

Advisory Ethics Opinions

KBA E-421

Subject: Representation of a Landowner by a Part-time Commonwealth Attorney (or Member of His or Her Firm) in a Condemnation Action by the State.

Question: May a part-time Commonwealth Attorney, or a member of his or her firm, represent a landowner in a condemnation action by the state.

Answer: No

References: SCR 3.130 (1.7); SCR 3.130 (1.10); KBA E-61 (1972); KBA E-64 (1973); KBA E-193 (1978); KBA E-194 (1978); KBA E-211 (1979); KBA E-241 (1981); KBA E-275 (1983); KBA E-350 (1992); KBA E-373 (1994); KBA E-373 (1994); KBA E-412 (UNDATED).

Opinion

Over the course of the last thirty years, the Ethics Committee has written more than twenty formal ethics opinions on various conflict issues related to private practice by Commonwealth Attorneys. In early opinions, we concluded that a Commonwealth Attorney (or assistant) may not represent a criminal defendant in any court of criminal jurisdiction. KBA E-61 (1972); KBA E-193 (1978); KBA E-211 (1979). This ethical prohibition is reinforced by KRS 15.740, which provides that a Commonwealth Attorney "shall not act as defense counsel in any criminal prosecution in any state or federal court in this commonwealth." Similarly, a Commonwealth Attorney may not represent a client in a civil case involving the same subject matter as a criminal prosecution. KBA

E-64 (1973). In addition, the rules of imputed disqualification normally will prevent members of the Commonwealth Attorney's firm from accepting representations that the Commonwealth Attorney can not accept. As this Committee has observed, "neither the law firm nor any member or associate thereof may properly accept any professional employment which any member of the firm cannot properly accept." KBA E-64 (1973). *See also*, KBA E-61 (1972); KBA E-275 (1983); KBA E-373 (1994). Imputed disqualification also has been extended to "affiliated lawyers," which in this context includes those merely sharing office space with a part-time Commonwealth Attorney. KBA E-194 (1978). *See also*, KBA E-412 (undated).

These absolute rules prohibiting criminal representations do not extend to civil practice by part-time Commonwealth Attorneys. KRS 15.755 provides that part-time Commonwealth Attorneys in less populated counties may engage in private practice of civil cases. However, even assuming a part-time Commonwealth Attorney may legally practice law under this statute, the question still remains as to whether official responsibilities create a conflict barring his or her representation of private clients in condemnation cases.

In KBA E-241 (1981), this Committee addressed the question of whether a Commonwealth Attorney may represent a private party in a condemnation proceeding involving the state – it answered the question in the negative. The Committee acknowledged that a Commonwealth Attorney has the right to maintain a private practice, but went on to note that proffered employment that conflicts with the lawyer's official duties must be declined.

It is not unethical to accept employment on a private basis but any appearance of a conflict between the principal and the private interest must be avoided. If there is doubt whether the representation would be a conflict or not, it is safest to remember that no man can serve two masters (KBA E-56). An additional consideration for one who is in a position of public authority is that the public may not be able to draw the necessary fine distinctions to determine whether an actual conflict exists or not, especially where the Commonwealth's interest are involved. Public confidence in the law and in lawyers must not be eroded by irresponsible or improper conduct by an attorney (ABA EC 9-2).

It has been suggested to the Committee that it must reevaluate this opinion because a later opinion, KBA E-275 (1983), established a new test for determining when a Commonwealth attorney may ethically represent a civil client, including one involved in a condemnation proceeding with the state. It is true that KBA E-275 suggests some general questions to be asked whenever a Commonwealth Attorney accepts a civil case,¹ but nothing in the text of the opinion indicates the Committee's intention to overrule its earlier opinion specifically addressing condemnations. In the words of the Committee, the opinion was designed to "analyze and synthesize the vast body of rulings formally adopted by the Board of Governors of the Kentucky Bar Association relating to the disqualification of Commonwealth and County Attorneys in civil litigation." It described the con-

demnation opinion decided two years earlier supportively, without any negative comment.

Although KBA E-241 (1981) and KBA E-275 (1983) may inform our thinking, our goal is to evaluate this issue in light of the Rules of Professional Conduct and other applicable rules currently in effect.

Today, conflicts of interest are governed generally by SCR 3.130 (1.7). This rule provides:

- (a) A lawyer shall not represent a client if the representation of that client will be direct adverse to another client, unless:
 - (1) The lawyer reasonably believes the representation will not adversely affect the relationship with the other client; and
 - (2) Each client consents after consultation.
- (b) A lawyer shall not represent a client if the representation of that client may be materially limited by the lawyer's responsibilities to another client or to a third person, or by the lawyer's own interests, unless:
 - (1) The lawyer reasonably believes the representation will not be adversely affected; and
 - (2) The client consents after consultation.

In order to address the possible conflict of interest, it is necessary to understand the responsibilities of the Commonwealth Attorney. He or she is a constitutional officer, whose duties are established by statute. Under the Commonwealth's Unified and Integrated Prosecutor System, KRS 15.700 et. seq., the Commonwealth Attorney is responsible for prosecuting all violations of the criminal and penal law within the jurisdiction of the Circuit Court and for presenting evi-

dence to the grand jury. In addition, except in Franklin County, KRS 69.110 obligates the Commonwealth Attorney to attend civil cases and proceedings in the Circuit Court where the Commonwealth has an interest.

For purposes of conflicts analysis, the Commonwealth Attorney's client is the Commonwealth. This is true whether the Commonwealth Attorney is acting as prosecutor or is participating in civil cases under KRS 69.110. Assuming that the position to be taken by the private client in the condemnation case is directly adverse to the Commonwealth, then Rule 1.7(a) would preclude the Commonwealth Attorney from undertaking the representation, unless the Commonwealth Attorney "reasonably believes the representation will not be adversely affected" and both clients consent.

Rule 1.7(b) provides an alternate basis for prohibiting a Commonwealth Attorney from representing a private client in a condemnation case with the state, because the representation would be "materially limited" by the Commonwealth Attorney's "responsibility to another client to a third person, or by the lawyer's own interest." As this Committee noted in a 1981 opinion, the Commonwealth Attorney "is an officer of the State, derives his authority from the State, is paid by the State, and is an employee of the State. It is axiomatic that a lawyer who is an employee will not take any action against the employer. Since the Commonwealth is a party to a condemnation action, the Commonwealth Attorney would have a conflict of interest in representing the other side since the Commonwealth is a party in the action." KBA E-241 (1981). The Commonwealth Attorney's personal interests, as well as his or her obligations as an employee of the state, would preclude the representation under Rule 1.7(b).

The Committee recognizes that part-time Commonwealth Attorneys are permitted to engage in private practice, but this right is conditioned on compliance with the applicable rules of professional conduct. As this Committee observed in KBA E-350 (1992), "there is simply no avoiding the fact that a system of justice relying on part-time prosecutors will lead to conflicts of interest. However, it is not a desirable "solution" that time-honored rules be modified to make it easier for prosecutors to take civil cases they want to take."

Finally, under the current Rule 1.10, disqualifications under Rule 1.7 are imputed to all members of the Commonwealth Attorney's firm. Specifically, Rule 1.10 (a) provides that "while lawyers are associated in a firm, none of them shall knowingly represent a client when any one of them practicing alone would be prohibited from doing so by Rules 1.7, 1.8(c), 1.9 or 2.2. Application of this rule to the question before us means that the Commonwealth Attorney's disqualification is imputed to all members of his or her firm.

Footnotes

- ¹ The questions are as follows:
 - 1. Is the contemplated civil representation related in any way to possible criminal litigation for which an Attorney for the Commonwealth would be responsible?
 - 2. Is the contemplated civil representation related in any way to the statutory duty of said prosecutor to represent the Commonwealth in companion litigation?
 - 3. Is the contemplated civil representation likely to give the appearance of impropriety to the public?
 - 4. If the prosecutor has terminated his employment in the prosecutor's office, and thereafter seeks to represent a client, civilly or criminally, one must question whether the case is one in which the former prosecutor had substantial responsibility, or performed any act for [sic] while employed in the prosecutor's office.

Michael Losavio

Information Security and the Spam Flood

A key service of information security is *availability*; if you can't use your information, you have a problem. The ready availability of postal mail has made it a preferred way of giving service and notice. Yet, in the on-line world, the denial of availability is a security attack favored by computer vandals. Denial of Service (DoS) attacks swamp a targeted system with so much electronic traffic that legitimate messages can't get in and the server is overloaded, destroying the availability and security of that system. E-mail, the heart of the Internet, suffers from these attacks. You can't use your information, so you have a serious problem.



Michael Losavio

Unsolicited Commercial E-mail (UCE), otherwise known as "spam" or "junk e-mail," is familiar to all e-mail users. It is the electronic equivalent of junk mail, hawking mortgages, vacations, scams, health remedies and biological impossibilities, among other things.

And spam, UCE or junk e-mail, by any name, is becoming a security threat to information systems — to the e-mail network that is the heart of the Internet. Am I being a bit hysterical? Well, yes, but spam may fundamentally alter the way we use e-mail to serve the cause of justice.

Junk *postal* mail has a significant cost in postage and paper per piece of mail, effectively limiting the volume interspersed with your work mail. For e-mail, the cost is negligible; a million-e-mail mailing costs little, making it a marketing tool of choice for the most bizarre or preposterous products.

Indeed, some bulk spammers will work on a contingency fee tied to the number of purchases as a result of a bulk e-mailing, so anyone can get their word out.

With spam-in-a-box software, anyone with a good connection can start spamming; while this may violate

their user agreement with their service provider and get their account closed, a lot of spam can be sent out before then. Then it's on to another service provider, even offshore services.

This, as some of you now experience with e-mail, has made spam an issue for information security. It impairs the availability of your e-mail as a work tool. Wading through all this junk takes up time; deleting a long string of junk e-mail may risk deleting something important as you go click-click-click. It increases the risk of malicious code being slipped in, like an e-mail virus. It may even make for workplace problems, as some spammers are not discreet about what they send.

And it has hurt the availability of e-mail to help us; as spam overwhelms our legitimate e-mails, it wastes our time and interferes with our use of our office systems.

Spam is a political issue where regulation runs up against the First Amendment. As of yet, there are no federal laws on spam, although several are pending. A number of states (but not Kentucky) have spam regulations. But even with a legal regime, there are serious practical problems with legal enforcement. Forensic analysis and tracking of spam back to its origins may be very, very difficult, especially where it leads to an offshore mail server in a country that has other worries than spam.

While lawmakers try for a remedy, there are other "self-help" remedies to reduce the impact of spam. Those legal remedies most likely to pass constitutional muster may require spammers to conduct themselves so your self-help will be effective.

Self-Help Against Spam

There are several ways you can limit spam and its impact.

continued

Your e-mail program may offer a spam filter that can block repeat offenders. Microsoft Outlook, for example, can automatically filter out what it terms "junk e-mail" based on two filtering processes. One filter works to scan the text of a message for particular key words or phrases. If the key words are in the message, it is diverted from your Inbox of e-mail to another folder, including the deleted items folder. The other filter works by diverting e-mail from a particular e-mail address from your Inbox. As an alternative, the offending e-mail may be marked in some way (e.g., graying or coloring) in your In-box rather than being diverted to another folder.

These filters are not perfect. Spammers will try to modify wording, like adding "*" between letters, or use graphics insertions to bypass the

filter. They will change e-mail addresses frequently, so you need to keep updating the list of banned addresses to be effective. Some even forge e-mail sender addresses to bypass filters. But they can offer significant relief, particularly where you are sent repeated messages by the same spammer - at least you won't have to deal with that junk e-mail quite as often.

Key Word Filtering

To turn on Outlook's key word filtering, click on Inbox, then click on the Tools menu and select Organize. Click on Junk E-mail and you can then choose to turn on and set the filters for junk and adult content e-mail. Using the down arrows next to your choices, you can set the filters to automatically move items from the

Inbox to a Junk E-mail folder (or other folder) or to color those items and leave them in your Inbox.

Outlook has its own set of keywords that it filters against, and acknowledges its filtering will still let junk get to your Inbox.

E-mail Address Filtering

To enhance filtering, you can divert spam by the address of a particular e-mail sender. In Outlook, you go to the Junk E-mail feature discussed above and click where it says "for more options, click here." The process for filtering by sender address is discussed, including how to manage that address list.

To add an e-mail address to the filter list, you just need to right-click on the message in your Inbox, select Junk E-mail and click on either "Add to Junk Senders list" or "Add to Adult Content Senders list." That adds the address of that particular spam to the filter list. To review that list at any time, you again go to the Junk E-mail feature discussed above, click "for more options, click here," and then click on "Edit Junk Senders" or "Edit Adult Content Senders."

You can also visit Microsoft's web site to download and add their filter list of junk and adult content sites; this helps keep your filter current before you receive that first spam from a particular address.

The filtering in Outlook is, in kind, like that used by large e-mail service providers to protect their systems from being overwhelmed with spam. It is still useful to have filtering at your e-mail server, as it takes that burden off you and your computer. It also serves to protect from other abuses, such as having your children spammed with inappropriate adult content.

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Other Tools

Keith Stevenson takes the more aggressive approach of powerful third party spam filtering software. Mr. Stevenson, a network administrator for the University of Louisville's huge, distributed computer network, personally uses *SpamAssassin* to filter out offending trash. *SpamAssassin* uses a long list of rules specific to particular parts of e-mail to exclude spam. It also has the ability to use expert-system rules to "learn" what your spam looks like and filter it out. This "learning" ability takes time and a lot of computer power; spammers try to defeat it by adding truly strange language that may confound the learning filter.

These tools can also be used at the e-mail server level, so spam may be filtered out before it reaches you.

By the way, self-help does not mean spamming back at the spammers. While that may be an attractive response, it may expose you to legal liability that spammers carefully avoid (sometimes). And our mothers may not approve the "two wrongs make a right" attitude, even if it is their sending us on-line greeting cards that gave the spammers our e-mail addresses in the first place.

Is There A Risk With Spam Filters?

Yes.

The risk with rule-based filtering is that you may get "false positives." In other words, e-mail you need to read might be filtered out. To avoid that, you may still need to review all e-mail, either in the folder where spam is diverted or against the marked e-mails in your In-box, which you might still miss as your eyes glaze over from sifting through the spam. That assumes, of course, that your e-mail service provider did not filter out e-mail before it reached you...

Thus the need for constant, human vigilance in securing electronic information systems. Your system cannot be protected once and for all by any mechanism, as the cleverness and ingenuity and mobility of spammers (and crackers and virus-vandals and computer invaders) will always seek a way around your defenses. New addresses for sending spam will always crop up, requiring you to update your filter list locally or by regularly downloading a spam list, just as you regularly download the latest virus signatures for your anti-virus program.

As the Federal Trade Commission noted in its May, 2003 testimony to Congress, there is no "silver bullet" for ending problems with spam. The Commission said spam may lead to significant service disruptions for businesses and consumers.

(See <http://www.ftc.gov/opa/2003/05/spamtestimony.htm>) Although the FTC has brought over 50 actions against spammers for deceptive content, they fully appreciate the difficulties of law enforcement in the on-line world.

So you must be vigilant. Yet another price to pay for these modern marvels of the information society.

Thanks to Judge Kevin Garvey, Keith Stevenson and Professors Adel Elmaghraby and James Graham for their thoughts on spam and spam protection.

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Nota Bene

When you get a spam/UCM/junk e-mail that says "click here if you wish to unregister your e-mail address and not get future emails like this from us," what do you do?

As tempting as it may be, clicking there may simply verify that yours is a good e-mail address, and the spam flood will worsen. The FTC tries to police such perfidy, but there are just too many spammers.

But, if it's from a legitimate bulk commercial e-mailer that complies with state laws mandating "unregister" features, it might help. Yet another decision to make. Good luck!

For further information, check out <http://www.ftc.gov> for their take on this issue.

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COMMONWEALTH OF KENTUCKY JUDICIAL CONDUCT COMMISSION

IN RE THE MATTER OF:

**CHARLES E. LOWE, JR., CIRCUIT JUDGE
THIRTY-FIFTH JUDICIAL CIRCUIT**

ORDER OF PUBLIC REPRIMAND

Charles E. Lowe, Jr., Circuit Judge, Thirty-Fifth Judicial Circuit, Pike County, Kentucky, has submitted his resignation from his office. Prior thereto, preliminary proceedings before the Commission had commenced as provided in Supreme Court Rule 4.170. Therefore, the Commission has jurisdiction over this matter pursuant to SCR 4.025.

In lieu of the need for formal hearing, Judge Lowe has agreed to resign from his office as Circuit Judge. In addition, Judge Lowe has waived formal proceedings and agreed to entry of this order by the Commission.

The investigation was commenced by the Commission after receipt of a complaint by a female former litigant in the Judge's court that he had a sexual relationship with her. The complaint involved events that occurred some ten years ago. Judge Lowe has admitted the relationship, but denies intimate conduct with the woman while her cases were pending.

In the Commission's view, engaging in a sexual relationship with a litigant by the judge presiding in the case would be grounds for removal from office. Regardless of when the intimacy first occurred in the matter under investigation, it is clear that the judge had conversations of a personal and private nature with the woman while he was presiding in her case. The conduct of the judge shocks the conscience of the Commission, and it finds unanimously that he disregarded the requirement of absolute impartiality to serve his own personal interests.

Judge Lowe violated Canon 1 of the Code of Judicial Conduct by failing to observe high standards of conduct so that the integrity and independence of the judiciary will be preserved, Canon 2 by failing to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary and by using the prestige of judicial office to advance his private interests, and Canon 3E by failing to disqualify himself in a proceeding in which the judge's impartiality might reasonably be questioned because of a personal bias concerning a party.

Judge Lowe has resigned; therefore, this public reprimand is the most severe sanction the Commission can impose. By unanimous vote of the Commission, Judge Charles E. Lowe, Jr. is hereby publicly reprimanded for the foregoing conduct.

DATE: April 14, 2003

STEPHEN D. WOLNITZEK, CHAIR

AGREED TO:

WILLIAM E. JOHNSON
COUNSEL FOR CHARLES E. LOWE, JR.

GEORGE F. RABE
COUNSEL FOR THE COMMISSION

CHARLES E. LOWE, JR.

Headings

Good legal writing is divided and subdivided using headings. Headings serve two purposes. First, they break long, complex material into more-easily digested pieces. Second, headings function as signposts that guide your reader through your prose.

Headings should be:

1. Structural. Use traditional outline form: I. / A. / 1. / a. / (1.) / (a.). Anything else is likely to confuse your reader. If you get to a sub-level below (a), you probably need to restructure your argument. Use a transitional paragraph to preview a set of equivalent headings. For example, before describing each of the elements of defamation in detail under separate headings, you might say: "The tort of defamation has five elements: (1) a written or oral statement,"

2. Descriptive. A heading should label and summarize the material that follows it.¹ *Element 1, The Third Circuit Approach*, and *Anhauser v. Parman* convey little. Instead, use *Element 1: A Written or Oral Statement*, or *The Immediate Liquidation Approach*.² Instead of using a case name, use the heading to tell the reader (briefly) what the case stands for.

3. Short. Headings are like billboards along a street: if they are too long, folks will whiz by without reading them. Whenever possible, try to keep headings one line or less. Sometimes, convention makes this impossible, as when framing a full-sentence legal issue in an appellate brief. Even in these instances, however, try to edit the heading down as much as possible.

4. Independent. Headings should be independent of the text that follows. Readers who skip a heading should not become lost. Headings are a built-in redundancy.

5. Consistent. Headings should be consistent in two ways. The first is content and grammatical structure. If your first Roman-numeral-level heading is a full sentence, then all subsequent Roman-numeral-level headings should be full sentences. Similarly, if your first subheading under a particular Roman numeral is a participle phrase, then all subsequent subheadings under

that Roman numeral should be participle phrases. For example, all numbered headings in this essay are adjectives.



Rick Bales is an Associate Professor at Chase College of Law

This does not mean that all subheadings throughout your document must be consistent. It is perfectly acceptable for your Roman-numeral-headings to be participle phrases and your subheadings to be adjectives, or for your sub-headings under Roman numeral II to be full sentences and your sub-headings under Roman numeral III to be

nouns. The important thing is to maintain consistency within a particular grouping – keep like headings alike.

The second way that headings should be consistent is in typography. Again, it is acceptable to vary the typography between different levels, for example centering your Roman-numeral-headings and putting your A/B/C-subheadings flush left. The important thing is that all Roman-numeral-headings should be treated identically, and all A/B/C-subheadings should be treated identically (even when they are under different Roman numerals).

Check the following for typographical consistency:³

- Capitalization: Use SMALL CAPS or ALL CAPS only for the highest-level headings. For all but

Continued

the lowest-level headings, capitalize the first letter of every word, excluding articles (a/an/the), short (less than four letters) conjunctions or prepositions, and "to" in an infinitive. Even these words should be capitalized if they are the first word in the heading. For the lowest-level headings, you may choose to capitalize only the first word of the heading.

- Type style: Bold or italics helps headers stand out from the text.
- Progressive indents: Use sparingly. If there are more than a few heading levels, the headings tend to be crowded on the right side of the page. Use a hanging indent to draw attention to the heading level.

The highest-level headings should be centered; the next-level heading should be flush left.

- Spacing: Single-space all headers. If your document is single-spaced, skip a line before and after each header to set it off from the text.
- Periods: Use periods after all letters and numbers in a traditional outline. Use a period after a heading only if the heading is run-in with the text (as the numerical headings in this essay are) or if the heading is a complete sentence.

Conclusion

Headings serve a variety of purposes. They break complex material into small pieces that readers can more readily understand. They help readers follow the structure of your argument. They cue readers to topic changes, so readers can pause and reflect on what they have just read. Headings are an important component of effective legal writing.

Footnotes

1. TERRI LECLERCQ, *LEGAL WRITING STYLE* 8 (2000).
2. See, e.g., Donald B. Smith & Richard A. Bales, *Reconciling Labor and Bankruptcy Law: The Application of 11 U.S.C. § 1113*, 2001 L. REV. M.S.U.-D.C.L. 1145, 1145.
3. BRYAN A. GARNER, *THE REDBOOK: A MANUAL ON LEGAL STYLE* 37, 51, 73-74 (2002).

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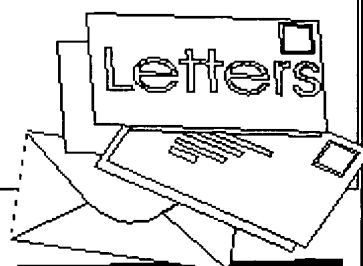
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- 29 Civil Litigation Practice and Procedure in Ohio (Video)
Cincinnati Bar Association

AUGUST 2003

- 12 Professionalism, Ethics & Substance Abuse (Video)
Cincinnati Bar Association
- 14-15 Institute for ADA Mediation: Resolving Workplace Disputes Involving Individuals with Disabilities
Access Center Partnership
- 26 Predatory Lending (Video)
Cincinnati Bar Association

SEPTEMBER 2003

- 4-5 Kentucky Law Update - Somerset
Kentucky Bar Association
- 12 Trial Demonstration
Kentucky Academy of Trial Attorneys
- 15-16 Kentucky Law Update - Owensboro
Kentucky Bar Association
- 19 All Ohio Institute on Intellectual Property
Cincinnati Bar Association

- 24-25 Kentucky Law Update - Louisville
Kentucky Bar Association

OCTOBER 2003

- 2-3 New Lawyers Program
Covington
Kentucky Bar Association
- 5-10 Capital Litigation Persuasion Institute
Department of Public Advocacy
- 13 Americans with Disabilities Act Mock Trial
Access Center Partnership in cooperation with U of L School of Law
- 15-17 New Orleans Seminar
Kentucky Academy of Trial Attorneys
- 16-17 Kentucky Law Update - Lexington
Kentucky Bar Association
- 23-24 Kentucky Law Update - Prestonsburg
Kentucky Bar Association
- 23-24 14th Biennial Family Law Institute
UK-CLE

- 28-29 Kentucky Law Update - Paducah
Kentucky Bar Association

DECEMBER 2003

- 3-4 Kentucky Law Update - Covington
Kentucky Bar Association
- 4-5 Debtor/Creditor Relations Institute
UK-CLE

CLE COMMISSION APPOINTMENTS

The Continuing Legal Education Commission met on May 9, 2003, at Mammoth Cave National Park. The Commission is responsible for the administration and regulation of all continuing legal education programs and activities of the Kentucky Bar Association. Each appellate district is appointed a designated individual to represent the interests of Bar members from that region. Terms are for three years with a limitation of two consecutive terms. Members are appointed by the Supreme Court upon recommendation of the Board of Governors.

On May 9, 2003, Mr. Douglas C. Ballantine, Chair of the Commission, presented Mr. J. Daniel Kemp with a plaque in recognition of, and in appreciation for, his dedicated service to the lawyers of Kentucky. Mr. Kemp's term ended June 30, 2003. The Commission will greatly miss the excellent service and insight that Mr. Kemp has provided during his 2000-2003 term as a Commission member. Mr. Ballantine also presented Mr. J. Lewis Payne, Assistant Director for CLE, with a walnut clock and desk set as a token of appreciation for his service to the Commission. Mr. Payne is scheduled to leave the Bar Association later this summer and relocate his family to Charleston, West Virginia. His position will be filled by Christy F. Hornung, who currently serves as the CLE Program and Publications Attorney. Ms. Elizabeth "Beth" Barnes will serve as the new CLE Administrator for the Commission, replacing Ms. Sherry Hayden. Both Mr. Payne and Ms. Hayden have served as CLE Commission staff since 1999.

Effective July 1, 2003, Mr. Gary J. Sergent, Covington, will be re-appointed for a second three-year term by the Court to represent the Sixth Supreme Court district. He is a member of the firm O'Hara, Ruberg, Taylor, Sloan and Sergent. The CLE Commission will welcome Mr.

George "Greg" M. Carter, of Benton, as the new representative for the First Supreme Court district, replacing outgoing member, J. Daniel Kemp. Mr. Carter is a partner with Owen, Harvey & Carter in Benton where he concentrates his practice in banking, real estate, and insurance law. Justice Martin E. Johnstone will perform the swearing-in ceremony for Mr. Sergent and Mr. Carter at the scheduled July 18, 2003 meeting in Owensboro, Kentucky.



Also serving on the CLE Commission are:

R. Michael Sullivan, 2nd District, Owensboro; David M. Cross, 3rd District, Albany; Douglas C. Ballantine, 4th District, Louisville; Anita M. Britton, 5th District, Lexington; and Bayard V. Collier, 7th District, Pikeville. Justice Martin E. Johnstone serves as the Supreme Court Liaison to the CLE Commission.

Retiring CLE Commission member J. Daniel Kemp was recognized for his dedicated service to the lawyers of Kentucky.

IMPORTANT CLE DEADLINES FOR THE 2002-2003 EDUCATIONAL YEAR ENDED JUNE 30, 2003

AUGUST 10, 2003

This is the deadline to **certify** attendance or completion of approved CLE activities for the 2002-2003 educational year (**but the activities must have been completed on or before June 30th!**). All certificates filed **AFTER** August 10, 2003 must be accompanied by a \$50.00 per program late filing fee. *See* SCR 3.668(1).

SEPTEMBER 10, 2003

This is the filing and completion deadline for hardship and non-hardship time extensions. *See* SCR 3.667.

Any questions regarding the above deadlines may be addressed to any CLE office staff member by calling (502) 564-3795; fax (502) 564-3225; or go to the website (www.kybar.org) for staff email addresses.

Remember! CLE records are confidential by Kentucky Supreme Court Rule and information will only be provided to members. *See* SCR 3.690.



**KENTUCKY BAR
ASSOCIATION**

Advancing the Profession through
Leadership, Ethics and Education.

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**You Can Now Obtain
Your Current CLE
Status On-line By
Visiting The KBA
Web Site**



*Salmon
P. Chase
College of Law*



*Louis D. Brandeis
School of Law*

Chase Alumni Recognized at Pro Bono Awards Luncheon

Several Chase College of Law alumni were recognized at the Northern Kentucky Volunteer Lawyers 2003 Pro Bono Awards Luncheon. Sheryl E. Heeter, a 1992 Chase graduate, was named Pro Bono Attorney of the Year. Patrick J. Monohan, '97, received the Distinguished New Volunteer Award. Representative Thomas R. Kerr '77 and Albert C. Hawes, '68 were presented Twenty-Five Year Special Service Awards. The luncheon, celebrating 25 years of access to justice, was held at the Summit Hills Country Club on May 9, 2003.

Chase Alumni Association Board of Governors Presents CLE Program

"The World Wide Web: An Overview of the Internet's Impact on Your Legal Practice and Your Client's Business" was the title of the CLE presented by the Chase Alumni Association Board of Governors on Friday, May 30, 2003. John McNally, President of the Board of Governors, and Sharlene Lassiter, Associate Dean and Professor of Law, gave the opening remarks. Todd H. Bailey, member, Greenbaum, Doll & McDonald, addressed the question of

continued opposite column

Professor Les Abramson Receives Top University Award

Each year, the University of Louisville Board of Trustees presents a single award to recognize a faculty member who has had an extraordinary impact on students. The award this year was presented to Brandeis Law Professor Les Abramson on May 10, 2003, at the University Commencement. The award recognized his exceptional devotion to students as a teacher, mentor, colleague, and friend. He gives time both inside and outside of class and incorporates real world skill assignments into the classes, providing extensive feedback on written and oral exercises. In addition he coaches the law school's ABA Client Counseling team, serves as faculty advisor to the Brandeis Law Journal and the Brandeis Law Society. Professor Abramson has previously been recognized through a number of other awards, including recognition for his service and scholarship. He has served the law school since 1973.

Harlan Dinner And Alumni Awards Banquet Promises To Be A Special Event

Each fall, the Brandeis School of Law hosts its annual Harlan Dinner and Alumni Awards event. The event is scheduled for Friday, October 17, at the Seelbach Hotel at 6:00 pm. This year's speaker will be William Cohen, who served as Secretary of Defense in the Clinton administration, and as the Republican Senator and Congressman from Maine. Those who attended the Brandeis Lecture this past February know of the importance of reserving a space early. This past February, we had a full house of 700 attendees. We expect a large crowd again this year and urge those interested in attending to register early. At the Brandeis Dinner, at the request of Justice Ruth Bader Ginsburg, the lecture was delivered before dinner. This change in schedule was met with great enthusiasm and we will continue that this year.

In addition to the Harlan Lecture, the event is an opportunity to honor many of our alums. This year, those individuals who will be recognized are the following:

Lawrence Grauman Award, the most prestigious award presented by the Law Alumni Council, recognizes a lifetime record of leadership and service to the profession and community. This year's recipient is Fred M. Goldberg '50. Fred Goldberg is one of the founding partners of Goldberg & Simpson, with his primary practice area in litigation and health care law. He is often referred to by his colleagues in the legal profession as one of the best all around lawyers in Kentucky. He has served many years as the guiding legal authority for the Louisville Board of Health. He served in key leadership in the development of Jewish Hospital at critical times in its history.

The law school will also present five distinguished alumni/ae awards, which are presented to alums that have distinguished themselves in leadership or in

other ways within the profession. The award is based on a significant record of achievement. This year, we will recognize Robert Breetz '61, Phyllis Florman '81, Phil Grossman '80, Margaret E. Keane '82, and Charles E. Moore '73.

The Alumni/ae Service Award is presented to an individual for a long and significant record of service to the law school. This year we will present two awards. Judge Olga Peers '51 and Rodney Williams '68 both died this past spring. Each of them gave long and significant service to the university and the law school.

The Alumni/ae Award for Excellence in Teaching this year recognizes the long and outstanding record of Professor Robert Stenger, who has been a member of the law faculty for 29 years and teaches in the area of bioethics and domestic relations.

The Dean's Service Award is presented to an individual who is not an alum but has given substantial service to the law school. This year's recipient will be Dan Goyette, who is the director of the Louisville Public Defender Office.

Also to be recognized at the banquet will be the Alumni Fellow, Michael Harrelld '69. This is the highest award selected by the law faculty. The Alumni Fellow is recognized at an event earlier in the fall.

The evening also provides an opportunity to thank the past and current president of the Law Alumni Council. Walt Swyers will serve in 2003-2004, and Cathy Pike served in 2002-03. Both have brought long and outstanding service to the Law Alumni Council.

Recent Harlan and Brandeis banquets have filled up early. Those interested in attending are urged to make their reservations as soon as possible. The cost of the dinner is \$50, with tables of ten for \$500, with an October 1, 2003 deadline. For more information, contact sbeach@louisville.edu.

Celebration Of Women's History

In February, the Brandeis School of Law celebrated the history of women at the law school. Associate Dean Linda Ewald and Professor Kathy Bean prepared a publication "Celebrating Women At the Brandeis School of Law and Jefferson School of Law: 1911-2003." The celebration was marked by a reception on February 11. Individuals wishing to recognize this history are supporting the funding of a room renovation project, which will honor that history. Included in the Brandeis women's history are visits by both female Supreme Court Justices. On February 12, 2003 Justice Ruth Bader Ginsburg delivered the Brandeis Lecture. On May 14, Justice Sandra Day O'Connor visited the law school, interviewed by Dean Laura Rothstein for an audience of members of the university community. This visit was in conjunction with Justice O'Connor's Kentucky Author Forum visit that evening. Justice O'Connor received the Brandeis Medal in 1992.

Chase Alumni News
Continued

"Long-Arm Jurisdiction: Just How Far Will The Internet Reach?" Alan J. Hartman '78, partner, Deters, Benzinger & LaVelle, P.S.C. gave a presentation on "Your Client's Website: What You Don't Know Can Hurt Them." W. Bruce Davis spoke on interesting ethical conflicts that may arise as the use of the Internet becomes more prevalent in the practice of law.

The program was free to members of the Chase College of Law Alumni Association. A well-attended reception in Chase's newly remodeled Bauer Boardroom followed.

Chief Justice Moyer Welcomes
Entering Chase Students

The Honorable Thomas J. Moyer, Chief Justice of the Ohio Supreme Court, was the keynote speaker at the Welcome Program for entering Chase students on Wednesday, June 4, 2003.

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Before You Move...



Over 13,500 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**.

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 MARCH 13-14, 2003

The Board of Governors met on March 13-14, 2003. Officers and Bar Governors in attendance were *President* S. Catron, *President-Elect* J. Stevenson, *Vice President* K. Westberry, *House of Delegates Chair-Elect* L. York, *Young Lawyers Section Chair* M. Cox, *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. Kinkad, Jr., D. McSwain; *6th District* – B. Bonar, M. Grubbs and *7th District* – D. Combs, J. Rosenberg. Absent were: *Immediate Past President* B. Storm and *House of Delegates Chair* Forrest Cook.

In a Special Session on Thursday, March 13, the Board of Governors reviewed and discussed the rules, procedures and possible problems regarding the unauthorized practice of law. At the conclusion of the special session, the Board approved the following recommendations:

- Approved the recommendation of the Unauthorized Practice of Law Committee to authorize President Catron to continue efforts in resolving violations of U-42.
- Approved the submitting a proposed rule amendment change to SCR 3.460 to the KBA Rules Committee to authorize the KBA in appropriate circumstances to obtain injunctive relief without the procedural requirement of a cease and desist letter.

In Executive Session on Friday, March 14, the Board considered one (1) discipline case, three (3) defaults cases, one (1) reinstatement and two (2) restoration cases. Robert Coleman of Paducah, John R. Crockett of Louisville, Sheila Mann, Frankfort, and Roger Rolfes, Florence, non-lawyer members serving on the Board pursuant to SCR 3.375 participated in the deliberations.

In Regular Session, on Friday, March 14, the Board of Governors conducted the following business:

- Approved as a proposed formal ethics opinion KBA E-421 regarding the subject of a part-time Commonwealth's Attorneys or members of their firm practicing condemnation cases where the state is involved. KBA E-421 will be scheduled for publication in the *Bench & Bar* magazine under the provisions of SCR. 3.530.
- Heard status reports from the Client Assistance Program, Investment Committee, Judicial Concerns Committee, Kentucky Lawyer Assistance Program, Rules Committee, and Office of Bar Counsel.
- Approved the contracts for the 2005 Annual Convention to be held in Louisville.
- Heard a report from Bar Governor Moore regarding recent legislature events and its impact on medical negligence in the future and the role of the KBA as an organization to preserve the fundamental liberty right of trial by jury. The Board approved the creation of a special committee to include a cross-section

membership for the purpose of studying legislative issues on medical negligence and insurance and report to the Board its recommendations on actions to be taken by the Board, the name of which will be refined and the appointment of the committee members which will be deferred to the President.

- Heard a report from President Catron regarding the status of the 2003 Annual Convention to be held in Louisville during the week of June 9-13, 2003.
- Heard a report from President Catron regarding the 2003 Midyear being held in Walt Disney World, Florida during the week of April 6-11, 2003.
- Approved the reappointment of John R. Martin of Louisville to the IOLTA Board of Trustees for another three (3) year term ending June 30, 2006, subject to approval by the Supreme Court.
- Approved submission of nominees to the Supreme Court of Kentucky for appointment to the CLE Commission for a three-year term ending on June 30, 2006: 1st Supreme Court District - George M. Carter of Benton, L. Wayne Cisney, Jr. of Greenville and Robert Elwood Ison of Hopkinsville. 6th Supreme Court District: Gary Sargent of Covington, Gabrielle Summe of Covington and Donna Bloemer of Covington.
- Approved the following appointments to the Attorneys' Advertising Commission, increasing the membership of the Commission from 3 members to 9 members: Walter A. Hawkins of Hopkinsville, Martha Farmer Copeland of Corbin, Randall S. May of Hazard, Virginia H. Snell of Louisville, Norman E. Harned of Bowling Green and Michael J. O'Hara of Covington. The new appointees will join the current Attorneys' Advertising Commission members David Boswell of Paducah, Robert L. Elliott of Lexington and Douglas C. E. Farnsley of Louisville.
- Approved the re-engagement of Kelley, Galloway & Company of Ashland to perform the June 30, 2003 audit.
- Approved the awards for the Student Writing Competition in the amount of \$1,000, with \$500 to the winner, \$300 to 2nd Place and \$200 to 3rd Place.
- Approved the awards for the Law Day Program in the amount of \$900.

To KBA Members



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

Board meetings are scheduled on

September 19-20, 2003

November 14-15, 2003

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.

PROPOSED ATTORNEY ADVERTISING REGULATIONS OF THE ATTORNEYS' ADVERTISING COMMISSION

The original deadline to submit written comments concerning the proposed attorney advertising regulations was June 1, 2003.

Due to the interest this issue has generated within the Bar, the Attorneys' Advertising Commission has extended the deadline for filing written comments to September 1, 2003.

The Commission has also approved a delay in implementation of the new regulations until after September 1, 2003 in order to allow itself the benefit of all comments.

Any comments must be received in writing at the KBA no later than September 1, 2003.

All comments should be sent to the Attorneys' Advertising Commission, c/o Bruce K. Davis, KBA Executive Director, 514 West Main Street, Frankfort, KY 40601-1883.

Copies of the proposed regulations are available from Susan Adams at 502-564-3795, ext. 246 or by email at sadams@kybar.org.

NEW LAWYERS' PROGRAM REQUIREMENT

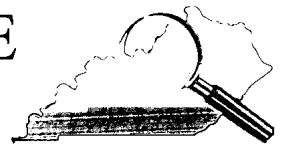


New admittees of the Kentucky Bar Association are required to complete the New Lawyer program *within twelve months* of the date of admission unless they have practiced in another jurisdiction for a minimum of five years. For answers to questions about the New Lawyers' Program or your completion deadline, please contact Sherry Hayden at 502-564-3795 or register online at www.kybar.org.

**Upcoming programs
are as follows:**

**OCTOBER 2-3, 2003
Northern Kentucky
Convention Center
Covington, Kentucky**

ON THE LOCAL SCENE



Kentucky Bar Foundation and Local Bar Associations Celebrate Law Day 2003

For the second consecutive year, the Kentucky Bar Foundation helped promote Law Day by providing funding for informational materials for various local bar associations throughout the Commonwealth. Posters for each school, pencils for students and coffee mugs for teachers promoting the theme "Independent Courts Protect Our Liberties" were among the items distributed. This year's participating bar associations included Bowling Green/Warren County, Boyd County, Clark County, Fayette County, Floyd County, Madison County, Northern Kentucky, Pike County, and Pulaski County. With the participation of these nine bar associations, approximately 7,000 students were reached through local school programs. Following are some of the highlights of Law Day 2003:

Bowling Green/Warren County

Law Day 2003 Food Drives and Blood Drives were hosted by the bar association, which served as reminders to local attorneys that deprivation can be substantially alleviated through a collective, professional consciousness. Local law firms were well represented in both efforts. Four live, call-in "Ask an Attorney" programs were delivered over a local radio station throughout the months of April and May, including such topics as 'Purchasing a Home,' 'Steps to take upon being named Defendant to a Civil Suit,' 'Steps to take After being involved in an Auto Accident,' 'School Law,' 'General Injury Law,' 'Child Support,' and the 'History and Mission of Law Day Itself.' Eight local attorneys volunteered their time to deliver these highly successful pro bono radio shows.

At the opening Law Day ceremony, Bowling Green Mayor Sandy Jones and Warren County Judge Executive Michael Buchanan executed the Law Day Proclamation. The guest speaker was Judge Boyce F. Martin, Jr., U.S. Court of Appeals for the Sixth Circuit, who spoke about American liberties and Judicial/citizen guardianship of liberties in the face of the "War on Terror." During the children's portion of the Law Day Celebration, 22 local attorneys spoke to over 300 children. The bar association also hosted a "Meet Your Local Law Enforcement" tour, where local students were invited to the Warren County Justice Center to meet officers from all local law enforcement agencies. A poster contest was held for grades K-6, with nearly 300 students participating. One winner was selected from each grade. All student poster entries are now on display at the Justice Center in Bowling Green. An essay contest was held for grades 6-12. Again, nearly 300 students participated in this contest, and the winning essay was read at the Law Day Celebration. The Bowling Green/Warren County Law Day program was a huge success and was well received by the children, teachers and parents.

Clark County

The kickoff of the Clark County Bar Association's Law Day/Law Week 2003 activities began with a joint city/county proclamation by Winchester Mayor Dodd Dixon and Clark County Judge Executive Drew Graham on April 29, 2003. The bar association sponsored an essay and art competition, which was open to the public and private middle and high school students of Clark County. Each participant received a certificate, and the winners were invited to Law Day activities held on May 8, 2003. The winners were also recognized in a special ceremony in the Clark Circuit Court presided over by Judge Julia Adams. Court of Appeals Judge Lewis Paisley also spoke. Members of the bar association participated in a Speakers' Bureau involving 4th and 5th grade students in the county's public and private elementary schools. They also participated in an Elders' Outreach Program, which included a presentation of particular concerns to elders as well as free assistance in the preparation of powers of attorneys and living wills. The Clark County Attorney wrote a published article in a local newspaper on the "Role of Independent Courts" sponsored by the bar association as part of Law Week activities. The Clark County Bar Association dedicated its Law Day 2003 to the patriotism of Army Major David M. Ward, JAG, and his family for dedicated service in support of Operation Iraqi Freedom.

Fayette County

In conjunction with Law Day 2003, the Fayette County Bar Association held a Lawyers in the Schools Program. Approximately 100 attorneys volunteered to be speakers in the classrooms at approximately 10 middle or high schools in Fayette County. A positive response was received from both teachers and the attorneys who participated. Topics included such items as the war in Iraq, voting and elections, and the Kentucky State Legislature. Due to this year's overwhelming response, the bar association is already preparing for next year and is looking forward to another successful program.

Madison County

As part of the Madison County Bar Association's Law Day program, an essay contest is held each year for the county's 7th and 8th grade students. This annual event has become a part of the teachers' lesson plans, which allows the students to exhibit a keen understanding of the theme and meaning of Law Day every year. This year's contest drew 100% participation by the middle schools in Richmond. During Law Day week, 10 local attorneys and judges visited the middle schools and spoke to students about Law Day, its theme and other topics related to practicing law. Prizes were given to students who successfully answered trivia questions about Law Day and its theme during the speaking engagements. The bar association's speaker project reached well over 400 students. The speaker project has been so well received that one school, St. Marks, now holds an annual Law Day assembly for grades 5-8, at which the winners of the essay contest read their essays to the other students. A Law Day Motion Hour Ceremony has become an annual event in which Judge Julia H. Adams of the Madison Circuit Court allows the Law Day committee to hold a special Law Day ceremony during motion hour on the Thursday of Law Day week. This time is used to inform the local bar and the community of the Law Day activities and to formally present the winners of the essay contest. The

In Memoriam



James R. Ford
Anderson, IN

Joseph P. Allen
Winter Park, FL

David W. Burton
Corbin

James S. Hogg
Bonita Springs, FL

Dennis Howard Shaw
Louisville

Gary L. Gardner
Louisville

Edward A. Marye, Jr.
Mt. Sterling

Ethel R. Alston
Prospect

Larry Charles West
Edgewood

William S. Davis
Ashland

Robin Griffin
Lexington

Jerry A. Lloyd
Louisville

Robert L. Wilson
Jamestown

ceremony is attended by local bar members, judges and other county officials, and is broadcast to the local community via the local cable access channel for the Madison Circuit Court. At this time the local bar also recognized the parents of the essay contest winners and presented the participating teachers with coffee mugs provided by the Kentucky Bar Foundation.

In keeping with this year's Law Day theme, the Madison County Bar Association honored the living judges who have retired from judicial service in Madison County: Hon. James S. Chenault who retired from the Madison Circuit Court; Hon. John Paul Moore who retired from the Madison District Court; and Hon. George Robbins who retired from the Madison District Court. A plaque was presented to each retired judge who was recognized for his years of service in assuring an independent judiciary in Madison County. Judge Chenault celebrated his 80th birthday on Law Day and helped make the Lay Day Motion Hour Ceremony memorable by speaking to the local bar and winning students about the importance of celebrating Law Day each year.

Every year, the Madison County Bar Association ends its Law Day week by holding a banquet that is attended by most of the local bar. During this time, the bar recognizes outstanding achievements of local bar members, recognizes outgoing officers and installs news officers. This year, Hon. Ira Newman, the director of the local office of the Appalachian Research and Defense Fund, was recognized for having received national recognition for his lifetime of service to rep-

continued opposite column

ON THE LOCAL SCENE



Cincinnati Bar Association Awards Highest Honor to Wm. T. (Bill) Robinson III

The Cincinnati Bar Association (CBA) awarded its highest honor, the Themis Award, to Wm.T. (Bill) Robinson III, Member-in-Charge of the Greater Cincinnati and Northern Kentucky offices of Greenebaum Doll & McDonald. The Themis Award was presented to Robinson at the Hilton Netherland Plaza in Cincinnati on May 2, 2003, with the current president of the American Bar Association (ABA), A.P. Carlton of North Carolina, attending and delivering special remarks.



The award is given for truly extraordinary service by an attorney to the CBA, the profession and/or the general community which displays a high level of commitment, dedication or courage. This coveted award is not given on an annual basis. According to John Norwine, Executive Director of the CBA, Robinson is just the fourth person to receive the Themis Award over the past 20 years.

Robinson is very involved in business, civic and charitable organizations in the Greater Cincinnati and Northern Kentucky areas. He was nominated for the award by former Sixth Circuit Judge Nathaniel Jones and chosen for this honor by members of the CBA Awards Committee based on his significant volunteer leadership accomplishments over the lifetime of his career. Robinson's professional career has consistently included significant volunteer leadership in his regional community and in the legal profession.

Robinson was educated at the Athenaeum of Ohio and St. Gregory Seminary, Thomas More College and the University of Kentucky College of Law.

Robert J. Gehring Inducted as 2003-2004 Cincinnati Bar Association President

Robert J. Gehring, partner in the law firm of Crabbe, Brown & James LLP, has been named president of the Cincinnati Bar Association (CBA) for 2003-2004. Gehring was inducted on May 2, 2003, at the association's annual meeting at the Hilton Netherland Plaza in Cincinnati.



A long time active member of the CBA, Gehring has a working knowledge of the association. As a young lawyer, he was active in the Young Lawyers Section. He has also been an active member of the Grievance Committee, representing the CBA before the Supreme Court in a number of cases. He has chaired a number of committees, including the Tort and Insurance Committee and the Professionalism Committee. He has served on many other committees. His leadership in the association has been further established by service on the CBA Board of Trustees and Executive Committee.

Gehring graduated from St. Xavier High School, Miami University and Chase College of Law at Northern Kentucky University. He is admitted to practice law in Kentucky and Ohio.

Bowling-Green Warren County Bar Association Presented Pro Bono Publico Award to Debra L. Broz

Debra L. Broz was presented with the Pro Bono Publico Award at the 2003 Law Day ceremonies conducted by the Bowling Green-Warren County Bar Association. This award is presented each year by the Lawyers Care Volunteer Attorney Program to a member of the bar association who has made a significant contribution to the provision of donated legal services to low-income, elderly or disabled individuals in the community. Broz received the award for her continued commitment to the mission of lawyer care and pro bono service. She earned her undergraduate degree from Western Kentucky University and her law degree from the University of Kentucky College of Law. Broz has her own law practice in Bowling Green.

KBF Law Day, continued

resenting those who could not otherwise afford legal representation. Mr. Newman also presented awards to four local attorneys who contributed considerable time in the past year providing representation on a pro bono basis: Sandra Bolin, Melinda Murphy, Earl-Ray Neal, and Nora Shepherd. The guest speaker at this year's banquet was Joanne Glasser, an attorney and the first female President of Eastern Kentucky University. Ms. Glasser ended the Law Day celebration by emphasizing the need to reach out to and educate students about the importance of the law and lawyers in their everyday lives.

Northern Kentucky

The Northern Kentucky Bar Association celebrated Law Day with local schools. Bar association members, including current President Laurie B. Dowell, Immediate Past President David E. Davidson, and Judge D. Michael Foellger, spoke at ten area schools. Over 1,000 Northern Kentucky students participated in the programs and received materials promoting Law Day. Law Day celebrations concluded with the Northern Kentucky Bar Association's annual Law Day reception, which is open to all local bar association members and sponsored by The Bank of Kentucky and Receptions Conference Centers. Over 150 attorneys and members of the Judiciary attended the event.

In conclusion, the Kentucky Bar Foundation sincerely appreciates the efforts of all participants involved in Law Day 2003. This worthwhile program is an invaluable tool towards educating our future lawyers and judges, and we are proud to be associated with it.

WHO, WHAT, WHEN & WHERE

On the Move

Woodall & Quinn, PLLC is pleased to announce that **Karen E. Woodall** has joined the Cadiz firm for the general practice of law and mediation of family disputes. Woodall is a 1993 graduate of the University of Kentucky College of Law and brings her prior experience as a family court judge to the firm.



R.H. Compton



Kevin P. Weis



G.A. Compton

The Louisville law firm of **Goldberg & Simpson, P.S.C.** announces the addition of **Kevin P. Weis** as an associate of the firm and **Robert H. Compton** as Of Counsel. **Gregory A. Compton** is now licensed to practice in the states of Ohio and Florida. Weis holds a B.S. from Bellarmine University, a M.S. from Texas A&M University and is a 1999 graduate of the Brandeis School of Law at the University of Louisville. Weis concentrates his practice in the areas of personal injury, automobile negligence, premises liability and medical negligence law. He also practices with the firm's Insurance Defense Litigation Group. Robert H. Compton is licensed to practice in the states of Kentucky and Ohio. He is retired from Ashland Oil, Inc. Gregory A. Compton practices in the areas of corporate planning and transactions, commercial and residential real estate development, leasing and

conveyances and commercial and secured lending transactions.

Julie E. Hays has joined the **Rose Law Offices** in Lexington. She plans to practice primarily in the area of domestic relations.

The law firm of **Greenebaum Doll & McDonald PLLC** is proud to announce that **Brett S. Gumlaw** has joined the Louisville office. Gumlaw received his undergraduate degree from Northwestern University, his law degree from the University of Louisville and his LL.M. from the University of Denver Graduate Tax Program. He concentrates his practice in the areas of taxation and international tax.



R.A. Naser



Kristi M. Smith



R.E. Plymale

Frost Brown Todd LLC is pleased to announce the arrival of **Rebecca A. Naser**, **Kristi M. Smith** and **Richard E. Plymale** to its Lexington office. Naser is a graduate of the University of Virginia College of Law and was admitted to practice law in Kentucky in April of 2003. She worked eight years in the employment and labor law area for two national law firms in Washington, D.C. Naser now serves Frost Brown Todd LLC in its Labor and Employment Practice Group concentrating primarily on human resources, counseling and employment litigation. Smith graduated from Centre College

and the University of Cincinnati College of Law. She was admitted to practice law in Kentucky in October of 1999. Smith now serves Frost Brown Todd LLC in its Litigation Practice Group and practices primarily in the area of insurance defense. Plymale was a former partner of Brown, Todd & Heyburn PLLC and served as General Counsel for the University of Kentucky from 1994-2002. Plymale has experience as a civil and criminal trial lawyer in the areas of healthcare law, commercial litigation and white collar crime.

Julie A. Butcher is pleased to announce the opening of her law firm, **The Law Office of Julie A. Butcher, PLLC**, located in Lexington at 343 Waller Avenue in Suite 302. Butcher may be reached by telephone at (859) 233-3641. She will continue to focus her practice in plaintiffs' personal injury law and general civil litigation.



Julie A. Butcher



A.B. Camden



J.C. Puszczewicz

The law firm of **O'Bryan, Brown & Toner, PLLC** is pleased to announce that **Andie Brent Camden** and **James C. Puszczewicz** have joined the Louisville firm as associates. Camden is a 2000 graduate of the University of Kentucky College of Law. His practice will include insurance defense litigation cases involving matters of medical malpractice, tort

claims, product liability and insurance coverage. Puszczewicz is a 2000 graduate of the Brandeis School of Law at the University of Louisville. His will practice primarily in insurance defense litigation cases involving matters of medical malpractice, workers' compensation, tort claims, product liability and insurance coverage.

John Corey Morgan is pleased to announce the opening of **Morgan Law Office** at 206 West Cherry Street in Glasgow. Morgan earned his J.D. from the



J.C. Morgan

Brandeis School of Law at the University of Louisville. His practice will include domestic relations, personal injury, estate planning, bankruptcy and taxation. He will also continue to work with the Barren County Attorney's Office in a part-time capacity.

The Covington law firm of **Parry Deering Futscher & Sparks, P.S.C.** is pleased to announce that **Amy L. Hunt** has become associated with the firm. Hunt graduated, *cum laude*, from Salmon P. Chase College of Law in 2002. She is licensed to practice before the courts of the Commonwealth of Kentucky

and the State of Ohio. The firm concentrates its practice in complex litigation and class actions on a local and national level.



M.T. Cooper



Hal D. Friedman

Michael T. Cooper and **Hal D. Friedman** proudly announce the formation of **Cooper & Friedman, PLLC**, located in Louisville at The Professional Building East in Suite 1A at 3101 Breckinridge Lane. The firm's telephone number is (502) 459-7555. Both Cooper and Friedman received their law degrees from the Brandeis School of Law at the University of Louisville. Cooper is a former partner of Hargadon, Lenihan, Harbolt & Herrington, PLLC. Friedman is a former shareholder of Morgan & Pottinger, PSC. Cooper and Friedman will focus their practice on medical malpractice, consumer protection and debtor defense litigation, business litigation, criminal defense and personal injury including auto accidents and premises liability.

The Lexington law firm of **Walther, Roark, Gay & Todd, PLC** is pleased to announce that **Erica L. Keenan** has become associated with the firm. Keenan obtained her B.A. from the University of Kentucky in 1999. She earned her J.D. in 2002 from Capital University. Keenan's areas of concentration are employment and labor law.

Weber & Rose, P.S.C. takes pleasure in announcing that **James Taylor Lobb** has become a member and a shareholder of the Louisville firm. Lobb is a 1979



James T. Lobb

graduate of the University of Kentucky and a 1982 graduate of the University of Georgia Law School. He concentrates his practice in the area of commercial real estate finance and development. Lobb will serve as head of the firm's Commercial Real Estate Department.

The Florence law firm of **Boggs & Colvin** is pleased to announce that **Sarah Nefzger** and **Julie Reinhardt Ward** have become associated with the firm. Nefzger will focus her practice mainly in the area of general civil litigation. Ward's practice will focus mainly in personal injury, family law, bankruptcy and general litigation. Nefzger and Ward are both licensed to practice law in Kentucky and Ohio.

Sandra Mendez Dawahare and **Valerie S. Kershaw** announce the creation of their new law firm, **Dawahare & Kershaw, LLP**. They are located at 106 Vine Street in Suite 304 at Lexington. Dawahare and Kershaw may be reached by telephone at (859) 381-1145.

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 September edition of *Who, What, When & Where* is August 1, 2003.

WHO, WHAT, WHEN & WHERE

Smith and Smith, Attorneys of Louisville announce the addition of **Mark A. McAnulty** as an associate attorney. McAnulty is a 1992 graduate of Murray State University and a 1995 graduate of Southern Illinois University School of Law. McAnulty is admitted to practice law in Kentucky, Indiana, Illinois and Missouri.

The law firm of **Thompson Miller & Simpson PLC** is pleased to announce that **Julie A. Johnson, R. Thad Keal, Clay M. Stevens** and **Millicent A. Tanner** have accepted partnerships with the firm. **Brenda J. Runner** has also become associated with the firm. Johnson, a 1990 *magna cum laude* graduate of Centre College, received her law degree from Brandeis School of Law at the University of Louisville in 1994. She will continue to concentrate her practice in healthcare litigation and domestic relations. Keal is a 1987 graduate of Bellarmine University and a 1990 graduate of the T.C. Williams School of Law at the University of Richmond. He will continue to concentrate his practice in healthcare, civil rights and products liability litigation. Stevens is a 1986 graduate of the University of Kentucky, a 1995 graduate of the University of Kentucky College of Law and a judicial clerk for the U.S. District Court for the Western District of Kentucky. He practices in the areas of commercial, employment and products liability litigation. Tanner graduated from the University of Texas Health Science Center in 1986 with high honors and earned her J.D. with honors from the Brandeis School of Law at the University of Louisville in 1994. Tanner concentrates her practice in the area of healthcare litigation. Runner is a 1977 graduate of the University of Louisville. She graduated, *magna cum laude*, from Brandeis School of

Law at the University of Louisville in 1990. Runner concentrates her practice in the area of healthcare litigation.

Kevin L. Murphy & Associates, P.S.C. is pleased to announce that **Lynda M. Hils** has joined the firm. Hils obtained her B.A. from Northern Kentucky University in 1999 and her J.D. from the Louis D. Brandeis School of Law at the University of Louisville in 2002. She will assist the firm in the areas of business law and civil litigation.



Lynda M. Hils

The law firm of **Pedley, Zielke & Gordinier, PLLC** is pleased to announce that attorneys **James D. Ballinger, Adam B. Shadburne, Berlin Tsai** and **Laurence J. Zielke III** have joined the firm. Pedley, Zielke & Gordinier, PLLC recently moved its headquarters to 2000 Meidinger Tower in Louisville.



L.J. Zielke III



J.D. Ballinger



A.B. Shadburne



Berlin Tsai

Brian C. House is pleased to announce that **Russell W. Burgin** has joined him in the practice of law in the firm of **House & Burgin, Attorneys at Law**, at 310 West Fifth Street in London, Kentucky. The new mailing address is P.O. Box 2095, London, KY 40743-2095. House and Burgin may be reached by telephone at (606) 862-1116.

Correction

Henry Watz Gardner Sellars & Gardner, PLLC is pleased to announce that **Jane E. Graham** has joined the firm in an Of Counsel capacity. Graham recently retired as Chief of the Civil Division of the United States Attorney's Office for the Eastern District of Kentucky, following a 23 year career with that office. She served four terms representing the 5th Supreme Court District on the KBA Board of Governors and is a past president of the Kentucky Chapter of the Federal Bar Association. Graham will concentrate her practice in the fields of mediation and civil litigation. The previous announcement did not include the complete name of the firm.



Jane E. Graham

In the News

Chief Judge Thomas B. Wells announced that **Joseph Robert Goeke**, of Chicago, Illinois, took the oath of office on Tuesday, April 22, 2003, as a Judge of the United States Tax Court. Judge Goeke was appointed by President Bush to the U.S. Tax Court for a 15-year term to succeed Judge Herbert L. Chabot who

assumed senior status. Judge Goeke received his B.S. from Xavier University in Cincinnati, Ohio and his J.D. from the University of Kentucky College of Law.

The **Honorable Rebecca Westerfield** was awarded the Distinguished Mediator of the Year Award at a ceremony on April 9, 2003, at the San Francisco Trial Lawyers Association's Annual Trial Lawyer of the Year Award Dinner. Judge Westerfield earned her B.A. with distinction in 1972 from the University of Kentucky. In 1975, she earned her J.D. from the University of Kentucky College of Law.

The Kentucky Registry of Election Finance unanimously elected **John C. Rogers** of Glasgow to serve as chair and **Sam P. Burchett** of Lexington to serve as vice chair. Rogers is a graduate of Eastern Kentucky University and the University of Kentucky College of Law. Burchett earned his M.B.A. and his J.D. from the University of Kentucky.

Louisville attorney **Allan Weiss** announces that he has been certified as an arbitrator for the New Stock Exchange, Inc. Weiss is also certified as a mediator and arbitrator for NASD Regulations, Inc. and the American Arbitration Association.

Thomas E. Rutledge, a member of Ogden Newell & Welch PLLC in Louisville, presented "The Duty of Finest Loyalty and Reasonable Decisions: The Business Judgment Rule in Unincorporated Business Organizations" at a symposium held in April of 2003 at the Widener University College of Law in Wilmington, Delaware. The paper will appear in a forthcoming issue of THE DELAWARE JOURNAL OF CORPORATION LAW.

Relocations

Margo L. Grubbs, an attorney licensed in both Kentucky and Ohio, has recently gone into solo practice in Northern Kentucky. Her firm, **Margo L. Grubbs & Associates**, is located in Covington. She may be reached by telephone at (859) 341-2500. Grubbs currently serves on the KBA Board of Governors from the 6th Supreme Court District. Her areas of practice are personal injury, family law, criminal defense, medical negligence and lesbian, gay, bi-sexual and transgender issues.



Margo L. Grubbs

Robert C. Hardesty is pleased to announce the opening of his new law office in Florence at 71 Cavalier Boulevard in Suite 129. Hardesty may be reached by telephone at (859) 746-3456.

Elizabeth E. Vaughn announces the relocation of her office to 525 North Main Street in Henderson.

Danny Butler, Attorney at Law, announces the relocation of his law office to 118 North Main Street in Greensburg. Butler may be reached by telephone at (270) 299-2291 or (270) 299-2305.

Stuart Adams Law Office, P.S.C. is pleased to announce its relocation to The Lynnhurst Office Condominiums in Suite 1 at 8009 New LaGrange Road in Louisville. Attorneys **Stuart Adams** and **Todd Raderer** continue to practice in the areas of general business law, business litigation, business start-ups, technology law, estate planning and probate.

Equine Statutory Liens

Continued from page 27

50. KRS 355.9-322 (1) (c).
51. KRS 355.9-322 (7).
52. KRS 355.9-317 (1) (b) (1).
53. KRS 335.9-310 (1).
54. KRS 335.9-310 (2) (f).
55. KRS 355.9-313.
56. KRS 355.9-308 (2).
57. KRS 355.9-308 (3).
58. *Id.*
59. KRS 335.9-310 (3).
60. KRS 355.9-509 (1)(b).
61. Official Comment 5 to UCC 9-509.
62. KRS 355.9-625 (5) (c).
63. *Id.*
64. KRS 355.9-501 (1) (b).
65. KRS 355.9-302; Official Comment 2 to UCC 9-302.
66. KRS 355.9-320 (1)
67. *Id.*
68. KRS 355.9-320 (6)
69. *Id.*
70. *Id.* See 7 USC § 1631
71. *Id.*
72. KRS 355.9-320 (1).
73. KRS 355.9-317 (2).
74. KRS 355.9-317 (3).
75. KRS 413.242.
76. KRS 355.9-315 (1) (a).
77. 810 KAR 1:015 (15).
78. See "The Priority Race: Winner Takes the Horse," *supra* at 626-629, for discussion of claiming races.
79. *Knott v. Crown Colony Farm, Inc.*, 865 SW.2d 326, 329-30 (Ky. 1993).
80. *Id.* at 330.
81. KRS 355.9-515.
82. KRS 355.9-601 (5).

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