

# E-mail Quackery

**I**nformation security principles apply as much in weighing electronic evidence as in weighing the security of our office systems. Information security issues may direct the investigation, analysis and prosecution of legal actions, from divorce to crime. The principles of *integrity* and *authenticity* of evidence, especially documents, are integral to trial practice. The mutable, portable and cumulative nature of electronic information – its potential *insecurity* – mandate special attention to the rules of evidence and procedure.

E-mail evidence has been prominent in many high-profile cases; in this post-Enron time, failure to maintain corporate e-mail may, in some circumstances, lead to criminal liability.

E-mail has also become a highly democratic tool of communication, with hundreds of millions of people using AOL, Yahoo, Hotmail or any of thousands of other systems to send and receive e-mail from any and all.

Thus e-mail is evidence in more and more mundane legal matters, from divorce to contract. With growing knowledge of information security problems with e-mail, a practicing lawyer will apply that knowledge on behalf of a client.



Michael Losavio

## **Where Did It Come From? Who Sent It? Is It For Real?**

The lawyer as skeptic always evaluates the provenance of any potential evidence. That is particularly important with electronic evidence, which has a high potential for compromise, known and unknown.

It's my sense that electronic evidence, despite this, is sometimes felt to have a greater reliability than it deserves. Perhaps this goes back to those early days of mainframes tightly and rigidly controlled by a highly-trained few. Those early, stringent controls may have met evidentiary needs for reliability. But with the spread of

electronic evidence to the home desktop, a special vigilance is needed. That vigilance has both practical and ethical implications for the lawyer.

## **A Simple Example**

The simplest example for this is the frequently-tendered evidence of an e-mail, its print-out. Under the Federal Rules of Evidence, that print-out is itself an original document that may be used if properly qualified.

And it is an easily forged "original."

Using, for example, Microsoft Outlook, you can select the "Edit Message" choice from the Edit menu and add or delete text at will. Click "print" and the print-out of the email is indistinguishable, on its face, from any other.

Presented with such a paper original, you may wish to examine the electronic copy of the e-mail itself. But, if the "Save" command is used on the edited copy, then those edits become the electronic copy itself.

A further check on authenticity may be had through the "Properties" option on the File menu. This will show the date & timestamp for when the message was sent, received and last modified. A timestamp showing a modification doesn't necessarily mean an intentional act, but it is something to consider. Complicating this is that the computer system's date and time can be momentarily reset and the message saved to reflect that reset time, effectively spoofing the timestamp. Is it too cynical to consider such action?

What do you do if presented with such evidence? Hire an expert for computer forensic analysis? Subpoena ISP e-mail records? Cross-examine hard and long? While many cases involving e-mail evidence have proceeded with admissions of authenticity, in kind this is no different from other problems in using and admitting documentary evidence. But just as people tend to say things in e-mail they wouldn't write in a formal letter, might there be a temptation (or absence of traditional restraint) to compromise the literal truth via electronic forgery? As with

other evidence decisions, this may fall back on the court to decide, from the entirety of the evidence, if sufficient reliability of such evidence has been established.

**A**nd why stick with modifying a sent e-mail? Why not create a Hotmail account with someone's name and send out email under that name? Future columns will explore this and other issues of information security that may impact our use of electronic evidence. For e-mail we will look at the issues of who sent a particular e-mail and from whence it came. If you have any examples or thoughts on this, please share them via [Michael.losavio@louisville.edu](mailto:Michael.losavio@louisville.edu). ■

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AOL is a trademark of Time-Warner, Inc.*

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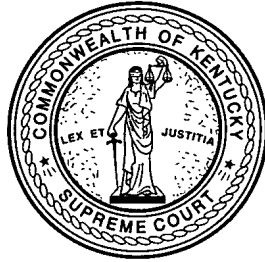
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# Supreme Court of Kentucky



**IN RE:  
ORDER AMENDING  
KENTUCKY RULES OF EVIDENCE (KRE)**

**2004-1**

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In accord with KRE 1102(a), and the Chief Justice having reported to the Kentucky General Assembly proposed changes to KRE 804(5), and the General Assembly not having disapproved amendment to the Rules of Evidence by resolution during the 2004 Regular Session, the Kentucky Rules of Evidence are hereby amended, effective July 1, 2004, as follows:

A new subsection (5) of KRE 804(b) shall read:

**Rule 804 Hearsay Exceptions: Declarant Unavailable**

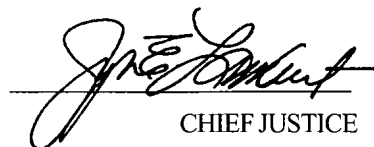
(5) Forfeiture by wrongdoing. A statement offered against a party

that has engaged or acquiesced in wrongdoing that was intended

to, and did, procure the unavailability of the declarant as a witness.

All concur.

ENTERED: June 10, 2004.

  
CHIEF JUSTICE

# Judicial Ethics Opinions

JE-105

**Question:** May a sitting judge or a judicial candidate identify himself/herself as a member of a specific political party and further comment on the probable effect of such political party membership on an impending governor's appointment to a judicial vacancy in response to a direct question when:

- (1) Such questions are asked during a television interview by a member of the local press; and
- (2) The known audience includes, but is not limited to the entire geographic area/county wherein the sitting judge or judicial candidate is seeking election; and
- (3) The sitting judge or judicial candidate is voluntarily participating in the interview for the specific purpose of promoting his/her candidacy and convincing the voting public to elect said sitting judge or judicial candidate to a judicial office?

**Answer:** No. In accordance with the Constitution, Kentucky's judicial elections are nonpartisan and permitting such a dialogue within public gatherings or organized groups would effectively destroy the nonpartisan character of judicial elections. Canon 5(A)(2) cannot be construed to accomplish such an absurd result.

In accordance with Ky. Const. § 117, judicial elections in Kentucky

are nonpartisan. Throughout Canon 5, judges are constrained in their political conduct in an attempt to maintain the nonpartisan character of judicial elections. Judges cannot contribute to political candidates or to a political party and they cannot publicly endorse other candidates for office. While they are permitted to attend political gatherings to campaign on their own behalf, efforts must be made to separate themselves from their surroundings so that an impression is not created that the candidate is there to benefit someone other than himself.

For these reasons, the language of Canon 5(A)(2) is problematic. Canon 5(A)(2) states:

A judge or candidate shall not identify himself or herself as a member of a political party in any form of advertising, or when speaking to a gathering. If not initiated by the judge or candidate for such office, and only in answer to a direct question, the judge or candidate may identify himself or herself as a member of a particular political party.

At first blush, the statute appears to carve an exception to the general rule that a candidate cannot identify himself as a member of a particular party when speaking to a gathering. (The Committee construes an appearance on television or radio to be an appearance at a gathering.) But, it is also possible to read the statute as setting forth two separate rules—one rule applicable to gatherings and the other rule appli-

cable to other types of situations. In other words, at the very least, the statute contains an ambiguity. At most, the two provisions contradict each other.

When presented with such a situation, courts are authorized to look to the intent of the legislature and the purpose of the statute. 73 Am.Jur.2d § 169 (2001). The Committee believes that it is appropriate to do likewise in construing this canon. As we have already stated, the purpose of Canon 5 and the Code of Judicial Conduct as a whole is to preserve nonpartisan elections and the independence of the judiciary. Therefore, the only possible interpretation of Canon 5(A)(2) which satisfies these goals is to construe the last sentence of the paragraph to apply only to one-on-one situations or very small private informal groups. Any other construction would permit partisanship into Kentucky's judicial elections and thereby possibly render this section of the Code unconstitutional by bringing it into violation of Ky. Const. § 117.

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

## Kentucky Bar Association to Sponsor Online Judicial Voter Guide

Beginning this fall, the Kentucky Bar Association will be among the leaders in the nation in judicial election education. The Joint Study Committee on Judicial Concerns, a standing committee composed of members of the judiciary and the bar, devoted many hours of study to methods of improving the election process. The Committee recommended to the KBA Board of Governors that a judicial voter guide be established on the new and revised Kentucky Bar Association web site. The Board of Governors unanimously approved the recommendation and directed that the voter guide be created.

The aim of the voter guide is to provide the citizens with information about the candidate to assist them to make an informed and thoughtful decision in the voting booth. Research has shown that a good many citizens have substantial difficulty in judicial elections assessing candidates' abilities and qualifications, particularly for open seats. There is every reason to believe this online voter guide will go a long way to remedy the problem.

In a simple and straightforward fashion, the guide will first show the voter what judicial elections are oc-

curring in their county or judicial district. The guide will then list the candidates and provide essential information about them. A candidate's photograph, home county, length of residence, year admitted to the bar, education, legal and judicial experience, civic and professional affiliations and a short statement by the candidate will be presented. The candidates who participate agree to follow the appropriate ethical rules.

All judicial candidates who will appear on the ballot in November will be invited to participate in the online voter guide. Those who have not chosen to participate will have done so at their discretion. It will expressly be noted that the Kentucky Bar Association does not endorse any candidate and that by participation in this program, the candidate should not imply an endorsement. The voter guide will also contain a link to the Court of Justice web site to further enlighten the electorate about the justice system in general and the duties of judges at various levels.

Nearly everyone who has considered this program is genuinely filled with enthusiasm and optimism. This cannot but have a salutary effect upon the electoral process. It looks

very much like one of those marvelous "win win" situations. The candidates can present themselves to the public in a dignified and appropriate forum at no cost which the citizens can easily access. The voter guide may also generate other benefits unrelated to the judicial elections. Citizens visiting the new KBA web site for the first time will discover the many positive activities of the Kentucky Bar Association and learn about our continuing effort to improve and refine the legal system for the benefit of all citizens of the Commonwealth.

Mention must be made of the highly successful Judicial Voter Guide in North Carolina after which this voter guide is largely patterned. The cooperation and gracious assistance of the North Carolina Center for Voter Education is greatly appreciated.

William M. Nixon  
Chair, Joint Study Committee  
on Judicial Concerns

James G. Hodge, Sr.

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## COMMONWEALTH OF KENTUCKY JUDICIAL CONDUCT COMMISSION

IN RE THE MATTER OF:  
DOUGLAS COMBS, JR., CIRCUIT JUDGE  
THIRTY-THIRD JUDICIAL CIRCUIT

### ORDER OF PUBLIC REPRIMAND

Douglas Combs, Jr. Circuit Judge, Thirty-Third Judicial Circuit, Perry County, Kentucky, has submitted his resignation from his office. Prior thereto, the Commission had initiated these proceedings. Therefore, the Commission has jurisdiction over this matter pursuant to Supreme Court Rule (SCR) 4.025(3).

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

The investigation was commenced by the Commission on April 29, 2003, after receipt of information raising questions about the security of an evidence room maintained in the Perry Circuit Judge's office suite and about use of substitute court reporters in Perry Circuit Court.

As the investigation unfolded, numerous additional issues surfaced regarding the operation of Perry Circuit Court under Judge Combs. Ultimately, by Notice of Formal Proceedings and Supplement, Judge Combs was charged in 13 counts containing the following allegations.

**Count I** – Judge Combs was absent from scheduled sessions of court on approximately 150 days from January 1999 through August 2003.

**Count II** – From 1999 to September 2003 Judge Combs was chronically and excessively late, frequently for an hour or more, for scheduled sessions of court, and frequently absented himself from the bench during court sessions for excessive periods ranging from a half hour to as long as five hours, while litigants, jurors, witnesses, lawyers, and others were required to wait for his return.

**Count III** - From 1998 to August 2003, Judge Combs improperly processed numerous claims to the Administrative Office of the Courts for payments to persons as substitute court reporters in the Perry Circuit Court whose services were not actually needed as court reporters.

**Count IV** - Judge Combs used official employees in his office, including some who were paid as court reporters, to perform numerous duties in a mobile home business which he operated.

**Count V** – Judge Combs requested the Perry Circuit Court Domestic Relations Commissioner serving under his appointment to pay certain statements for attorney fees billed to Judge Combs, and the fees were paid on Judge Combs's behalf.

**Count VI** – Judge Combs permitted an attorney who practices in Perry Circuit Court to use the Perry Circuit Judge's office suite for conducting his private law practice, and also had him conduct reviews for Judge Combs in regard to cases of other attorneys in the Perry Circuit Court.

**Count VII** - In June 2003, Judge Combs and his wife were guests of an attorney who practices in the Perry Circuit Court on a pleasure trip to Las Vegas, including air transportation.

**Count VIII** – Beginning September 29, 2003, Judge Combs improperly barred the Perry Commonwealth's Attorney from entering the Perry Circuit Judge's office suite.

**Count IX** – Judge Combs failed to take measures to preserve the security and integrity of a room in the Perry Circuit Judge's office used for preservation of confidential matters and evidence.

**Count X** - Judge Combs disregarded procedures prescribed by the Supreme Court for the random selection of grand jurors, and selected grand jurors of his own choosing.

*continued*

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**Count XI** - On December 5, 2003, after the foreman and other grand jurors complained about the refusal of Judge Combs to remain for their report the day before, he improperly fined the foreman \$100 for contempt and kept the other eleven grand jurors for approximately an hour before releasing them even though they had no grand jury business to conduct.

**Count XII** - During the period from 1999 until December 2003, Judge Combs failed to assign trial dates, cancelled or continued trial dates for insubstantial reasons, failed to commence trials when parties and attorneys appeared as scheduled, and failed to decide matters under submission for inordinate periods, even after attorneys repeatedly brought the matters to Judge Combs's attention.

**Count XIII** - Judge Combs improperly failed to hear arguments of counsel on some motions and directed them to present their positions to a member of his staff.

Judge Combs through his attorneys filed answers denying the charges. In light of his resignation and in the interest of fiscal responsibility, it is not necessary that the Commission resolve each and every issue raised. It is sufficient to note that the issues were multiple and serious.

If the allegations against Judge Combs had been proved, the Commission would have removed him from office. Judge Combs has resigned; therefore, this public reprimand is the most severe sanction the Commission can impose. By unanimous vote of the Commission, Judge Douglas Combs, Jr. is hereby publicly reprimanded.

April 15, 2004

**STEPHEN D. WOLNITZEK, CHAIR**

AGREED TO:

**PETER L. OSTERMILLER**

Counsel for Judge Douglas Combs, Jr.

**WILLIAM E. JOHNSON**

Counsel for Judge Douglas Combs, Jr.

**GARY J. SERGENT**

**DAVID B. SLOAN**

Counsel for Judge Douglas Combs, Jr.

**JUDGE DOUGLAS COMBS, JR.**

**GEORGE F. RABE**

Counsel for the Commission

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### **PUBLIC REPRIMAND RELEASE**

The Judicial Conduct Commission issued a public reprimand to Darrel Mullins, District Judge, Thirty-Fifth Judicial District, Pike County, Kentucky, on April 13, 2004. The Commission found that during his campaign for district judge in the general election held on November 5, 2002, Judge Mullins ran ads which misrepresented that his opponent failed to do his job as assistant to the Pike County Judge Executive by not attending fiscal court meetings; and ran ads which misrepresented his opponent's attendance record for committee meetings as a state senator. The Commission concluded that Judge Mullins engaged in misconduct in office, and violated Canon 1 of the Code of Judicial Conduct by failing to observe high standards of conduct, Canon 2A by failing to conduct himself in a manner that promotes public confidence in the integrity of the judiciary, and Canon 5B(1)(c) by misrepresenting facts in his campaign.

The Commission found that two other counts alleging campaign misrepresentation were not proved and dismissed them. The decision of the Commission was unanimous on all counts.

## SENTENCES

"Long is not wrong,"<sup>1</sup> but short and simple is easier to understand and retain. Here are some tips for creating persuasive, memorable sentences.

**1. Keep it short.** I have a dream. Let it be. We shall overcome. No new taxes. Short sentences are powerful; length often comes from qualifiers that dilute or hide the primary message. This doesn't mean that *every* sentence should be short; good writers vary the length and form of sentences to avoid monotony. However, if your sentences average more than about twenty words each, you are likely to frustrate your reader.



Rick Bales is a Professor of Law at Chase College of Law.

**2. Increase writing density** by editing repeatedly, omitting words or phrases that serve no useful function (*the fact that*), and omitting redundancies (*mutual agreement*).

**3. Use semicolons, and colons** with numbered lists, to signal close relationships between ideas. For example, *In Kentucky, the tort of defamation contains five elements: (1) a false and defamatory statement, (2) about the plaintiff, (3) communicated to a third person recklessly or negligently, (4) that results in injury to the plaintiff's reputation, and (5) that is made without privilege.*<sup>2</sup> Each sentence should contain only one idea, or should include punctuation that demonstrates how related ideas fit together.

**4. Keep introductory clauses short.**<sup>3</sup> Take, for example, the following sentence: *Before the*

*police officer arrived on the scene and observed the suspect drop a plastic bag onto the sidewalk and flee on foot down the alley, over chain-link fence, and into a white Ford Taurus, a civilian called 911 to report a series of drug transactions.* Even reading silently, I'm out of breath before I get to the subject (civilian) and verb (called). One solution is to flip the sentence so the main idea precedes the subordinate clauses: *A civilian called 911 to report a series of drug transactions, after which the police officer arrived . . . .* Better yet, use two sentences: *A civilian called 911 to report a series of drug transactions. Then, the police officer arrived . . . .*

**5. Avoid long clauses (or strings of clauses) which separate the subject from the verb.**

For example, *The Supreme Court, which in Gilmer had avoided the Federal Arbitration Act's "contracts of employment" exclusion by noting that the issue had not been argued to either the trial court or circuit court in that case, resolved the issue in Circuit City . . . .* By the time the reader gets to the verb *resolved*, she has long since forgotten the subject *Supreme Court*.

Writing short and (mostly) simple sentences helps break complex ideas into smaller pieces that are more easily understood. Legal concepts already are difficult enough without the added complexity of stultifying prose.

## Footnotes

1. TERRI LECLERCO, EXPERT LEGAL WRITING 44 (1995).
2. *Columbia Sussex Corp. v. Hay*, 627 S.W.2d 270, 273 (Ky. Ct. App. 1981).
3. Mark Mathewson, *Law Students, Beware*, originally published in STUDENT LAWYER, reprinted in 8 SCRIBES J. LEG. WRITING 141, 143 (2001-02).



# CLEvents

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.

## Kentucky Bar Association

CLE Office  
(502) 564-3795

## Access to Justice Foundation

Nan Frazer Hanley  
(859) 255-9913

## Access Center

Mary Ellen Harned  
(502) 458-9675

## Administrative Office of the Courts

Tracy Hughes  
(502) 573-2350, Ext. 2165

## Cincinnati Bar Association

Dimitry Orlet  
(513) 381-8213

## Fayette County Bar Association

Gaye Horton  
(859) 225-9897

## Kentucky Defense Counsel (KDC)

Judy Kidwell  
(502) 380-0164

## Kentucky Association of Criminal Defense Lawyers (KACDL)

Denise Stanziano  
(606) 676-9780

## Kentucky Academy of Trial Attorneys (KATA)

Ellen Sykes  
(502) 339-8890

## Kentucky Department of Public Advocacy

Jeff Sherr or Patti Heying  
(502) 564-8006 ext. 236

## Louisville Center for CLE

Kelly Hass  
(502) 583-5314

## Northern Kentucky Bar Association

(859) 781-1300

## UK Office of CLE

Melinda Rawlings  
(859) 257-2921

## Mediation Center of Kentucky

Gail Tingle  
(859) 246-2664

## JULY 2004

- 15-17 31<sup>st</sup> Annual Midwest/  
Midsouth Estate Planning  
Institute  
*UK-CLE*
- 21 Video Replay:  
Professionalism, Ethics &  
Substance Abuse  
*Cincinnati Bar Association*

## AUGUST 2004

- 2-6 Family Mediation Training  
*Administrative Office of  
the Courts*
- 12-13 Institute for ADA Mediation:  
"Resolving Workplace  
Disputes Involving  
Individuals with  
Disabilities"  
*Access Center Partnership*
- 18 Video Replay:  
Professionalism, Ethics &  
Substance Abuse  
*Cincinnati Bar Association*

## SEPTEMBER 2004

- 1 Labor Half-Day  
*Louisville Bar Association*
- 2 Litigation Brown Bag  
*Louisville Bar Association*
- 8-9 **Kentucky Law Update  
(Covington)**  
*Kentucky Bar Association*

- 9 All Ohio Annual Institute on  
Intellectual Property  
(West Lake, OH)  
*Cincinnati Bar Association*
- 9 In-House Brown Bag  
*Louisville Bar Association*
- 9-10 Annual Convention  
*Kentucky Academy of Trial  
Attorneys*
- 10 All Ohio Annual Institute on  
Intellectual Property  
(Cincinnati, OH)  
*Cincinnati Bar Association*
- 10 Consumer Law Institute  
*UK-CLE*
- 15 Probate Half-Day  
*Louisville Bar Association*
- 16 Real Estate Half-Day  
*Louisville Bar Association*
- 21 ADR Half-Day  
*Louisville Bar Association*
- 22 Health Law Brown Bag  
*Louisville Bar Association*
- 23 Environmental Brown Bag  
*Louisville Bar Association*
- 24 Criminal Brown Bag  
*Louisville Bar Association*
- 28-29 **Kentucky Law Update  
(Somerset)**  
**Broadcast to Harlan,  
Owensboro & Ashland**  
*Kentucky Bar Association*

## CLEvents

*September continued*

- 29 Intellectual Property  
Brown Bag  
*Louisville Bar Association*
- 30 Legal Writing  
*Cincinnati Bar Association*
- 30 Bankruptcy Half-Day  
*Louisville Bar Association*

## OCTOBER 2004

- 1 International Alternative  
Dispute Resolution  
*Cincinnati Bar Association*
- 1 Solo/Small Firm Brown Bag  
*Louisville Bar Association*
- 2 University of Louisville Ethics  
CLE at Homecoming  
*Louisville Bar Association*
- 5 Social Security Brown Bag  
*Louisville Bar Association*
- 6 Family Law Brown Bag  
*Louisville Bar Association*
- 7 Business Brown Bag  
*Louisville Bar Association*
- 8 Labor & Employment Law  
*Cincinnati Bar Association*
- 8 Taxation Half-Day  
*Louisville Bar Association*
- 13-14 **New Lawyers' Program**  
*Kentucky Bar Association*
- 14 Young Lawyers Brown Bag  
*Louisville Bar Association*
- 15 Ethics Roundtable-Law in  
Literature Discussion  
*Louisville Bar Association*

- 19-20 **Kentucky Law Update  
(Prestonsburg)**  
*Kentucky Bar Association*
- 21 Louisville Healthcare  
Compliance Consortium  
Brown Bag  
*Louisville Bar Association*
- 23-23 15<sup>th</sup> Biennial Workers'  
Compensation Institute  
*UK-CLE*

- 28 Taxation Brown Bag  
*Louisville Bar Association*

- 28-29 **Kentucky Law Update  
(Paducah)**  
*Kentucky Bar Association*

## NOVEMBER 2004

- 4-5 **Kentucky Law Update  
(Lexington)**  
*Kentucky Bar Association*

- 15-19 General Civil Mediation  
Training  
*Administrative Office of  
the Courts*

- 16-17 **Kentucky Law Update  
(Bowling Green)**  
*Kentucky Bar Association*

- 19-20 9<sup>th</sup> Biennial Real Estate Law  
& Practice Institute  
*UK-CLE*

## DECEMBER 2004

- 1-2 **Kentucky Law Update  
(Louisville)**  
*Kentucky Bar Association*
- 17 Electronic Discovery  
*Cincinnati Bar Association*

### NEW LAWYERS' PROGRAM REQUIREMENT

New admittees to the Kentucky Bar Association are **required** to complete the New Lawyers' 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. Register online at [www.kybar.org](http://www.kybar.org).

**Next program:**

**OCTOBER 13-14, 2004  
Marriott East  
Louisville, Kentucky**



## 2004-05 CLE Commission Appointments

By Beth Barnes

**T**he Continuing Legal Education Commission met May 7, 2004, at Lake Cumberland State Resort Park in Jamestown. The Commission is responsible for the administration and regulation of all continuing legal education activities and programs for the Kentucky Bar Association. A designated individual is appointed from each appellate district to represent that region's Bar Association members. Terms last three years and members are limited to two consecutive terms of service. Commission members are appointed by the Supreme Court upon recommendation of the Board of Governors.

On May 7, 2004, Mr. Douglas C. Ballantine, Commission Chair, presented Mr. R. Michael Sullivan and Mr. David M. Cross with commemorative plaques in recognition and appreciation of their dedicated service to the attorneys of Kentucky. Mr. Sullivan and Mr. Cross each ended their second term June 30, 2004. The Commission will fondly remember the excellent service and keen insight provided by these members during their 1998-2003 terms. Mr. Ballantine also welcomed Ms. Jane Herrick, recently appointed to the position of Assistant Director for CLE. Ms. Herrick has been employed by the Bar Association in the Office of Bar Counsel since 1996 and joined the CLE department in April 2004. She replaces Ms. Christy Hornung, who had served in the CLE department since 2002.

Effective July 1, 2004, Mr. Douglas C. Ballantine, Louisville, will be re-appointed by the Court for a second three-year term to represent the Fourth Supreme Court district. Mr. Ballantine was also re-appointed as Chair of the Commission and will continue to serve in that capacity. He is a member of the firm Ogden, Newell & Welch. The CLE Commission will welcome Mr. Kim F. Quick, Elizabethtown, as the new representative for the Second Supreme Court district, replacing outgoing member R. Michael Sullivan. Mr. Quick is a partner in the firm of Quick & Coleman in Elizabethtown, where his practice concentrates in the areas of insurance defense, personal injury litigation and civil practice. The Commission welcomes Ms. Melinda G. Dalton, Somerset, as the new representative for the Third Supreme Court District, replacing outgoing member David M. Cross. Ms. Dalton is a member of the firm Gillum & Gillum in Somerset, where her practice focuses on family law. Justice Martin E. Johnstone will officiate at the swearing-in ceremony planned for Mr. Quick and Ms. Dalton at the July 23, 2004 CLE Commission meeting in Gilbertsville, Kentucky.

Also serving on the CLE Commission are:

Mr. George M. Carter, First District, Benton; Mr. Douglas C. Ballantine, Fourth District, Louisville; Ms. Anita M. Britton, Fifth District, Lexington; Mr. Gary J. Sergent, Sixth District, Covington; and Mr. Bayard V. Collier, Seventh District, Pikeville. Justice Martin E. Johnstone serves as the Supreme Court Liaison to the CLE Commission. ■



***Melinda G. Dalton, a member of Gillum & Gillum in Somerset, will serve as the new CLE Commission Representative for the Third Supreme Court District.***

***R. Michael Sullivan (below), who has served the Commission as representative of the Second Supreme Court District since 1998, will be replaced by Kim F. Quick of Elizabethtown.***





*Salmon  
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College of Law*



*Louis D. Brandeis  
School of Law by Dean Laura Rothstein*

### **Children's Law Center Presents Award to Chase College of Law**

As part of the Children's Law Center's 15<sup>th</sup> anniversary celebration, Executive Director Kim Brooks Tandy, presented an award to Dean St. Amand recognizing Chase College of Law for 15 years of generous support and advocacy for children. The Children's Law Center acknowledged the support it has received from Dean St. Amand, individual faculty and staff members, as well as current and former students who have worked in various capacities at the Center. Kim Brooks Tandy is a 1989 graduate of Chase.

### **Professor Todd Receives Fulbright Scholar Award**

Adam Todd, Director of Academic Support and Assistant Professor of Legal Writing at Chase College of Law, has received a Fulbright Scholar Award to teach on the law faculty at Palacky University in the Czech Republic during the fall semester of 2004. Adrian Noble Nacev, Visiting Director of Academic Support and Visiting Assistant Professor of Legal Writing, will assume Professor Todd's duties for the 2004-2005 academic year.

### **Chase Student Named ABA Law Student Division Lieutenant Governor of Diversity**

Chase student Colleen Kirkpatrick has been named American Bar

*continued opposite column*

### **Sixth Circuit Judicial Conference Attendees Visit Brandeis Papers Exhibit**

In May, the Sixth Circuit Judicial Conference was held in Louisville. As one of the activities, the University of Louisville School of Law hosted a presentation about the Brandeis papers. Visitors included judges, attorneys, and print and television journalist Sander Vanocur. Kurt Metzmeier and Scott Campbell, members of the law library faculty, provided guidance to visitors about what is included in the Brandeis papers (and the Harlan papers), why we have them, and how they are used for research.

### **Oral Advocacy Teams Log Outstanding Year of Achievements**

During the 2003-2004 academic year, Brandeis students competed in a number of intrastate, regional, and national oral advocacy competitions. In five of those competitions, Brandeis students received awards, including best brief, best oralist, and best team. The Brandeis team of Angela Stephens and Kimberly Haag received first place in the Intrastate Mock Trial Competition. Jennifer Reed tied for best advocate. About 160 teams compete nationally each year in the ABA Negotiations Competition. The Brandeis team of Michelle Grant and Lindy Zeller placed first in the regional competition and third at the national competition in San Antonio. Other competitions in which Brandeis teams recorded strong placements by advancing to the quarterfinals or better were the Client Counseling Competition (tied for 2<sup>nd</sup>), the Health Law Competition (several awards), and the Tax Law Competition.

### **Student Bar Foundation Receives Two University-Wide Awards**

The University of Louisville Campus Life Awards this spring included two awards to the Student Bar Foundation, one for Outstanding New Organization and the other for Best New Program Initiative. The SBF was initiated in spring 2003 by leaders in the Student Bar Association with the goal of raising funds for grants to students for public service projects.

### **Three Faculty Members Receive University Wide Awards**

This past spring two Brandeis faculty members were recognized for service through university awards. Professor David Ensign was recognized with the award for service to the University, honoring his outstanding service as chair of the Faculty Senate. Professor Grace Giesel's service to the community was recognized for her many contributions to the legal profession. Professor Robert Stenger was also recognized for excellence in teaching at the spring faculty awards celebration.

*continued far column*



## The Retirement of a Remarkable Teacher

With the end of this school year, the University of Kentucky College of Law marked the conclusion of the remarkable teaching career of Professor John Batt. The sweep of his career demonstrates the type of energy, intellectual curiosity, hard work, and concern for students to which we all aspire.

A product of Johns Hopkins University, the Marshall-Wythe School of Law at the College of William & Mary, and the Yale Law School, Professor Batt came to the University of Kentucky having already taught one year at the University of Connecticut. For forty-two years, with but one interruption in 1964 when he was a visitor at the University of Iowa, Professor Batt taught at the University of Kentucky. He has contributed greatly to this institution.

Over the years Professor Batt taught across the curriculum. Known for his work on criminal law and family law, Professor Batt taught as well in the areas of jurisprudence, law and psychiatry and sports law. It is fair to say that, whatever the exact nature of the course being taught, Professor Batt always taught a fair amount of Professor Batt. It is also fair to observe that, in all the subjects he taught, Professor Batt faithfully followed the injunction of the Roman philosopher Cicero that "To know the laws is not to memorize their letter but to grasp their full force and meaning."

Throughout his career, Professor Batt recognized the important teaching that goes on in any law school outside the classroom. Whether engaged in discussions of the great issues of the day during the tumultuous era of Viet Nam, or playing basketball in more placid times, or discussing the status of college athletes with the current generation of students, Professor Batt taught successive generations of law students lessons outside of class. Not that the process was always gentle; one survivor of a basketball game with a young Professor Batt claims that he had the "sharpest elbows of any person I've ever played."

His career is marked by experimentation and innovation, by a willingness to take chances. He was always ready to challenge the orthodoxies of the law, and to call upon his students to think of the higher issues in the questions with which they were faced. I know of no better summation of Professor John Batt's career than Ralph Waldo Emerson's words:

Is it not manifest that our academic institutions should have a wider scope; that they should not be timid and keep the ruts of the last generation, but that wise men thinking for themselves and heartily seeking the good of mankind, and counting the cost of innovation, should dare to arouse the young to a just and heroic life; that the moral nature should be addressed in the school-room, and children should be treated as the high-born candidates of truth and virtue?

## Chase, continued

Association Law Student Division Lieutenant Governor of Diversity for the Sixth Circuit. Kirkpatrick will work closely with law schools in the Sixth Circuit and will help organize Diversity Day events. She will also serve as the Sixth Circuit's liaison to the ABA/LSD Standing Committee on Diversity. ■

## Brandeis, continued

### Brandeis Law School's Harlan Lecture to Reflect on "Brown v. Board of Education"

Kurt Schmoke, former mayor of Baltimore, now dean of Howard University Law School, will be the speaker at the October 25<sup>th</sup> Harlan Lecture and Alumni Awards Banquet. He will reflect on "Fifty Years Since *Brown v. Board of Education*." Honorees at that event will be the following: Laurence Gramann Award to the Honorable Richard Revell; Distinguished Alumni/ae Awards to Richard Belilies, Margaret Handmaker, Martha Hasselbacher, David Huber, and David Stengel; Service to the Law School Award to Stewart Conner; Service by a Non-Alum to Judge Benjamin Shobe; and Alumni Teaching Award to Professor Ronald Eades. Also to be recognized that evening will be Laura Douglass, recipient of the Law Alumni Fellow Award. For information on attending the event, contact Simone Beach at (502) 852-6366 or [sbeach@louisville.edu](mailto:sbeach@louisville.edu). ■

## 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 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.

## ON THE LOCAL SCENE



### John Rosenberg Receives *American Lawyer* Lifetime Achievement Award

After more than 30 years of service to the people of Eastern Kentucky, John Rosenberg has been presented with a Lifetime Achievement Award from *The American Lawyer*. Rosenberg was one of only a dozen lawyers in the United States recognized with this distinction as part of the national magazine's 25<sup>th</sup> anniversary celebration. Justice Janet Stumbo presented Rosenberg with the award in April at a ceremony in New York City. Proceeds from the ceremony were donated to Equal Justice Works to fund a public interest law fellowship.

Rosenberg and his family fled Nazi Germany when he was six years old, settling in North Carolina. Early in his legal career, he worked as a trial attorney for the Civil Rights Division of the Department of Justice. After leaving the Department of Justice in 1970, Rosenberg created Appalred, a legal services organization assisting low-income Kentuckians in 37 counties. Rosenberg served as Appalred's director for more than 30 years and led the expansion of its services to include a broad array of poverty law issues facing Eastern Kentucky. Rosenberg and his staff wrote the constitutional amendment outlawing the Broad Form Deed.

Rosenberg is also responsible for organizing LINKS, which addresses low income housing needs in the region. He established both the Kentucky Migrant Legal Services Program in Richmond and the Appalachian Citizens Law Center in Prestonsburg. He is also a driving force behind the development of the new East Kentucky Science Center, which recently opened at the Big Sandy Community and Technical College in Prestonsburg.

Larry H. York, Executive Director of Appalred, stated that "John, not only, has been a lawyer's lawyer for most of his entire life, he has worked, along with his lovely wife, Jean, to better the community and indeed the entire Commonwealth."



Left to right:  
Ned  
Pillersdorf,  
Justice Janet  
Stumbo, Jean  
Rosenberg,  
and John  
Rosenberg

## John M. Milliken Receives Pro Bono Award from the Bowling Green-Warren County Bar

John M. Milliken was presented with the Pro Bono Publico Award at the Bowling Green-Warren County Bar Association 2004 Law Day ceremonies. Each year the award is presented 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. Milliken received the award for his continued commitment to the mission of the Lawyers Care and pro bono services. He received his B.A. from Vanderbilt University and his J.D. from the University of Michigan in 1948. Milliken practices law in Bowling Green where he began his practice in 1948.

## Twelve KBA Members Graduate from 2003 Leadership Kentucky

Twelve Kentucky attorneys were graduates of the 2003 Leadership Kentucky Class. Leadership Kentucky brings together a selected group of people that posses a broad variety of leadership abilities, career accomplishments and volunteer activities to gain insight into complex issues facing the state. Visit [www.leadershipky.org](http://www.leadershipky.org) for more information.



*Pictured in front row: Janet Jakubowicz, Greenebaum Doll & McDonald, PLLC, Louisville; Regina Jackson, English, Lucas, Priest & Owsley, Bowling Green; Christy Hendricks, Baptist Healthcare System, Louisville; Mark Alcott, HarlinParker, Bowling Green; Dana Mayton, University of Louisville. Back row: T. Morgan Ward, Jr., Stites & Harbison, PLLC, Louisville; Patrick Hughes, Deters, Benzinger & LaVelle, Crestview Hills; Jay Dickerson, Jr., Squire, Sanders & Dempsey, Cincinnati; Christopher Frost, University of Kentucky, Lexington; Christian Juckett, Rubin & Hays, Louisville; and Bryan Mattingly, Frost Brown Todd, LLC. Not pictured: Tim Eifler, Ogden Newell & Welch, PLLC and Craig Maffet, Kentucky Department of Agriculture.*

## *In Memoriam*

Phillip Joseph Clarke, Jr.  
Danville

Dennis Jay Corder  
Pensacola, FL

Samuel Albert Fletcher  
Paducah

Ernest A. Jasmin  
Prospect

William Baxter Jennings  
Richmond

Mary Alice Maple  
Louisville

Durward W. Maynard  
Louisville

Robert O. Miller  
Murray

Sam B. Neely  
Mayfield

Rinehart Shepherd  
Kingsport, TN

James W. Williams III  
Stanford



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# To KBA Members



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

Board meetings are  
scheduled on  
**July 23-24, 2004**  
**September 17-18, 2004**  
**November 19-20, 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.

## SUMMARY OF MINUTES KBA BOARD OF GOVERNORS MEETING MARCH 12, 2004

The Board of Governors met on Friday, March 12, 2004. Officers and Bar Governors in attendance were *President* J. Stevenson, *President-Elect* K. Westberry, *Vice President* D. Sloan, *House of Delegates Chair* L. York, *Bar Governors 1<sup>st</sup> District* – C. Woodall, M. Whitlow; *Bar Governors 2<sup>nd</sup> District* – C. English, Jr., C. Moore; *3<sup>rd</sup> District* – J. Dyche, R. Madden; *4<sup>th</sup> District* – J. White, M. O'Connell; *5<sup>th</sup> District* – S. Kinhead, Jr., D. McSwain; *6<sup>th</sup> District* – B. Bonar, M. Grubbs, and *7<sup>th</sup> District* – D. Combs, J. Rosenberg. Absent: *Immediate Past President* S. Catron, *House of Delegates Chair-Elect* L. Hopgood, and *Young Lawyers Section Chair* S. Hiestand.

In Executive Session, the Board considered one (1) discipline case and six (6) default discipline cases, involving two lawyers. Carol Frederick of Louisville 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:

- Approved the Fiscal Year 2004-2005 KBA Budget with a recommended \$49.00 annual dues increase.
- Heard status reports from the Client Assistance Program, Joint Study Committee on Judicial Concerns, Lawyers Assistance Program, Rules Committee and Office of Bar Counsel.
- Approved the location and dates for the 2005 Annual Convention to be held in Louisville June 7-10, 2005.
- Approved the location and dates of the 2006 Annual Convention to be held in Northern Kentucky June 13-16, 2006.
- President Stevenson announced the recipients of the 2004 Outstanding Awards. They are as follows: Outstanding Judge William S. Cooper, Outstanding Lawyer Robert L. Elliott, Kentucky Bar Service Award Norbert J. Bischoff, Donated Legal Services Award Marilyn S. Daniel and President's Special Service Awards Jerry J. Cox and Charles E. Ricketts, Jr.
- Approved a recommendation to the Supreme Court of Kentucky that Kelley, Galloway & Company of Ashland be engaged to perform the Fiscal Year June 30, 2004 audit.
- Approved submission of nominees to the Supreme Court of Kentucky for appointment to the IOLTA Board of Trustees for three-year terms ending on June 30, 2007: 1<sup>st</sup> Supreme Court District - Ben Fletcher, Hopkinsville; 2<sup>nd</sup> Supreme Court District – Douglas Gott, Bowling Green and 6<sup>th</sup> Supreme Court District - John Bonar, Covington.
- Approved the submission of nominees to the Supreme Court of Kentucky for appointment to the CLE Commission for three-year terms ending on June 30, 2007: 2<sup>nd</sup> Supreme Court District – Kim Quick, Elizabethtown, Regina Jackson, Bowling Green and J. D. Meyers, Owensboro and 4<sup>th</sup> Supreme



Court District – Douglas Ballantine, Louisville, Bill Donnell, Louisville and Sarah Martin, Louisville.

- Approved the formation of a committee to draft a KBA Investment/Reserve Policy.
- Approved that House Bill 615 proposed legislation was within the mission and purpose of the KBA as set forth in SCR 3.025; and took a position to oppose House Bill 615.
- Approved a total amount of \$1,900 in monetary awards for the Student Writing Competition and Law Day Awards. ■

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## SARA WALTER COMBS ELECTED CHIEF JUDGE OF THE KENTUCKY COURT OF APPEALS

On May 11, 2004, Sara Walter Combs of Stanton became the first woman elected to serve as chief judge of the Kentucky Court of Appeals. Her colleagues on the court unanimously voted for her to fill the vacancy that occurred when Chief Judge Thomas Emberton retired. "I am grateful for the confidence and trust that my colleagues have placed in me," said Chief Judge Combs. The chief judge, who provides administrative oversight to the Court of Appeals, is elected for a four-year term under the Kentucky Constitution.



Chief Judge Combs ranked second in her class at the University of Louisville Brandeis School of Law. She was valedictorian at both the Sacred Heart Academy in Louisville and at the University of Louisville, where she obtained her undergraduate degree and her master's degree. She began her career as an associate with Wyatt, Tarrant & Combs in Louisville. She also practiced law with her late husband, former Governor Bert T. Combs; established a solo practice in Stanton; and became a regional affiliate with the Louisville law firm of Mapother & Mapother. She is associated with numerous professional organizations and institutions of higher learning. Chief Judge Combs served for seven years on the Kentucky Appalachian Commission and is active as a volunteer speaker for many civic and youth organizations.

"I am delighted that the Court of Appeals has seen fit to elect Judge Combs as its chief judge," said Chief Justice Joseph E. Lambert. "Sara is known for her impressive legal mind as well as for her ability to build consensus. I expect that her administration as chief judge of the Court of Appeals will follow in the fine tradition of her predecessor, Chief Judge Tom Emberton." ■

### Terms Expire on the KBA Board of Governors

On June 30 of each year, the terms expire of seven of the fourteen Bar Governors on the KBA Board of Governors.

SCR 3.080 provides that notice of the expiration of the terms of the Bar Governors shall be carried in the *Bench & Bar*. SCR 3.080 also provides that a Board member may serve three consecutive two-year terms.

The current terms of the following Board members will expire on June 30, 2005:

#### Terms Expire June 30, 2005

1<sup>st</sup> Supreme Court District –  
C. A. Woodall III – Cadiz

2<sup>nd</sup> Supreme Court District –  
Charles E. Moore – Owensboro

3<sup>rd</sup> Supreme Court District –  
Jane Winkler Dyche – London

4<sup>th</sup> Supreme Court District –  
Joseph L. White – Louisville

5<sup>th</sup> Supreme Court District –  
Shelby C. Kinkead, Jr. – Lexington

6<sup>th</sup> Supreme Court District –  
Barbara D. Bonar – Covington

7<sup>th</sup> Supreme Court District –  
Donald H. Combs – Pikeville

# WHO, WHAT, WHEN & WHERE

## ON THE MOVE

**Brooks, McComb, Fields & Ruble** is pleased to announce that **Steven A. Collins** has joined the Lexington law firm as an associate. He received his B.A., *magna cum laude*, from the University of Kentucky. Collins earned his J.D. with high honors from the Cumberland School of Law at Samford University. Following graduation, he served as a staff attorney for the Honorable Joseph R. Huddleston of the Kentucky Court of Appeals and with the United States Court of Appeals for the Eleventh Circuit. A former public school teacher, Collins will concentrate in the firm's core practice in civil rights and education law.

The Louisville law firm of **White & Donnell, PLLC** is pleased to announce that **John C. (Jay) Hatcher, Jr.** has joined the firm as an associate. Hatcher, a graduate of the University of Kentucky College of Law, will concentrate his practice in the area of personal injury, including medical negligence.

**Woodward, Hobson & Fulton, L.L.P.** announces that **Lisa H. Thomas** has joined the firm as an associate in its Louisville office. Thomas has practiced law since she graduated, *cum laude*, from Salmon P. Chase College of Law in 2000. During law school, she worked for Justice Martin E. Johnstone of the Supreme Court of Kentucky. She concentrates her practice in the area of commercial litigation. Thomas is a member of the board of directors of Project Women, Inc., a Louisville non-profit organization that provides housing to homeless single mothers and supports them in obtaining a college degree. Since 2002, she has

also served as a volunteer attorney for the Legal Aid Society and the Center for Women and Families.



Michelle E. Mapes

joined the firm as an associate. Mapes is licensed to practice law in Kentucky and Indiana. The firm will continue to limit its practice to the area of family law.

**Wise DelCotto PLLC** is pleased to announce the addition of **Julie H. Gragg** to the Lexington firm. Gragg is a former associate with Rose Law Offices. She earned her J.D. from the University of Dayton School of Law. Her practice will focus in debtor/creditor relations, commercial bankruptcy, financial restructurings and workouts.

**Martha Marie Eastman** is pleased to announce the founding of the **Eastman Law Office**. With primary offices in Kentucky and North Carolina, the Eastman Law Office will serve clients throughout the United States. Eastman focuses her practice in personal injury, nursing home abuse, medical negligence and insurance fraud. She currently serves as chair elect for the Nursing Home Litigation Group for the Association of Trial Lawyers of America (ATLA). Eastman graduated from the Brandeis School of Law at the University of Louisville. Following law school, she clerked for the Honorable Harry W. Wellford of the Sixth Circuit Court of Appeals.

The Louisville law firm of **Diana L. Skaggs & Associates** is pleased to announce that **Michelle Eisenmenger Mapes** has



Colleen McKinley

joined the firm's Louisville office. McKinley received her B.A. from the University of Kentucky and earned her J.D., *magna cum laude*, from the University of Louisville School of Law in 1982. McKinley's practice focuses on health law and Certificate of Need issues in Kentucky. She may be reached at (502) 253-1114.

**Gretchen C. Avery** and **Paul R. Schurman, Jr.** are pleased to announce their new partnership, **Avery & Schurman, P.L.C.**, located in the MagnaLex Building at 115 North Watterson Trail in Louisville. Avery, a 2000 graduate of the Louis D. Brandeis School of Law, will continue her practice in family law and probate. A 1996 graduate of the Brandeis School of Law, Schurman will maintain his practice in business incorporation and litigation.

**H. David Wallace** and **Thomas L. Rouse** announce the formation of the Ft. Wright law firm of **Wallace & Rouse, LLC**. Wallace and Rouse concentrate their practice in day-to-day operations advice as well as complex litigation and corporate issues and serve a variety of individuals and businesses.

**Weltman, Weinberg & Reis Co., L.P.A.** welcomes new associate **Anne M. Smith**. Smith will be working in the Foreclosure/Evictions Department and the Title Department of the Cincinnati office. She earned a B.S. from Murray State University in 1985 and a J.D. from Salmon P.

**Hall, Render, Killian, Heath & Lyman, P.S.C.** is pleased to announce that **Colleen McKinley** has joined the firm's Louis-

Chase College of Law in 1989. Smith previously managed her own practice at Smith Law Office and was a prosecutor in the Livingston County Attorney's Office. She is licensed to practice law in the state courts of Kentucky and Ohio. Smith may be reached at (513) 333-4012.

**Micah G. Guilfoil** announces the opening of her general practice, **Micah G. Guilfoil, Attorney at Law**, located in Suite 273 at 173 Sears Avenue in Louisville. Guilfoil earned her B.A. from the University of Kentucky and her J.D. in 1992 from the Brandeis School of Law at the University of Louisville. She is a former Assistant Jefferson County Commonwealth's Attorney and has held general counsel and legal positions in state government.

The Florence law firm of **Boggs & Colvin** is pleased to announce that **Lisa Osborne Bushelman** and **Brian F. Eviston** have become associated with the firm. Bushelman and Eviston are licensed to practice law in Kentucky. Bushelman's practice will focus mainly in criminal defense, bankruptcy and probate. As Eviston continues to develop his practice in the areas of general civil litigation, employment/labor law and corporate law, his practice will focus mainly in the area of workers' compensation defense litigation.



Elizabeth Conley

**Virginia L. Lawson & Associates, P.S.C.** is pleased to announce that **Elizabeth Conley** has become associated with the Lexington firm. Conley is a graduate of Transylvania University and the University of Kentucky College of Law.

The law firm of **McBrayer, McGinnis, Leslie & Kirkland, PLLC** is pleased to announce that **T. Bruce Simpson, Jr.** has become associated with the firm's Lexington office. Simpson earned his B.A. from the University of Kentucky College of Arts and Sciences, his M.S.W. from the University of Kentucky College of Social Professions and his J.D. from the University of Kentucky College of Law. His practice focus is general civil litigation with an emphasis on land use development and personal injury. Simpson may be reached by telephone at (859) 231-8780.



Anya Roby

Roby received her B. A., *summa cum laude*, from the University of Kentucky in 1999. She earned her J.D. from the Marshall-Wythe School of Law at the College of William and Mary in 2003. She will focus her practice in the areas of First Amendment/media law and labor and employment law.



Anuj G. Rastogi

**Morris, Garlove, Waterman & Johnson PLLC** is pleased to announce that **Anuj G. Rastogi** became a partner in the Louisville firm as of May 1, 2004. Rastogi earned his B.S.B.A. from Xavier University and his J.D. with honors from the Brandeis School of Law at the University of Louisville.

His practice focuses on estate planning and administration, closely-held business planning, taxation, corporate transactions and business litigation.

**Scott P. Zoppoth, PLLC** is pleased to announce that **John C. Robinson** has joined the Louisville firm as an associate. A graduate of Transylvania University, Robinson earned his J.D. from the University of Kentucky College of Law in 1998. He will focus his practice in the areas of commercial and business litigation.

The Louisville law firm of **Goldberg & Simpson** is pleased to announce that **Bryan C. Pierce** has joined the firm as Of Counsel. Pierce earned his J.D. from the Brandeis School of Law at the University of Louisville in 1997. He concentrates his practice in the area of residential real estate.



Michael R. Gosnell



Gwen Mayes

**Weber & Rose, P.S.C.** takes pleasure in announcing that **Michael R. Gosnell** has become a member and a shareholder in the firm and that **Gwen Mayes** has become an associate of the firm. Gosnell concentrates his practice in the area of civil litigation and collections, primarily representing creditors in foreclosure, bankruptcy and lender liability. He also handles real estate closings. Gosnell is a 1974 graduate of Indiana University and a 1977 graduate of the University of Louisville Brandeis School of Law. Mayes concentrates her practice in the areas of medical malpractice, health policy and medical legal consulting. She is a 1978

## WHO, WHAT, WHEN & WHERE

graduate of Transylvania University, a 1980 graduate of Emory University and a 2000 graduate of the University of Maryland School of Law.

### IN THE NEWS

**Brigadier General Patt Maney** has been mobilized for Operation Enduring Freedom. Brig. Gen. Maney, the deputy commander of a reserve U.S. Army Civil Affairs and Psychological Operations Command (Airborne) at Fort Bragg, North Carolina, was deployed to Afghanistan. Brig. Gen. Maney was assigned to the U.S. Embassy in Kabul to assist in economic reconstruction efforts. He has previously been deployed to operations in Panama, Haiti and Bosnia. Brig. Gen. Maney also serves as a county court judge in Okaloosa County, Florida.

**Ronald Edward Meisburg** is serving as a member of the National Labor Relations Board in Washington, D.C. Meisburg has also served at the U.S. Department of Labor in the Division of Employee Benefits and in the Division of Mine Safety and Health. He was awarded the Secretary of Labor's Distinguished Achievement Award. Meisburg received his B.A. from Carson-Newman College in

1969 and his J.D. from the Brandeis School of Law at the University of Louisville in 1974.

The Florence law firm of Boggs & Colvin is pleased to announce that an attorney in the firm, **Julie Reinhardt Ward**, has been appointed by the Governor of Kentucky as judge for Division 1, Campbell Circuit Court. She was sworn in on May 17, 2004 by Supreme Court Justice Wintersheimer.



*Ben L. Kessinger, Jr.*

The law firm of Stites & Harbison is pleased to announce that Lexington attorney **Ben L. Kessinger, Jr.**, who is Of Counsel to the firm, has been inducted

into the Henry Clay High School Hall of Fame. Kessinger received the award at the 4<sup>th</sup> Annual Henry Clay Hall of Fame Dinner and Induction Ceremony in May. The award is presented annually to five individuals who display community leadership, dedication and vision. Kessinger graduated from Henry Clay High School in 1940. He earned his B.A. from the University of Kentucky and

his J.D. from the University of Kentucky College of Law.

**Richard R. Mellott, Jr.** has been elected President of the Lorain County Bar Association for a one year term beginning June 4, 2004. Mellott is Of Counsel with the firm of Trigilio & Stephenson, P.L.L. in Lorain, Ohio. His practice focuses on personal injury and civil litigation. Mellott is also an administrative hearing officer for the Ohio Department of Health and an adjunct instructor of business law at Lorain County Community College. He received his B.S. from the University of Cincinnati in 1976 and earned his J.D. from Salmon P. Chase College of Law in 1984.

### AT THE KBA



*Jane H. Herrick*

**Jane H. Herrick** has been named Assistant Director for Continuing Legal Education (CLE). Herrick comes to CLE from the Office

of Bar Counsel, where she had served as a Deputy Bar Counsel since 1996. She received her B.A., *cum laude*, from Centre College in 1990, and her J.D., with distinction, from the University of Kentucky College of Law in 1993. Upon graduation from the University of Kentucky, she served as a law clerk for Fayette Circuit Judge (now Kentucky Supreme Court Justice) James E. Keller. She is the author of several articles on professional responsibility published in the American Bar Association's *The Young Lawyer* and is also the author of "Development of the Law Governing Reinstatement to Legal Practice in Kentucky," 29 *Northern Kentucky Law Review* 2 (Spring 2002).

## Have an item for Who, What, When & Where?

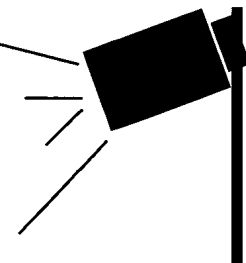
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Managing Editor, Kentucky *Bench & Bar*,  
514 West Main St., Frankfort, KY 40601-1883.

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, 2004.

# SPOTLIGHT ADS



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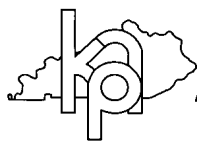
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**William H. Bixler**, prior to his death in January 2004, practiced law in Covington and was a prominent criminal defense attorney. A graduate of the University of Kentucky and the University of Kentucky College of Law, he was admitted to the Kentucky Bar in 1950. Mr. Bixler has been enrolled *posthumously* as a Kentucky Bar Foundation Life Fellow.

**Suzanne Cassidy** practices law in Covington with the law firm of O'Hara, Ruberg, Taylor, Sloan & Sergeant and also currently serves as President of the Northern Kentucky Bar Association. A graduate of Edgely College and the Salmon P. Chase College of Law, she was admitted to the Kentucky Bar in 1994 and is also a member of the Ohio Bar. Ms. Cassidy is a Life Fellow.

**C. Michael Dixon** practices law in Nicholasville and also serves as Master Commissioner of Garrard and Jessamine counties. A graduate of the University of Kentucky and the University of Kentucky College of Law, he was admitted to the Kentucky Bar in 1981. Mr. Dixon is a Life Fellow.

**Robert C. Ewald** practices law in Louisville with the law firm of Wyatt, Tarrant & Combs. A graduate of Indiana University and the University of Louisville Brandeis School of Law, he was admitted to the Kentucky Bar in 1965.

**Paul T. Lawless** practices law in Bowling Green with the law firm of Bell, Orr, Ayers & Moore and also currently serves as President of the Bowling Green/Warren County Bar Association. A graduate of the University of Kentucky and the Salmon P. Chase College of Law, he was admitted to the Kentucky Bar in 1996.

**James A. Nolan**, prior to his death in December 2003, practiced law in Covington and also served as one of three U.S. Bankruptcy Trustees in Covington. A graduate of Thomas More College and the University of Cincinnati College of Law, he was admitted to the Kentucky Bar in 1958. Mr. Nolan has been enrolled *posthumously* as a Kentucky Bar Foundation Life Fellow.

**John J. O'Hara**, prior to his death in 1997, practiced law in Covington with the law firm of O'Hara, Ruberg, Taylor, Sloan & Sergeant. A graduate of Xavier University and the University of Kentucky College of Law, he was admitted to the Kentucky Bar in 1949. Mr. O'Hara was a past Justice of the Kentucky Supreme Court, a Past President of the Kentucky Bar Association, and also was a former member of the Kentucky Bar Foundation Board of Directors. He also served as Kenton County's Commonwealth Attorney for approximately 25 years and was also appointed to the Kentucky Harness Racing Commission and the Kentucky Board of Tax

Appeals. Mr. O'Hara has been enrolled *posthumously* as a Kentucky Bar Foundation Life Fellow.

**William C. Oldfield**, prior to his death in September 2003, practiced law in Covington with the law firm of Oldfield, Davidson & Rieger and also was a Past President of the Northern Kentucky Bar Association. A graduate of the University of Dayton and the University of Kentucky College of Law, he was admitted to the Kentucky Bar in 1967. Mr. Oldfield has been enrolled *posthumously* as a Kentucky Bar Foundation Life Fellow.

**William E. Pinkston** practices law in Paducah with the law firm of Denton & Keuler. A graduate of the University of Kentucky and the University of Kentucky College of Law, he was admitted to the Kentucky Bar in 1979. Mr. Pinkston is a Life Fellow.

**Marco M. Rajkovich, Jr.** practices law in Lexington with the law firm of Wyatt, Tarrant & Combs. A graduate of the University of Kentucky and the University of Kentucky College of Law, he was admitted to the Kentucky Bar in 1987. Mr. Rajkovich is a Life Fellow.

**Henry C. T. Richmond, III** practices law in Lexington with the law firm of Greenebaum Doll & McDonald. A graduate of Wake Forest University and the University of Louisville Brandeis School of Law, he was admitted to the Kentucky Bar in 1980 and is also a member of the Florida Bar.

**Weldon Shouse**, prior to his death in February 2004, practiced law in Lexington with the law firm of Landrum & Shouse of which he was a founder and long-time partner. Mr. Shouse served as Assistant Attorney General of Kentucky from 1946 to 1948, was a Past President of the Fayette County Bar Association, and also was the recipient of the 2002 Henry T. Duncan Award for life-long service to the legal profession. A graduate of the University of Kentucky and the University of Kentucky College of Law, he was admitted to the Kentucky Bar in 1939. Mr. Shouse has been enrolled *posthumously* as a Kentucky Bar Foundation Life Fellow.

**Daniel J. Venters** practices law in Somerset. He previously served as a District and Circuit Judge for the 28th Judicial District and Circuit, respectively. A graduate of Ohio State University and the University of Kentucky College of Law, he was admitted to the Kentucky Bar in 1975.

**Michael S. Vitale** practices law in Bowling Green with the law firm of Wyatt, Tarrant & Combs. A graduate of St. Louis University and the St. Louis University School of Law, he was admitted to the Kentucky Bar in 1994. Mr. Vitale currently serves as a member of the Kentucky Bar Foundation Board of Directors. He is a Life Fellow.



KENTUCKY BAR ASSOCIATION

# Bench & Bar

Volume 68 Number 5

September 2004

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