati Bar Association
- 18 The Latest in Real Estate
Development
Cincinnati Bar Association
- 20 Advanced Estate Planning
Institute
Cincinnati Bar Association
- 25 Baseball and the Law:
Negotiating a Contract for a
Professional Baseball Player
Cincinnati Bar Association

MARCH 2004

- 3 Corporate Entity
Cincinnati Bar Association
- 5 Sports and Entertainment
Law
Cincinnati Bar Association
- 10 Domestic Relations
Cincinnati Bar Association
- 17 In the Middle of the Night:
Advice on Handling Late
Night Calls from Friends,
Clients and Employees in
Trouble
Cincinnati Bar Association
- 26 Civil Litigation Institute
Cincinnati Bar Association

- 30 Spring Break Seminar
(March 30-April 1)
Kentucky Academy of Trial Attorneys

APRIL 2004

- 2 Elder Law Seminar
Cincinnati Bar Association
- 7 Retirement Plans for Small Businesses
Cincinnati Bar Association
- 14 Copyright/Trademark
Cincinnati Bar Association
- 16 Insurance Law
Kentucky Academy of Trial Attorneys
- 21 Basic Estate and Gift Tax Planning
Cincinnati Bar Association
- 23 Law & the Media Workshop
Cincinnati Bar Association
- 28 Real Estate Issues in Bankruptcy
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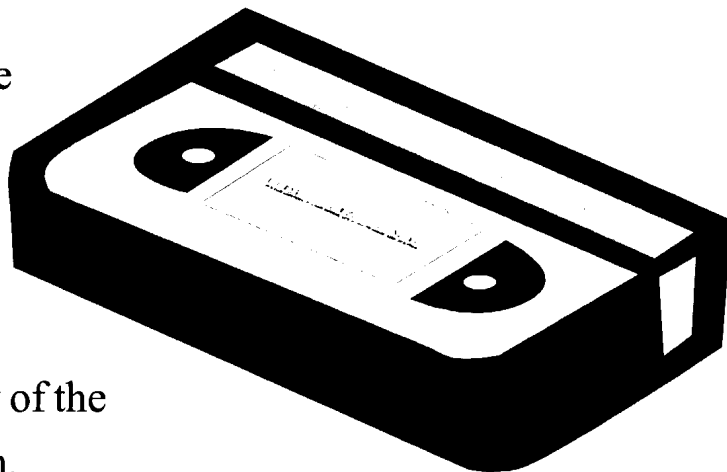
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Four Points Sheraton
Lexington, Kentucky

OCTOBER 13-14, 2004
Louisville/Frankfort

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Nursing Home Ombudsman Agency of the Bluegrass, Inc.

In January 2001 the Nursing Home Ombudsman Agency's (NHOA) Board and staff came to the realization that merely reporting allegations of abuse and neglect in nursing homes to state authorities was simply not enough. People were continuing to suffer and even die from poor care and mistreatment. National data indicated that Kentucky nursing home residents were not alone in suffering abuse and neglect at the hands of their caregivers and relatives. NHOA then began a concerted effort to identify and address the root causes of continuing abuse and neglect in our state's nursing homes.

The first foray into this arena was a study of the response by state social services workers and law enforcement to allegations of abuse, neglect and exploitation. The findings were very discouraging. Case after case was observed where law enforcement agencies failed to effectively deal with nursing home abuse, leaving elderly residents to be abused yet again. The whole system was found to be rife with inconsistencies and unenforced regulations, leading to little or no protection for the abused. Under the

direction of NHOA's Board of Directors, work began to bring about change.

The proposed remedy for more effective law enforcement was additional education and training. It was determined that most often, the failure of police departments and individual officers to follow completely through with allegations of abuse in nursing homes was the result of unfamiliarity with both the nursing home arena and the entire area of elder abuse. The same officers who acted assertively and decisively when dealing with child or spouse abuse were unsure of their authority inside the nursing home and oftentimes appeared to take the suspected abuser's or the employer's word that no abuse occurred without ever seeing the victim.

A grant from the Kentucky Bar Foundation provided NHOA the opportunity to collaborate with the Department of Criminal Justice Training (DoCJT) at Eastern Kentucky University to develop a training program for local law enforcement. The objectives of this project were many: to assure access to protection and justice by residents of long-term care facilities who are abused; to raise the level of awareness among law enforcement professionals of abuse, neglect and exploitation of nursing home residents; to give law enforcement personnel a solid understanding of the role of law enforcement in addressing this abuse; to help develop a comfort level in working with the elderly population; to encourage law enforcement personnel to view the nursing home as a regular and normal part of their service areas; and to foster the development of routine processes whereby abuse of nursing

home residents is dealt with in a consistent manner.

There is more, much more, that requires examination and remedy in Kentucky. Elder abuse is rampant nationwide and is being addressed in only the most cursory manner. No single organization can fix the system, yet inaction by a single entity can bring the system grinding to a halt. If advocates fail to train and respond, if state social services fail to investigate, substantiate and pur-

sue, if regulators sit on their hands, if law enforcement is timid, if prosecutors are indifferent, or if judges don't appropriately react, then justice for abused elders is denied.

The Kentucky Bar Foundation's grant to NHOA has supported a very significant program to assure that law enforcement continues to improve its protective services. The training program funded by the Bar Foundation grant will help reduce the incidence and severity of

elder abuse, enhance victim and public safety, and hold perpetrators legally accountable for elder abuse, neglect and exploitation. Only effective law enforcement can ensure that justice prevails for the victims of nursing home abuse, thus protecting our family members and friends who are dependent upon nursing home care for their daily needs. The Kentucky Bar Foundation is making a difference in helping to bring about more efficient and effective nursing home law enforcement.

Children FIRST

Founded in Louisville in 1990, Children FIRST was the first Child Advocacy Center in Kentucky. Now a program of Family & Children's Counseling Centers, a 120-year-old institution serving children in crisis, it continues to respond promptly to children coping with the trauma of having been sexually abused. This program is the gateway to services for these children, all of whom are referred by area police, child protection services personnel and physicians in Jefferson and surrounding counties. In 2003, 758 child victims were aided by Children FIRST.

Children FIRST is a child-focused, child-friendly, community oriented prevention and treatment center. It provides services including forensic interviews, specialized medical exams, mental health assessment, treatment and referrals, and community training and education. Its newest component, forensic interviewing, was established in 1999. To date, more than 1,250 interviews have been conducted at Children FIRST using a forensic interviewer, 90% of those originating from Jefferson County alone.

National statistics indicate that one in four girls and one in six boys are sexually abused by the age of eighteen. However, less than one in ten is actually reported. The Department of Justice reports that 71% of all sex crimes are victims under the age of eighteen. In the year 2002, there were 95,617 reported incidents of child abuse in the Commonwealth of Kentucky.



Reports of sexual abuse, which are chronically underreported because of the nature of the relationship between the perpetrator and the victim, accounted for 4,872 of the total reports. In Jefferson County and the surrounding area, there were 855 reports of child sexual abuse.

It is imperative to understand the importance of Children FIRST and what it means to the children of this area who have been victims of abuse. The Kentucky Bar Foundation has shown its understanding and support by funding Children FIRST's forensic interview program. Without KBF's help, this program would not

continued

exist and continue to flourish. It is the responsibility of Children FIRST and all citizens to continue to minimize the trauma for child victims of sexual abuse and be certain that they are not victimized by the very system designed to protect them.

According to R. David Stengel, Commonwealth Attorney, 30th Judicial District, "The use of a trained forensic interviewer has enhanced the prosecution of child sexual abuse cases in Jefferson County. This is due to the ability of the interviewer to appropriately interview children who have disclosed abuse. Additionally, a trained interviewer conducts the interview while representatives from law enforcement, child protective services and the Commonwealth Attorney's Office observe through a one-way mirror.

This ensures that the information needed by each agency is obtained in the least traumatic way for the child."

The number of clients that Children FIRST serves is increasing each year as families' comfort with reporting sexual abuse rises. As this occurs, the organization is striving to not only respond to every child in a timely manner, but to strengthen the quality of that response. Forensic interviews, conducted by trained professionals, are an essential element of helping children to recover. By providing evidentiary information, they also afford the judicial system and family a means for effectively prosecuting the alleged perpetrator. Children FIRST recognizes that the Kentucky Bar Foundation grant has helped make this possible.

*They are the law-givers and saviors, the light-bringers,
way-showers and truth-tellers, and without them,
humanity would lose its way in the dark.*

Plato

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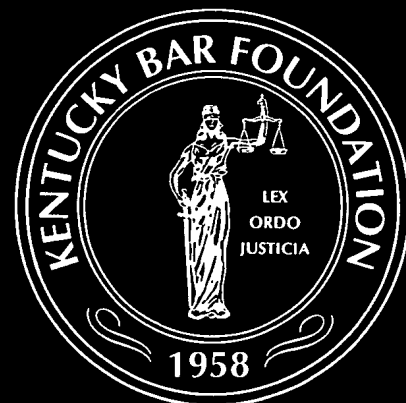
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Judicial Ethics Opinions

JE-103

October 3, 2003

Question 1: Where a judge's attorney in a pending matter or his opponent's attorney appears in front of him, must the judge automatically disqualify?

Answer 1: Yes. In such situations a judge's impartiality might reasonably be questioned. Canon 3(E)(1). The judge may, however, ask the parties and their attorneys if they wish to waive the disqualification. Canon 4(F). Judicial Ethics Opinion JE-96 Reversing is hereby modified accordingly.

Question 2: Where members of the law firm of the judge's attorney or members of the law firm of his opponents' attorneys appear in front of the judge, must he automatically disqualify?

Answer 2: No. The judge, if aware of the relationship, is required to give notice; however, because of the Commentary to Canon 3(E)(1) which states that the judge must give notice regarding anything he believes the parties and their attorneys might consider relevant to the issue of disqualification even if he does not consider the

information relevant. But, once notice is given, the judge is not required to recuse. If the judge is not willing to recuse and the parties object, they have a statutory remedy.

Question 3: Where a co-defendant's lawyer or another member of the law firm appears before the judge, is the judge disqualified?

Answer 3: No. But, as above, the judge, if aware of the relationship, is required to give notice. He is not required to recuse just because the parties or the attorneys want him to. Where an objection is made and judge is not willing to recuse, there is a statutory remedy.

Over the last several years, in Kentucky and elsewhere, there has been a trend for law firms to merge and the result has been very large law firms numbering 100 attorneys or more. This has created some difficulty with regard to Code of Judicial Conduct mandates concerning the notice of disqualification where a judge is sued and he and his co-defendants choose to be represented by very large law firms. The Commentary to the Code clearly requires a judge to give notice of a potential conflict any time he believes that the parties or the attorneys might consider the information relevant even if the judge does not consider the information relevant. Even in situations where the law firms in question are very large, the Committee believes that

most parties and their attorneys would consider the fact that the judge was represented by a lawyer who was a member of the law firm the attorney in front of him also belonged to had some bearing on the issue of disqualification. Therefore, even where a judge believes that he can be fair and impartial, he should provide notice of the potential conflict to give the parties an opportunity to voice an objection should they wish to do so. If the judge still believes that he can be fair and impartial, he can deny the motion to recuse and the parties may go to the Chief Justice.

The Committee does not believe, however, that a judge has the burden of reviewing every case file for potential conflicts. Rather, the judge is only required to give notice as he becomes aware of them. Because the Committee believed that the general public would regard notice as necessary even where the law firms were very large, these rules for notice of disqualification protect the appearance of impartiality and protect the judges and the judiciary from the appearance of impropriety. Certainly, no clear precedent for a more lenient notification standard was found; therefore, the Committee concluded that the Code could not be interpreted any other way. For these reasons the Judicial Ethics Committee construes the notification requirements as explained above.

Hon. James L. Bowling,
Circuit Judge
Chairman
The Ethics Committee of the
Kentucky Judiciary

YOUNG LAWYERS

SECTION OF KENTUCKY

The most frequently asked question of me by new lawyers at New Lawyers' Skills Programs is, "Why should I join the Kentucky Bar Association's Young Lawyers' Section?" I wish I had an hour to respond to each and every person who asks. Since I typically don't, I would like to take this opportunity to inform all young lawyers of the benefits of being a member of the Young Lawyers' Section.

For those of you who are not sure whether you are still (or alternatively fear that you are no longer) a young lawyer, let me set forth the eligibility requirements. Many of you who know me wonder how it is possible that I could still qualify for young lawyer status. It's this simple: if you have practiced for less than 15 years, or if you are under 40 years of age - you are considered a "young lawyer." Therefore, one of the many benefits of being a member of the section is the opportunity to meet with and pick the brains of lawyers who have been practicing for as many as 15 years. We're not all Spring chickens, and I have been amazed at how much I have learned from my cohorts in the YLS.

Another great advantage to being a member of the YLS is the number of social events. Each year, we schedule numerous "Meet and Greets" throughout the state which allow young lawyers to mingle with Supreme Court Justices, Federal Court Judges, local Judges, and other attorneys. There are also receptions following the New Lawyers' Skills Programs, as well as the Annual Convention. These are just a few of the social events that will not only satisfy your appetite, but will allow you to meet some really great lawyers from all around this Commonwealth.

That is not to say that the YLS is just all fun and games. Quite to the contrary. Since its inception, the YLS has served an active role in the New Lawyers Skills Program by providing each program attendee a New Lawyers' Handbook in compact disc format. It is a desktop resource for substantive areas of law as well as law practice management. Executive Committee Members of the YLS also volunteer many hours of their time to prepare for and serve as speakers at these programs.

The YLS is also very active in all activities of the Kentucky Bar Association. YLS members serve on the Annual Convention Planning Committees, the Board of Governors, and the Kentucky Bar Foundation. Our section sponsors a track of seminars at the annual convention, which is culminated by our annual luncheon, featuring nationally renowned speakers, such as trial lawyer and author, Michael Papantonio, as well as American Bar Association President A.P. Carleton, Jr. The YLS luncheon also includes the presentation of the Outstanding Young Lawyer Award, for which our Executive Committee



*Sheila Hiestand, Chair
Kentucky Bar Association
Young Lawyers' Section*

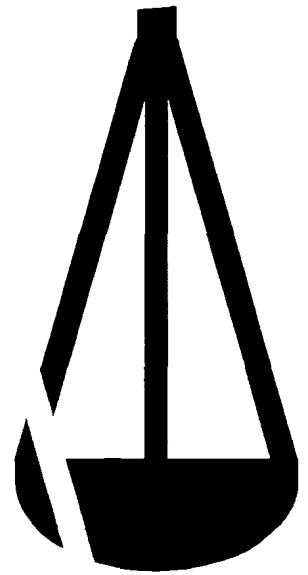
"Many of you who know me wonder how it is possible that I could still qualify for young lawyer status. It's this simple: if you have practiced for less than 15 years or if you are under 40 years of age - you are considered a 'young lawyer.'"

solicits statewide nominations. This award recognizes young attorneys who excel not only in their legal careers, but also through their community and civic involvement.

Much like our award recipients, the YLS is dedicated to community service. Each year, the section focuses on many programs designed to help our communities and reach out to those who need us. Whether it is through an ABA created program, or one that the YLS has itself created, community and civic duty are a big part of being a member of the YLS.

Perhaps the most exciting advantage to becoming a member of the Young Lawyers' Section is the opportunity to become involved at the national level with the American Bar Association Young Lawyers' Division. Over the past several years, several members of the Kentucky YLS have become leaders in the ABA Young Lawyers' Division. They have traveled all over the country addressing the goals and concerns of young attorneys throughout the nation and, as a result, discovering better ways to serve our attorneys and communities here in Kentucky.

As you can see, there are so many advantages to becoming a member of the Young Lawyers' Section. I could not possibly do it justice in a brief conversation while passing in a hallway. In the future, I would encourage everyone, young and not-so-young lawyers alike, to visit our link on the Kentucky Bar Association web site, www.kybar.org. There you will find our section's web page, where you can identify the members of the executive committee, the minutes from our meetings, a list of upcoming events, as well as other helpful information. As they say, "membership has its privileges."



YOUNG
LAWYERS
SECTION OF KENTUCKY

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DO YOU KNOW AN OUTSTANDING YOUNG LAWYER?

The Kentucky Bar Association Young Lawyers Section is accepting nominations for the 2004 Outstanding Kentucky Young Lawyer Award. The award, which will be presented during the YLS luncheon at the 2004 KBA Annual Convention, recognizes an individual with distinguished service and accomplishments in legal, civic and community areas.

Young attorneys meeting either of the following criteria are eligible for nomination:

1. Attorneys under age 40; or
2. Attorneys who have practiced law fewer than ten years regardless of age.

KBA members may nominate fellow members of the bar. Self-nominations will be accepted. To obtain a nomination form, please call or write to:

Walter Aden Hawkins
P.O. Box 10120, Bowling Green, KY 42102
Phone: (270) 782-6000 Fax: (270) 782-8820
Email: whawkins@hughesandcoleman.com

Nominations must be received by April 9, 2004



**Salmon
P. Chase
College of Law**



**Louis D. Brandeis
School of Law**

Alphonse A. Gerhardstein to Speak on the Practice of Public Interest Law

Alphonse A. Gerhardstein, nationally recognized civil rights attorney will speak on the practice of Public Interest Law on January 20, at 7:30 p.m. in NKU's Otto Budig Theater. Mr. Gerhardstein's presentation will be held in conjunction with the newly formed Chase Public Interest Group (CPIG). This student organization seeks to educate future lawyers of the inequities that exist in society and will encourage students to dedicate personal and professional energy to the growth of a more just society. Additionally, the group will work to provide resources for the ultimate benefit of the underrepresented and unrepresented members of society. Mr. Gerhardstein's presentation is free and open to the public.

The Cincinnati Firm of Wood, Herron & Evans Establishes Intellectual Property Scholarship at Chase College of Law

The College of Law is pleased to announce that the law firm of Wood, Herron & Evans has recently established an annual scholarship at Chase. The scholarship is intended to encourage and strengthen student interest and to recognize student excellence in Intellectual Property Law. The College of Law wishes

continued opposite column

ORAL ADVOCACY SUCCESS CONTINUES

In November, law students added to list of Brandeis wins in oral advocacy competitions. The Health Law Moot Court team received three of the four major titles awarded to individuals during the competition held at Southern Illinois. That same weekend, the law school hosted the Regional ABA Negotiation Competition. This is the fourth time in five years that Brandeis has placed two teams in the final four of the competition. The winning team will compete in the national competition in San Antonio. Only a week later, Brandeis won the Kentucky Intrastate Mock Trial Competition. These success stories add to the 19 oral advocacy awards received since 1995.

Law School Hosts Forums

Brandeis School of Law hosted several events during the fall semester. The Diversity Forums held each month included a panel discussion on public accommodations and housing and access for individuals with disabilities. Panelists included Charles Rogers, Gretchen Avery, and Professor Sam Marcosson. The October forum was a debate on the Patriot Act, with Timothy H. Edgar (Legislative Counsel for the National ACLU Office in Washington, DC, Responsible for National Security, Terrorism, and Immigration) and Erwin Roberts (Assistant US Attorney for the Western District of Kentucky and Anti-Terrorism Task Force Coordinator) serving as panelists, and Dr. Ricky Jones (Professor of Pan-African Studies at the University of Louisville) serving as moderator.

In September, a panel debated issues of hate speech. Panelists included Professor Russell Weaver, Associate Dean Cedric Merlin Powell, Professor Paul Salamenca (University of Kentucky), Professor Bill Ariza (Loyola, Los Angeles), Professor Eric Sales (Montpelier), and Professor Dieter Doerr (Mainz).

In November, the law school hosted a half day CLE program presented by the Access Center Partnership. The seminar topic was "You Be the Jury: What's Fair in Accommodating an Employee with Mental Illness?" All members of the audience served as four jury panels. Participants in presenting this trial included James D. Moyer, Magistrate Judge, U.S. District Court, Western District of Kentucky, attorneys Ollie Barber, Tom Ebendorf, Jim Cockrum, Shelly Henry, Mitzi Fields Root, and Bob Reynolds. Jury forepersons were attorney Edwin S. Hopson and students Jill Robertson, Jason Nemes, and Malicia Hitch. The "hindsight" panel discussion was presented by Professor Sam Marcosson, attorney Toni Whalen, and members of the trial presenting group.

continued on page 49



The Story Behind The Story . . .

The University of Kentucky College of Law Trial Competition Team recently finished fifth in the nation. It is an accomplishment worthy of note. And there is a story behind the story that makes the accomplishment even more notable.

First, the story. Every year the "Tournament of Champions" competition brings together the top sixteen trial competition teams from law schools across the country. Teams from the various law schools are ranked in the top sixteen on the basis of the programs' multi-year records in trial competition tournaments. To be invited, therefore, is an indication of the strength over the years of a school's program. UK was invited to the Tournament of Champions for the first time last year, and finished a solid twelfth out of the sixteen teams.

This year UK was again invited to the Tournament of Champions. The four students won three of their four trials and missed getting into the final four by a very small margin. Finishing fifth in such company is a wonderful result, and we congratulate this year's team, the prior years' teams whose performances helped secure the invitation to compete, and their coach, Professor Allison Connelly. We also thank the many law firms whose support of the trial competition program has helped us in these achievements.

Next, the story behind the story. It turns out that all four members of the team, and their coach, are natives of Kentucky and the products of Kentucky higher education. Among the members, Lysie Gaddis is from Owensboro and got her undergraduate degree at UK, Clayton Oswald is from Crab Orchard and got his undergraduate degree at EKU, Nute Bonner is from Lexington and got his undergraduate degree from Centre, and Laura Ball is from Madisonville and got her undergraduate degree at UK. Their coach, Allison Connelly, is a native of Ashland and got her undergraduate and law degrees from UK.

As President Todd has on numerous occasions observed, our best students can compete with the best students in the nation, but sometimes our students and the Commonwealth need to be reminded of that fact. There can be no better reminder, no better exemplar, than the 2003-2004 UK Trial Competition Team, one of the top five in the nation.

to recognize the efforts of Don Frei, a long-time Intellectual Property Adjunct Faculty Member at Chase College of Law, and partner in the law firm of Wood, Herron & Evans, in establishing this scholarship.

Chase Alumni to be Sworn In Before the United States Supreme Court.

Thirty-five Chase alumni will be making a trip to Washington, D.C. to be sworn in before the United States Supreme Court on April 5, 2004.

First Annual Alumni Weekend June 4 and 5

The Chase Board of Governors is hosting the first annual Alumni Weekend on June 4 and 5, 2004. Events will include a golf outing, a CLE program, a gala and awards program. Information will be forthcoming in early 2004.

Brandeis, continued

Brandeis Lecture

Associate Supreme Court Justice Stephen Breyer will speak on "Justice Brandeis as a Legal Seer" on Monday, February 16, 2004, 6:00 pm, Seelbach Hotel. For more information, call Simone Beach at 502-852-6366 or email sbeach@louisville.edu. Ticket cost \$75, \$750 for a table for ten. A portion of the cost will fund the classroom renovation dedicated to Wilson W. Wyatt. Deadline for reservations is January 16, 2004.

Before You

Move...

Over 14,000 attorneys are licensed to practice in Kentucky, and it is vitally important that you keep the KBA informed of your correct mailing address.*

Pursuant to rule SCR 3.175, all KBA members must maintain "a current address at which he or she may be communicated with by mail."

If you move, you *must* notify the Executive Director of the KBA **within 30 days**. Please include your five (5) digit KBA member identification number.

Send address changes to:

**Kentucky Bar
Association
Executive Director
514 W. Main St.
Frankfort, KY
40601-1883**

* Announcements sent to the *Bench & Bar's Who, What, When & Where* column do not constitute a formal address change with the KBA.

SUMMARY OF MINUTES KBA BOARD OF GOVERNORS MEETING SEPTEMBER 19-20, 2003

The Board of Governors met on September 19-20, 2003. Officers and Bar Governors in attendance were *President* J. Stevenson, *President-Elect* K. Westberry, *Vice President* D. Sloan, *Immediate Past President* S. Catron, *House of Delegates Chair* L. York and *House of Delegates Chair-Elect* L. Hopgood, *Young Lawyers Section Chair* S. Hiestand *Bar Governors: 1st District* – C. Woodall, M. Whitlow; *Bar Governors 2nd District* – C. English, Jr., C. Moore; *3rd District* – J. Dyche, R. Madden; *4th District* – J. White, M. O'Connell; *5th District* – S. Kinkead, Jr., D. McSwain; *6th District* – B. Bonar, M. Grubbs and *7th District* – D. Combs, J. Rosenberg.

In Executive Session, the Board considered five (5) discipline cases, involving two attorneys. Sheila Mann of Frankfort and Roger Rolfes of Florence, non-lawyer members serving on the Board pursuant to SCR 3.375 participated in the deliberations.

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

- Heard status reports from the Budget and Finance Committee, Client Assistance Program, Donated Legal Services Committee, Ethics 2000 Committee, Lawyers Assistance Program, Office of Bar Counsel and Rules Committee.
- Approved amending KBA Bylaw Section 12 to exempt from term limits members of the Ethics Committee serving on the Ethics Hotline.
- Approved the appointments of Leif Ratliff of Madisonville for the 1st Supreme Court District and Michael Vitale of Bowling Green for the 2nd Supreme Court District to the Kentucky Bar Foundation Board of Directors.
- Sheila Hiestand, reported on behalf of the Young Lawyers Section, regarding the sections activities and programs. The theme for the section this year is Professionalism. The section is also working on setting up a list serve as a service to young lawyers.
- Approved the carry forward of section funds for fiscal year 2002-2003.
- Approved the carry forward of computer funds for fiscal year 2002-2003.
- Received report on status of Bar Center expansion/renovation project.
- Received Annual Report of CLE Commission to Supreme Court.
- Received and reviewed Fiscal Year June 30, 2003 annual audit report prepared by independent auditors Kelly, Galloway & Company of Ashland.

**ATTORNEYS' ADVERTISING COMMISSION
PROPOSED REGULATIONS
EFFECTIVE DATE**

The Attorneys' Advertising Commission received a large volume of comments concerning its proposed regulations. The Commission continues to study those comments and is in the process of making appropriate revisions to clarify the regulations and address issues raised in the comments.

The Attorneys' Advertising Commission will announce the effective date of the regulations after a final set of regulations is issued. The final regulations will be published in the *Bench & Bar* for the benefit of the Kentucky Bar Association membership.

If there are any questions concerning these regulations, you may address those questions to the Chief Bar Counsel Linda Gosnell, Office of Bar Counsel, Kentucky Bar Association, phone (502) 564-3795 extension 271, or e-mail lgosnell@kybar.org.

To KBA Members



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

March 12-13, 2004
May 14-15, 2004

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

In Memoriam



Theodore H. Amshoff, Jr.
Louisville

Edward T. Breathitt, Jr.
Lexington

Jerald Edward Condit
Mason, OH

W. Major Gardner
Englewood, CO

H. David Hermansdorfer
Ashland

John Woodford Howard II
Prestonsburg

Lawrence L. Jones III
Louisville

Lee B. Lanter
Covington

Ernest W. Rivers, Jr.
Ramsey, IN

Samuel J. Rozel
New Canaan, CT

Lewis A. White
Mount Sterling

Katherine L. Wood
Maysville

COMMONWEALTH OF KENTUCKY
JUDICIAL CONDUCT COMMISSION

ORDER OF PRIVATE REPRIMAND
(SUPREME COURT RULE 4.020(1)(b)(v))

The Judicial Conduct Commission hereby issues a private reprimand to a candidate for judicial office for violating Canon 5B(2) of the Code of Judicial Conduct. The candidate agreed to accept without formal proof the disposition made in this Order.

Prior to the general election in 2003, a judicial candidate mailed a campaign letter to individuals soliciting campaign contributions. The Code of Judicial Conduct states that a solicitation for campaign funds can only be made by the candidate's campaign committee. Therefore, the Commission determined that the judicial candidate, in making the direct solicitation, violated Canon 5B(2) which reads as follows:

A judge or candidate for judicial office shall not solicit campaign funds, but may establish committees of responsible persons to secure and manage the expenditure of funds for the campaign and to obtain public statements of support for the candidacy.

In making this determination, the Commission gave due consideration to the facts that the candidate had not previously been before this Commission and that the candidate was fully cooperative in the investigation and pledged that no further direct solicitation would occur.

This Order is issued this 24th day of October, 2003.

STEPHEN D. WOLNITZEK, CHAIR
JUDICIAL CONDUCT COMMISSION

This is to certify that a true copy of this Order has been served on the judicial candidate by mailing a copy to his attorney on this the 27th day of October, 2003.

JAMES D. LAWSON
EXECUTIVE SECRETARY

Online Betterness

Looking at Things Differently for This New Year

Enough with the gloom of computing, these discussions of security and reliability problems with information technologies. The serious business of the law is so very important, but its demands can be grim business. Too much grimness is corrosive, another gloomy prospect. What about the fun?

Fun is a good thing. You deserve it, as you deserve your health. All part of well-being, it's good for you, your family, and the people that rely on you in the administration of justice.



Michael Losavio

The Net is just as much a road to fun and well-being as it can be perdition's highway.

So, do you take a few minutes away from work, take a mind-break, and check out on-line fun? Fun, health, a moment's clearing of the head, all these are on-line possibilities for you, direct from your desktop.

<http://www.alddaily.com>

It hurts my party-guy image to admit, but *Arts & Letters Daily*, <http://www.alddaily.com/>, is my favorite website. A kind of clipping service for articles and essays on the Net, I learned of it by reference from a fellow lawyer, the Honorable Mark J. Wettle of Louisville.

Arts & Letters Daily realizes the best of what the Net can do. It is an international collaboration of folks who review and refer recent on-line articles to two fellows

in New Zealand who, in turn, post links with thumbnail comments on the site. Denis Dutton and Tran Huu Dung post these grouped as articles, book reviews and essays six days a week, keeping with their motto "Veritas Odit Moras" ("Truth Hates Delay").

The site indexes links to newspapers, magazines, columnists, web logs, broadcasters and references from around the world, although Anglo-American sources predominate. In keeping with the notion of fun, it also tracks Nota Bene accounts of the quirky in life (e.g., the decline of the movie cowboy, on hating Britney [Spears]) and Diversions in humor (e.g., a running log of Leno's jokes, links to satire's *The Onion*).

In a brief electronic interview, Tran said simply that he loved to read and enjoyed sharing what he came across with other people. *Arts & Letters Daily*, now supported by the *Chronicle of Higher Education*, does just that.

<http://www.healthfinder.gov/>

Physical health matters, though the demands of practice sometimes push exercise and diet down the priority list. Even getting in for a checkup can be pushed back on the schedule, or forgotten.

The Net offers health information from your desktop, a quick and convenient way to check on a variety of things, with a certain degree of privacy.

Healthfinder.Gov is, yes, the government there to help you. A federally-funded health reference site, it is an

easy way to start with quick questions on your health. Healthfinder links to a library of health information, topical health groups by age and gender and a collection of on-line check-ups for matters ranging from alcohol abuse to weight control. The on-line check-ups are a starting point to consider how you're doing. From there you could google to many other health-related sites, and/or see your doctor!

There are unique stresses and strains in both handling the problems and lives of others (your clients) and those of your practice (on which your family depends.) If you've got a concern, and a moment, an on-line checkup or article might that help.

Nota Bene of Your Own

And then there is general diversion of your own choosing, from the incredible array of human experience stored on the Internet.

A quick click investigates the surprising splendor and cottage availability of Kentucky's parks for the next month at: <http://www.parks.ky.gov/>.

The 100 best jokes of human history (they say) lurk at: <http://www.bluedonut.com/100jokes.htm>; significantly, only two are about lawyers.

You can be your own diversion. Have you ever "googled" your name, just to see how you might look in cyberspace? Try it at <http://www.google.com>, or for general googlism at <http://www.googlism.com>

(how Google sees you!)

So much human knowledge, wisdom and diversion is out there for discovery on just a moment's inspiration, whether through Google, RefDesk, Yahoo or the search engine of your choice.

But referrals help, just as in choosing a plumber. And, yes, there is a safety issue (getting grim again!) If you'd like to share your favorite diversion web

sites with your colleagues, e-mail them to me at michael.losavio@louisville.edu and I'll pass them on to our brethren, attribution at your option.

All trademarks are trademarks or registered trademarks of their respective owners; no endorsement is expressed or implied, although if I didn't like them, I'd not mention them.

Suggested Websites for Your Well-Being

www.aldaily.com

www.parks.ky.gov

www.healthfinder.gov

www.googlism.com

www.bluedonut.com

www.google.com

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WHO, WHAT, WHEN & WHERE

ON THE MOVE

The Lexington law firm of **Walther, Roark, Gay & Todd, PLC** is pleased to announce that **Stephen Barnes** has become associated with the firm. Barnes obtained his B.A. in 1996 from Oberlin College and his J.D. from the University of Kentucky in 2003. His areas of concentration are bankruptcy, collections and immigration.

The Lexington law firm of **Sturgill, Turner, Barker & Moloney, PLLC** is pleased to announce that **Merrie K. Winfrey** has become an associate attorney in the firm. Winfrey will focus her practice in the areas of employment law and education law.



Stephanie A. Litteral is pleased to announce the opening of her law firm, **The Law Office of Stephanie A. Litteral, LLC**, located at 137

East Main Street in Georgetown. Her practice concentrates in the areas of domestic relations and criminal law.

Jennifer McVay Martin, an attorney licensed in Kentucky, is pleased to announce the opening of the **Law Office of Jennifer McVay Martin** in Lexington. Her office is located at 729 East Main Street in Suite 110. She has a general practice with an interest in real estate and estate work. Martin may be reached by telephone at (859) 268-2770. She received a business management degree from the University of Kentucky and earned her J.D. from the University of Kentucky College of Law.



David Mejia

David Mejia has returned to private practice, Of Counsel, at the law firm of **Fernandez Friedman Grossman Kohn & Son**, in Louisville where he concentrates in criminal defense. Mejia was most recently the Trial Division Director at the Department of Public Advocacy in Frankfort. Prior to that, he was a Chicago solo practitioner. Mejia received his B.A. from the University of Illinois and his J.D. from Loyola University Chicago School of Law.

The Crescent Springs law firm of **Sweeney & Fiser, PLLC** is pleased to announce that **Amanda V. Bryant** has become associated with the firm. Bryant is a 2003 graduate of the University of Cincinnati.



E. Page Stuart

Salyers & Buechler, P.S.C. is pleased to announce that **E. Page Stuart** has joined the Louisville firm. Stuart will concentrate his practice in the area of real estate law. He received his B.S. from Washington & Lee University and his J.D. from the University of Kentucky College of Law.

Woodward, Hobson & Fulton L.L.P. announces that **Rebecca Didat, Andrew D. Dill, Puja Gakhar** and **Wendy Hyland** have joined the firm as associates in the Louisville office. Didat earned her B.S. from Indiana University in 1985 and worked as a physical therapist for a number of years. In 1994 she graduated, *magna cum laude*, from the University of Louisville School of

Law. Didat was admitted to the Kentucky Bar in 1994 and to the Indiana Bar in 1995. Dill graduated, *summa cum laude*, from the University of Kentucky in 2000. In 2003, he earned his J.D. from the University of North Carolina School of Law at Chapel Hill. During law school, Dill worked in the chambers of judges in the North Carolina Court of Appeals and the United States District Court for the Eastern District of Kentucky. He was admitted to practice law in Kentucky in 2003. Gakhar received her B.A. from Northwestern University in 1996. She earned her J.D. from Emory University School of Law in 1999. She was also admitted to practice law in Kentucky in 1999. Gakhar concentrates her practice in the area of labor and employment law. Hyland received dual undergraduate degrees from the University of Kentucky in 1997. In 1999, she received a Master's degree from George Washington University. She earned her law degree in 2002 from the University of Kentucky College of Law. Following graduation from law school, Hyland spent a year as a staff attorney to Justice James E. Keller, Kentucky Supreme Court.



W. R. Luttrull III The Paducah law firm of **Denton & Keuler** is pleased to announce that **Walter R. Luttrull III** has become associated with the firm. He is a graduate of Vanderbilt University School of Law and has been admitted to practice law in Kentucky. Luttrull also received his LL.M. in taxation from the University of Denver College of Law.

The Louisville law firm of **Ricketts & Travis** is pleased to announce that

WHO, WHAT, WHEN & WHERE

J. Reed Ennis has become associated with the firm. Reed has a general law practice with emphasis on business and transactional law. He is a graduate of Louis D. Brandeis School of Law at the University of Louisville, where he served as managing editor of the *Brandeis Law Journal*.

Thieman Law Firm of Louisville is pleased to announce that **Terri E. Kirkpatrick** has become a member of the firm. Kirkpatrick concentrates her practice in the areas of medical malpractice and commercial litigation.

Ulmer & Berne LLP has added associate attorney **Prentiss W. Hallenbeck Jr.** to its Cincinnati office. Hallenbeck practices in the firm's Liability Defense and Pharmaceutical, Medical Device and Mass Tort Litigation Groups. He concentrates his practice on products liability, personal injury, litigation, trademark and insurance. Hallenbeck earned his B.A. in 1978 from the University of Virginia. In 1998, he earned his J.D. from the University of Virginia School of Law.

The Louisville law firm of **Ogden Newell & Welch PLLC** is pleased

to announce that **Melony J. Lane** has rejoined the firm. Lane received her B.A. from Transylvania University in 1990. In 1991, she earned her M.B.A. from the University of Kentucky with concentration in finance. In 1995, Lane received her J.D. from Brandeis School of Law at the University of Louisville. She will continue to focus her practice in the areas of estate planning and estate administration.

The Covington law firm of **Wolnitzek & Rowekamp, P.S.C.** is pleased to announce that **Matthew B. DeMarcus** has joined the firm. DeMarcus earned his B.A. in 1999 from the University of Kentucky. In 2003, he earned his J.D. from Salmon P. Chase College of Law. DeMarcus concentrates his practice in the areas of civil litigation, personal injury, civil rights, products liability and real estate.

Frankie C. Blevins, Jr. and **Tracy Todd Blevins** are pleased to announce the formation of **Blevins Law**. Their law firm is located in Berea at 400 Richmond Road North in Suite C. Both attorneys earned a J.D. from the University of Kentucky College of Law in 2001.

The Lexington law firm of **Fowler, Measle & Bell, LLP** is pleased to announce **Tiffany Lauderdale Phillips** and **D. Lyle McQuinn** have joined the firm as associates. Phillips received her B.A. from the College of Charleston in Charleston, South Carolina. She earned her J.D. at Mercer University School of Law in Macon, Georgia. Her practice will concentrate in litigation and trial practice. McQuinn received his B.S. from Eastern Kentucky University. He earned his J.D. from the University of Kentucky College of Law. His practice will concentrate in collections and trial practice.

Freund Freeze & Arnold is pleased to announce that **Charles Hinegardner** has been named a shareholder of the firm. Hinegardner practices in the Cincinnati office and concentrates his practice in civil defense.

IN THE NEWS

The **Honorable James M. Shake**, Chief Judge of Jefferson Circuit Court, has recently been elected to serve a two-year term as President of the Kentucky Circuit Judges Association. The mission of the Association is to maintain the public's confidence in the legal system and to assure the citizens of the Commonwealth a fair, impartial and competent judiciary and an independent judiciary.

The United Way of Greater Cincinnati Foundation Board has unanimously elected **Thomas A. Prewitt**, a partner with Graydon Head & Ritchey LLP, to the Foundation Board of Directors for a two-year term. Currently, Prewitt is a key player in reworking the Foundation's strategic plan and mission in order to maximize endowment funding for United Way's Vision 2010. Prewitt graduated with

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, Kentucky *Bench & Bar*, 514 West Main St., Frankfort, KY 40601-1883. 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.

The deadline for announcements appearing in the March edition of Who, What, When & Where is February 1, 2004.

a bachelor's degree, *cum laude*, from Ohio University in 1985. In 1988, he earned his law degree from the University of Kentucky College of Law.

The Bankruptcy Section of the Commercial Law League of America announces that the **Honorable Joe Lee**, United States Bankruptcy Judge, Eastern District of Kentucky, received the 2003 Lawrence P. King Award for Excellence in the Field of Bankruptcy. The award was presented to Judge Lee at the National Conference of Bankruptcy Judges on October 16, 2003, in San Diego, California. He earned his law degree from the University of Kentucky in 1955.



Judge Joe Lee

Stock Yards Bank & Trust Company in Louisville is pleased to announce **Kathy Thompson**, Executive Vice President and Manager of The Wealth Management Group, has been selected by *U.S. Banker* as one of the country's top twenty-five most powerful women in banking. Thompson holds a B.S. in accounting from Indiana State University and a J.D. from the University of Louisville School of Law.

Woodward, Hobson & Fulton, L.L.P. is pleased to announce that **Harry K. Herren** and **Alice Barns Herrington** have been selected for membership in The Outstanding Lawyers of America. Herren practices in the Louisville office. His practice is devoted to the defense of civil litigation with emphasis in the areas of the defense of catastrophic injury cases, trucking industry litigation, the defense of products liability and mass toxic tort action. Herrington also

practices in the Louisville office where her practice focuses on complex insurance related litigation including insurance coverage disputes, claims counseling and defense of insureds.



Harry K. Herren

Samuel E. Davies has become a Fellow of the American College of Trial Lawyers. Davies practices law with his son at the firm of Samuel E. Davies, P.S.C. in Barbourville. He graduated from Union College and the University of Kentucky College of Law.

The Million Dollar Advocates Forum is pleased to announce that attorney **William J. Driscoll** of Louisville has been certified as a member. Driscoll is a graduate of the Brandeis School of Law at the University of Louisville and focuses his practice in personal injury including nursing home neglect, hospital negligence, car accidents and brain injuries.

RELOCATIONS

Wm. Jonathan Grider announces the relocation of his law office to 121 Legal Arts Building at 200 South Seventh Street in Louisville. The firm's new telephone number is (502) 589-4244.

Michael A. O'Hara, an attorney licensed to practice in both Kentucky and Ohio, is pleased to announce the relocation of his law office to Florence at 7000 Houston Road in Suite 9. O'Hara continues to practice both civil and criminal law as well as to resolve disputes through the use of mediation techniques. He may be reached by telephone at (859) 746-0500.

Logan B. Askew has moved his law practice to 707 South Virginia Street in Hopkinsville. He may be reached by telephone at (270) 887-9990.

AT THE KBA

Moriah L. Lloyd has been hired as the CLE Program and Publications Attorney for the KBA effective October 17, 2003. She replaces Christy Hornung who was recently



Moriah L. Lloyd

promoted to Assistant CLE Director. Ms. Lloyd had clerked for the CLE department for the past year. She will be responsible for assisting with program development and material editing for all KBA seminars and programs. Ms. Lloyd will also serve as the liaison for the KBA sections with the assistance of other CLE staff. Ms. Lloyd received her B.A., *magna cum laude*, from the University of Kentucky in 2000 and her J.D. from the University of Kentucky College of Law in 2003. Ms. Lloyd passed the July Bar Exam and was sworn in by Justice Keller on October 17, 2003.

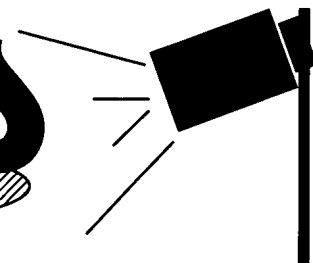


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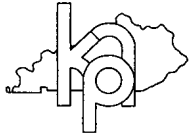
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