

A Snapshot *of the* *Office of Bar Counsel*



Linda A. Gosnell
Chief Bar Counsel

Currently the Office of Bar Counsel is responsible for over 840 disciplinary files concerning lawyers licensed in Kentucky. While the majority of these are complaints that are still being investigated, and have not yet been presented to the Inquiry Commission, 132 of them are charges being prosecuted. This year during the month of March alone, 102 complaints were received in the Office of Bar Counsel. Additionally, the office has 89 reinstatement, unauthorized practice of law, and Clients' Security Fund files open. The Office of Bar Counsel also processes an average of 50 advertisements monthly for the Attorneys' Advertising Commission to review. This column will provide a snapshot of the attorneys handling these cases.

The Kentucky Bar Association Board of Governors recently appointed Linda A. Gosnell, J.D., as Chief Bar Counsel of the Kentucky Bar Association. She heads the Office of Bar Counsel and directs the attorneys and the OBC staff in performing the duties set forth in SCR 3.155.

Ms. Gosnell earned her Juris Doctorate from the University of Kentucky College of Law, where she graduated Order of the Coif and was a member of the *Kentucky Law Journal* staff. She received her Honors A.B. *summa cum laude* from Saint Louis University and was selected to be a member of Phi Beta Kappa. Ms. Gosnell is also a graduate of Sacred Heart Academy in Louisville.

After graduating from the University of Kentucky College of Law, Ms. Gosnell was admitted to the State Bar of Texas. The following year she practiced in the litigation section of a large law firm in Houston, Texas. She then returned to Lexington and was admitted to the Kentucky Bar. For the next twenty-four years, Ms. Gosnell practiced law in a general practice firm and became a partner in that firm now known as Rosenbaum and Rosenbaum, PSC. In January of 2002, Ms. Gosnell joined the Office of Bar Counsel at the Kentucky Bar Association as Chief Deputy Bar Counsel. She then served as Acting Chief Bar Counsel for a brief period of time before being appointed to the position of Chief Bar Counsel.

Jay R. Garrett has recently been promoted to KBA Deputy Bar Counsel/Disciplinary Intake Manager. Since January of 1995, Mr. Garrett had served as Deputy Bar Counsel. He earned his Juris Doctorate from the University of Kentucky College of Law in 1989. After graduating from Jessamine County High School in Nicholasville, he received his Bachelor of Arts with high distinction from the University of Kentucky in 1986. Mr. Garrett was admitted to the Kentucky Bar in November of 1989. From 1990-1991, he served as a law clerk for the Honorable Robert J. Jackson, Circuit Judge for the 13th Judicial Circuit. From 1991-1994, he practiced with the law firm of Moynahan, Bulleit, Kinkead and Irvin, where he was the resident associate attorney in the firm's Nicholasville office. Mr. Garrett was engaged in a general practice of law and concentrated in criminal defense, civil litigation, domestic relations, probate, and real estate. In 1994, he served as the first City of Nicholasville Ethics Committee Chairman.



Jay R. Garrett
Deputy Bar Counsel
Disciplinary Intake Manager

Steven T. Pulliam serves as KBA Deputy Bar Counsel. Mr. Pulliam earned his Juris Doctorate from the University of Kentucky College of Law in 2002, where he was a staff member and notes editor of the *Journal of Natural Resources and Environmental Law*. He received his B.S. in Natural Resource Conservation and Management from the University of Kentucky in 1999. After graduating from the University of Kentucky College of Law, Mr. Pulliam was admitted to the Kentucky Bar and clerked for the Honorable Roger L. Crittenden in the Franklin Circuit Court before joining the office of Bar Counsel.



Steven T. Pulliam
Deputy Bar Counsel

Cindra K. Walker has recently joined the KBA as Deputy Bar Counsel/Administrative Manager. Ms. Walker earned her Juris Doctorate from the University of Kentucky College of Law in 1987. She graduated from the University of Kentucky with distinction in 1979. Following her admittance to the Kentucky Bar, Ms. Walker worked as an Assistant Attorney General for the Kentucky Attorney General's Office. She also served as a staff attorney for the Kentucky Legislative Research Commission and for the Kentucky Court of Appeals. During the past seven years, Ms. Walker has worked as an attorney for Legal Aid of the Bluegrass, primarily in the area of domestic violence. In 1997, she was the first attorney in Kentucky to work under a grant provided by the Federal Violence Against Women Act.



Cindra K. Walker
Deputy Bar Counsel
Administrative Manager

Dana C. Nickles has also recently joined the KBA as Deputy Bar Counsel/Case Manager. Ms. Nickles earned her law degree from Salmon P. Chase College of Law in 1994 and her undergraduate degree from Murray State University in 1991. Following graduation from law school, she was admitted to the Kentucky Bar and was engaged in private practice in Mt. Sterling for over nine years. While in private practice, Ms. Nickles represented clients in real estate, domestic relations, social security, estate, general litigation, collections, and personal injury matters. For the past six years, she also served as City Attorney for the City of Mt. Sterling.



Dana C. Nickles
Deputy Bar Counsel
Case Manager

A Simple Exchange

Since so much of what we do involves the exchange of information, electronic technologies hold great promise. Dangers, too, but let's look at the bright side for the moment.

As to further ways to exchange legal information in electronic form, consider what works easily and simply. Kentucky's state courts make case information available to lawyers online via standard web pages. The federal courts encourage electronic case files via their CM/ECF system, using Adobe Acrobat as a simple add-on "printer" to word processing; that lets you "print" documents ready for electronic filing in the widely-used Adobe PDF (portable document format). E-mail has become part of almost every other computer application we use.



Michael Losavio

If we talk about the easy and simple, let's look again at e-mail. More than 80% of lawyers now use it to exchange information at some level. But e-mail is often part of a bundle of tools for exchange and team work. How much of that bundle is used, and how does it fit with legal and judicial practice?

Microsoft Outlook 2000 is a good example of this bundling. E-mail bundles with calendar, contact and task tools. But Outlook goes beyond bundling to *integrate* the functions of these tools in various ways. Examination may help map a direction for future, better and less stressful practice.

E-mail & Information Sharing

Outlook e-mail lets us move beyond one-to-one text messaging. The attachments/insert file feature lets us send all manner of documents to others, whether text docu-

ments, Acrobat-formatted files, music or whatever. Using the Contacts feature, you collect e-mail addresses and can then make distribution lists to send items to groups with a few clicks (File>New>Distribution List).

Outlook goes further with sharing folder contents over the wire. Once you've created a folder of documents, task lists, calendars or whatever you might want to share, Outlook can set it so you "share" that folder with others (File>Share>This Folder). This "Net Folder" feature uses e-mail to transmit folder contents to the list of those with whom you wish to share the information; any changes in the contents of the folder are updated via e-mail. But, again, complexity intrudes. If someone doesn't have Outlook 2000, they only receive e-mails, but no folders or formatted calendar or contacts information. Conversely, if you have a common Microsoft Exchange Server system used by everyone, you can easily run online polls for quick group decisions (File>New>Mail Message>View>Options>Voting and Tracking).

Greater power with each new feature, but less simplicity. And more reliance on a single proprietary solution.

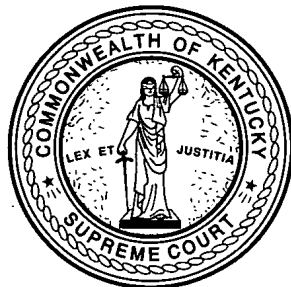
E-mail & Calendaring

Outlook's calendar uses e-mail to easily extend a personal appointment as an invitation to others via e-mail. A nice integrated feature; if the invitees use Outlook, then they can easily accept and respond with a few clicks. Outlook tracks acceptance and declination responses from those folks. And if all the invitees share that common system using Microsoft Exchange Server, you can check on invitee availability from their calendars to see if there is a conflict for a particular date and time. What bliss that would be in scheduling hearings, trials, depositions and meetings!

Yet that again highlights the technical issues and

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Supreme Court of Kentucky



PROPOSED AMENDMENTS TO:

THE RULES OF CIVIL PROCEDURE

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THE RULES OF CRIMINAL PROCEDURE

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THE RULES OF THE SUPREME COURT

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The following proposed amendments to Supreme Court Rules will be considered in an open session on Wednesday, June 23, at 9:30 a.m. The hearing will be held at the Bluegrass Ballroom of the Lexington Convention Center, in conjunction with the KBA Annual Convention.

PROPOSED AMENDMENTS TO THE RULES OF CIVIL PROCEDURE

I. CR 3.02(1) Circuit civil fees and costs

The proposed amendments to section (1) of CR 3.02 are:

(1) The filing fees for a civil case in Circuit Court (including original actions of administrative agencies, special districts or boards) shall be paid to the circuit clerk at the time the case is filed and shall be \$100.00, except as provided below:

(a) There shall be no filing fees for proceedings for a writ of habeas corpus, proceedings under RCr 11.42, and mental health proceedings under KRS Chapters 202A, 202B and 387.

(b) Fees required by KRS 453.060 shall be paid in addition to the fee required by this rule.

(c) The fees required by KRS 27A.630 shall be paid in addition to the fees required by this rule.

II. CR 3.03(1) District civil fees and costs

The proposed amendments to section (1) of CR 3.03 are:

(1) The filing fee for a civil case in District Court shall be paid to the clerk at the time the case is filed and shall be \$45.00, except as provided below:

(a) Where the case or controversy does not exceed \$1500.00, exclusive of interests and costs (Small Claims), the fees shall be \$20.00;

(b) Where the amount in controversy is \$500.00 or less and is not filed in small claims court, the fees shall be \$35.00;

(c) Where the case involves the probate of an estate, the fees shall be \$35.00;

(d) Where the case involves the appointment of guardians, conservators, and curators and is not related to a pending

probate proceeding, the fees shall be \$35.00 for each application;

(e) Where the matter involves a name change for a natural person, the fees shall be \$35.00;

(f) Where the case involves a paternity determination under KRS Chapter 406, the fees shall be \$35.00;

(g) Where the case involves mental health proceedings under KRS Chapter 202A, 202B or 387, there shall be no fees except as provided in paragraph (d) of this subsection;

(h) Where the case involves a hearing for a student pursuant to KRS 159.051, there shall be no fees; [and]

(i) Where the case involves filing forcible detainer actions, the fees shall be \$35.00; **and**

(j) Where the case involves filing a petition to marry under KRS 402.020, the fees shall be \$10.00.

(k) The fees required by KRS 453.060 shall be paid in addition to the fee required by this rule.

(l) The fees required by KRS 27A.630 shall be paid in addition to the fees required by this rule.

III. CR 5.05(5) Filing

Proposed new section (5) of CR 5.05:

(5) If an inmate confined in a penal institution, not represented by counsel, files a pleading or other papers in conjunction with a civil or criminal case, applying these rules under RCr. 13.04, in any Kentucky state court, such document is timely filed if it is deposited in the institution's internal mail system on or before the last day for filing. If an institution has a system designed for legal mail, the inmate must use that system to

receive the benefit of this rule. Timely filing may be shown by a declaration in compliance with 28 U.S.C. 1746 or by a notarized statement, either of which must set forth the date of deposit for mailing and state first-class postage has been prepaid.

IV. CR 26.01 Discovery methods

The proposed amendments to CR 26.01 are:

(1) Parties may obtain discovery by one or more of the following methods: depositions upon oral examination or written question; written interrogatories; production of documents or things or permission to enter upon land or other property, for inspection and other purposes; physical and mental examinations; and requests for admission. Unless the court orders otherwise under Rule 26.03, the frequency of use of these methods is not limited.

(2) Electronic Format. In addition to serving a hard copy, a party propounding or responding to interrogatories, requests for production or requests for admission is encouraged to serve the discovery request or response in an electronic format (either on a disk or as an electronic document attachment) in any commercially available word processing software system. If transmitted on disk, each disk shall be labeled, identifying the caption of the case, the document, and the word processing version in which it is being submitted. If more than one disk is used for the same document, each disk shall be labeled and also shall be sequentially numbered. If transmitted by electronic mail, the document must be accompanied by electronic memorandum providing the forgoing identifying information.

V. CR 26.02(4) Scope of discovery

The proposed amendments to subsection (a) of section (4) of CR 26.02 are:

(4) Trial Preparation: Experts.

Discovery of facts known and opinions held by experts, otherwise discoverable under the provisions of paragraph (1) of this rule and

acquired or developed in anticipation of litigation or for trial, may be obtained only as follows:

(a) (i) A party may through interrogatories require any other party to identify each person whom the other party expects to call as an expert witness at trial, to state the subject matter on which the expert is expected to testify, and to state the substance of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion. (ii) **After a party has identified an expert witness in accordance with paragraph (4)(a)(i) of this rule or otherwise, any other party may obtain further discovery of the expert witness by deposition upon oral examination or written questions pursuant to Rules 30 and 31.** [Upon motion, t]The court may order **that the deposition be taken** [further discovery by other means], subject to such restrictions as to scope and such provisions, pursuant to paragraph (4)(c) of this rule, concerning fees and expenses as the court may deem appropriate.

VI. **[CR 43.05 Scope of examination and cross-examination; leading questions]**

CR 43.05 will be deleted:

[A leading question is a question that suggests to the witness the answer which the examining party desires, and such question may only be used:

(a) To interrogate any unwilling or hostile witness.

(b) On cross-examination by the adverse party only upon the subject matter of the examination in chief.

(c) In all cases where special circumstances make it appear that the interests of justice require such interrogation.]

VII. **[CR 43.06 Same; examination of adverse party]**

CR 43.06 will be deleted:

[A party may call an adverse party or an officer, director, or managing agent of a public or private corporation or of a partnership or

association, or an administrative officer of the state or any political subdivision thereof, which is an adverse party, and interrogate him by leading questions and contradict and impeach him in all respects as if he had been called by the adverse party, and the witness thus called may be contradicted and impeached by or on behalf of the adverse party also, and may be cross-examined by the adverse party only upon the subject matter of his examination in chief. Except as stated in the preceding sentence, any witness called by a party and examined as to any matter material to any issue may be examined by the adverse party upon all matters material to every issue of the action.]

VIII. [CR 43.07 Impeachment of witnesses]

CR 43.07 will be deleted:

[A witness may be impeached by any party, without regard to which party produced him, by contradictory evidence, by showing that he had made statements different from his present testimony, or by evidence that his general reputation for untruthfulness renders him unworthy of belief; but not by evidence of particular wrongful acts, except that it may be shown by the examination of a witness, or record of a judgment, that he has been convicted of a felony.]

IX. [CR 43.08 Same; prior contradictory statements]

CR 43.08 will be deleted:

[Before other evidence can be offered of the witness having made at another time a different statement, he must be inquired of concerning it, with the circumstances of time, place, and persons present, as correctly as the examining party can present them; and, if it be in writing, it must be shown to the witness, with opportunity to explain it. The court may allow such evidence to be introduced when it is impossible to comply with this rule because of the absence at the trial or hearing of the witness sought to be contradicted, and when the court finds that the impeaching party has acted in good faith.]

X. [CR 43.09 Separation of witnesses]

CR 43.09 will be deleted:

[If either party request it the judge may exclude from the courtroom any witness of the adverse party not at the time under examination, so that he may not hear the testimony of the other witnesses. But this rule shall not apply to the parties to the action or the officers of court.]

XI. [CR 43.10 Avowals]

CR 43.10 will be deleted:

[In an action tried by a jury, if an objection to a question propounded to a witness is sustained by the court, upon request of the examining attorney, the witness may make a specific offer of his answer to the question. The court shall require the offer to be made out of the hearing of the jury. The court may add such other or further statement as clearly shows the character of the evidence, the form in which it was offered, the objection made, and the ruling thereon. In actions tried without a jury the same procedure may be followed, except that the court upon request shall take and report the evidence in full, unless it clearly appears that the evidence is not admissible on any ground or that the witness is privileged.]

XII. [CR 43.11 Affirmation in lieu of oath]

CR 43.11 will be deleted:

[Whenever under these rules an oath is required to be taken, a solemn affirmation may be accepted in lieu thereof.]

XIII. [CR 44.02 Proof of lack of record]

CR 44.02 will be deleted:

[A written statement signed by an officer having the custody of an official record or by his deputy that after diligent search no record or entry of a specified tenor is found to exist in the records of his office, accompanied by a certificate as provided in Rule 44.01, is admissible as evidence that the records of his office contain no such record or entry.]

XIV. CR 72.02(1) When and how taken

The proposed amendments to section (1) of CR 72.02 are:

(1) Appeals from the district court to the

circuit court in civil cases shall be taken by filing a notice of appeal in the district court and paying the required filing fee [required by KRS 23A.210].

XV. [CR 76.04 Time in which appeals and cross-appeals must be perfected]

CR 76.04 will be deleted:

[An appeal from the circuit court shall be perfected within 30 days after the date of the notation on the docket of the service of notification required by Rule 75.07(5). A cross appeal shall be perfected within 30 days after (a) the mailing of the clerk's notice mentioned in Rule 76.02(2) or (b) expiration of the time allowed under this Rule 76.04 for the appellant to perfect his appeal, whichever is the sooner. These requirements shall be subject, however, to any extensions of time granted by the appellate court.]

XVI. CR 76.12(2), (3) and (4) Briefs

The proposed amendments to sections (2), (3), and (4)(g) of CR 76.12 are:

(2) Time for filing.

(a) *Civil cases.* In civil cases, including workers' compensation appeals. The appellant's brief shall be filed with the clerk of the appellate court within 30 [60] days after the date of the notation on the docket of the notification required by Rule 75.07(6). The appellee's brief (or combined briefs, if the appellee is also a cross-appellant) shall be so filed within 30 [60] days after the date on which the appellant's brief was filed. The appellant's reply brief shall be filed within 15 days after the date on which the last appellee's brief was filed or due to be filed. If the appellant is also a cross-appellee, a combined brief may be filed within 30 [60] days after the date on which the last appellee's brief is filed or due to be filed. When a motion for discretionary review has been granted by the Supreme Court, the time in which the movant's brief must be filed shall be computed from the date of entry of the order granting review.

(b) *Criminal cases.* The times in which briefs are required to be filed in criminal

cases shall be the same as in civil cases, except as follows:

(i) If counsel for the appellant is the Public Advocate of the Commonwealth or the Attorney General of the Commonwealth, or designee, the appellant's brief shall be filed within 30 [60] days after the date on which the record on appeal was received by the clerk of the appellate court (notice of which shall be sent); and

(ii) If counsel for appellant is someone other than the Public Advocate of the Commonwealth or the Attorney General of the Commonwealth, or designee, the appellee's brief shall be filed within 30 [60] days after the date on which the appellant's brief was filed or within 30 [60] days after the date on which the record [on appeal] was received by the clerk of the appellate court, whichever is the later.

(3) Number of Copies.

(a) Briefs in the Court of Appeals shall be filed in quintuplicate. In the Supreme Court ten copies shall be filed.

(b) Filing of Electronic Briefs on Diskette or CD-ROM. Any party filing a brief on the merits with the Clerk of the Supreme Court may, and is encouraged to, file with the required copies of the paper brief an electronic brief thereof on a floppy disk or CD-ROM (preferred). The Clerk of the Supreme Court shall receive and file the floppy disk or CD-ROM with the papers of that case.

(i) All electronic briefs shall be on a 3.5 floppy disk or CD-ROM that can be read via Microsoft Windows and shall contain in a single file all information contained in the paper brief, including the cover, the table of contents, and the certifications, in the same order as the paper brief. The electronic briefs may also contain hypertext links or bookmarks to cases, statutes and other reference materials available on the Internet or appended to the brief.

(ii) An electronic brief must be formatted in Microsoft Word (preferred) or WordPerfect.

(iii) An electronic brief shall contain a label indication:

(a) The style and docket number of the case.

(b) The name of the document contained on the diskette or CD-ROM, and

(c) The language format of the document.

(4) Form and content.

(g) *Form of citations.* All citations of Kentucky Statutes shall be made from the official edition of the Kentucky Revised Statutes and may be abbreviated "KRS." The citation of Kentucky cases reported after January 1, 1951, shall be in the following form for decisions of the Supreme Court and its predecessor court: Doe v. Roe, Ky., S.W.2d (date), **or S.W.3d, etc. (date)**, or for reported decisions of the present Court of Appeals, Doe v. Roe, Ky. App., S.W.2d **or S.W.3d, etc. (date)**. For cases reported prior thereto both Kentucky Reports and Southwestern citations shall be given.

OR

(g) *Form of citations.* All citations of Kentucky Statutes shall be made from the official edition of the Kentucky Revised Statutes and may be abbreviated "KRS," **All citations of Kentucky cases shall conform to the most recent edition of The Bluebook: A Uniform System of Citation.** [The citation of Kentucky cases reported after January 1, 1951, shall be in the following form for decisions of the Supreme Court and its predecessor court: Doe v. Roe, Ky., - S.W.2d – (date), or for reported decisions of the present Court of Appeals, Doe v. Roe, Ky. App., - S.W.2d – (date). For cases reported prior thereto both Kentucky Reports and Southwestern citations shall be given.]

XVIII. CR 76.16(5) Oral arguments

The proposed amendments to section (5) of CR 76.16 are:

(5)(a) In death penalty cases in which the appellant has been granted permission to file a brief exceeding fifty (50) pages, appellant shall file and serve upon appellee not later than fourteen (14) days before oral argument a notice of issues that appellant intends to argue orally, with specific reference to the argument number and page numbers of each issue in appellant's brief. If appellant fails to do so, without good cause, appellant's oral argument shall be limited to answering questions from the Court.

In death penalty cases, appellant shall file any motion for leave to cite supplemental authority for oral argument not later than fourteen (14) days before oral argument, unless good cause is shown for a later filing. In death penalty cases, appellee shall file any motion for leave to cite supplemental authority for oral argument not later than ten (10) days before oral argument or ten (10) days after service of appellant's designation of issues for oral argument, whichever is earlier, unless good cause is shown for a later filing.

(b) In **all** [criminal] cases before the Supreme Court to which paragraph (5)(a) of this Rule does not apply **and all cases before the Court of Appeals, each, appellant or cross-appellant** shall file and serve upon **each** appellee or **cross-appellee** not later than ten (10) days before oral argument a notice of issues **in the order to be argued** that **the appellant or cross-appellant** intends to argue orally, with specific reference to the argument number and page numbers of each issue in **the appellant's or cross-appellant's** brief. If **the appellant or cross-appellant** fails to do so, without good cause, **the appellant's oral argument or the portion of the cross-appellant's oral argument devoted to issues raised in the cross-appeal** shall be limited to answering questions from the court.

XVIX. CR 76.22 [Motion to] Advancement

The proposed amendments to CR 76.22 are:

Appeals may be advanced [on motion] for good cause shown.

PROPOSED AMENDMENTS TO THE RULES OF CRIMINAL PROCEDURE

I. RCr 3.05 Cautioning of accused; appointment of counsel

The proposed amendments to RCr 3.05 are:

(1) At the time of the defendant's appearance the judge shall **individually** inform the defendant of the charge against him or her and of his or her right to a preliminary hearing or a trial, and shall **individually** advise the defendant of his or her right to have counsel. The defendant shall be informed also that he or she is not required to make a statement and that any statement made by him or her may be used against him or her. The judge shall notify the attorney for the Commonwealth, allow the defendant reasonable time and opportunity to consult counsel, and release the defendant on personal recognizance or admit the defendant to bail if the offense is bailable.

(2) If the crime of which the defendant is charged is punishable by confinement and the defendant is financially unable to employ counsel, the judge shall appoint counsel to represent the defendant unless he or she elects to proceed without counsel. The defendant has the burden of first establishing his or her indigency before counsel may be appointed. If the defendant demonstrates that he or she is a needy person as defined in KRS 31.120 and the court so concludes, then the appointment shall continue for all future stages of the criminal proceeding, including appeal. Such appointment may be terminated by the court in which the proceeding is pending at any time upon a showing that defendant is able to employ counsel.

(3) If the defendant is indigent pursuant to KRS Chapter 31, any waiver of appointment of counsel shall occur only after an individualized colloquy with the court, and only after the court is assured that the defendant is fully informed regarding his or her right to counsel and the consequences of waiver. The failure to request counsel shall not be considered waiver of counsel.

II. RCr 5.06 Attendance of witnesses

The proposed amendments to RCr 5.06 are:

(1) The circuit court, upon request of the foreperson of the grand jury or of the attorney for the Commonwealth, shall issue subpoenas for witnesses. The attendance of witnesses may be coerced as in other judicial proceedings.

(2) Subpoenas issued for records or documents may direct that certified or attested copies of the records or documents be substituted for the appearance of a custodian of the records or documents before the grand jury. Records or documents subpoenaed shall be produced directly to the foreperson of the grand jury or the attorney for the Commonwealth on or before the time designated for production.

(3) The circuit court on motion made promptly by the person to whom a subpoena is directed may quash or modify the subpoena upon a showing by the movant that compliance would be unreasonable or oppressive.

(4) RCr 7.02 shall apply to grand jury subpoenas to the extent not inconsistent with this rule.

III. RCr 7.24 (3)(B) Discovery and inspection

The proposed amendments to subsection (B) of section (3) of RCr 7.24 are:

(B)(i) If a defendant intends to introduce expert testimony relating to a mental disease or defect or any other mental condition of the defendant bearing upon **either** the issue of [his or her] guilt, **or the issue of punishment in a capital case**, the defendant shall, at least 20 days prior to trial, or at such later time as the court may direct, notify the attorney for the Commonwealth in writing of such intention and file a copy of such notice with the clerk. The court may for cause shown allow late filing of the notice or grant additional time to

the parties to prepare for trial or make such other order as may be appropriate.

(ii) When a defendant has filed the notice required by paragraph (B)(i) of this rule, the court may, upon motion of the attorney for the Commonwealth, order the defendant to submit to a mental examination.

(iii) The results and reports of any examination conducted pursuant to this rule solely on the issue of punishment shall be provided to the defendant and shall be sealed and not disclosed to any attorney for the Commonwealth unless the defendant is found guilty of one or more capital crimes and the defendant confirms an intent to offer during sentencing proceedings expert evidence on mental condition.

(iv) Upon the return of a guilty verdict, the Commonwealth shall be provided the results and reports of the Commonwealth's examination and the defendant must disclose to the Commonwealth the results and reports of any examination on mental condition conducted by the defendant's expert about which the defendant intends to introduce expert evidence.

(v) No statement made by the defendant in the course of any examination provided for by this rule, whether the examination be with or without the consent of the defendant, shall be admissible into evidence against the defendant in any criminal proceeding. No testimony by the expert based upon such statement, and no fruits of the statement shall be admissible into evidence against the defendant in any criminal proceeding except upon an issue regarding mental condition on which the defendant has introduced testimony.

IV. RCr 7.24 (3)(B) and (C) Discovery and inspection

The proposed amendments to subsections (B) and (C) of section (3) of RCr 7.24 are:

(B)(i) If a defendant intends to introduce expert testimony relating to a mental disease or defect or any other mental condition of the defendant bearing upon the issue of his or her

guilt **or punishment**, the defendant shall, at least 20 days prior to trial, or at such [later] **other** time as the court may direct **upon reasonable notice to the parties**, notify the attorney for the Commonwealth in writing of such intention and file a copy of such notice with the clerk. The court may for cause shown allow late filing of the notice or grant additional time to the parties to prepare for trial or make such other order as may be appropriate.

(ii) When a defendant has filed the notice required by paragraph (B)(i) of this rule, the court may, upon motion of the attorney for the Commonwealth, order the defendant to submit to a mental examination. No statement made by the defendant in the course of any examination provided for by this rule, whether the examination be with or without the consent of the defendant, shall be admissible into evidence against the defendant in any criminal proceeding. No testimony by the expert based upon such statement, and no fruits of the statement shall be admissible into evidence against the defendant in any criminal proceeding except upon an issue regarding mental condition on which the defendant has introduced testimony. **If the examination ordered under this rule pertains to the issue of punishment (excluding a pretrial hearing under KRS 532.135), the court shall enter an order prohibiting disclosure to the attorneys for either party of any self-incriminating information divulged by the defendant until the defendant is found guilty of a felony offense, unless the parties otherwise enter into an agreement regulating disclosure.**

(C) If there is a failure to give notice when required by this rule or to submit to an examination ordered by the court under this rule, the court may exclude such evidence or the testimony of any expert witness offered by the defendant on the issue of his or her [guilt] **mental condition**.

V. RCr 8.08 Pleas

The proposed amendments to RCr 8.08 are:

(1) A defendant may plead not guilty, guilty or guilty but mentally ill. The court may refuse to accept a plea of guilty or guilty but mentally

ill, and shall not accept the plea without first determining that the plea is made voluntarily with understanding of the nature of the charge. If a defendant refuses to plead or if the court refuses to accept a plea of guilty or guilty but mentally ill or if a defendant corporation fails to appear, the court shall enter a plea of not guilty.

(2) The court shall advise a defendant entering a plea of guilty, orally or in writing, that if the defendant is a noncitizen then a conviction of the offense to which the person is pleading guilty may have consequences affecting the defendant's immigration status.

VI. [RCr 9.46 Expert Witnesses]

RCr 9.46 will be deleted:

[The court may order the parties to show cause why expert witnesses should not be appointed, and may request the parties to submit nominations. The court may appoint any expert witnesses agreed upon by the parties, and may appoint witnesses of its own selections. An expert witness shall not be appointed by the court unless the witness consents to act. A witness so appointed shall be informed of his or her duties by the court at a conference in which the parties shall have opportunity to participate. A witness so appointed shall advise the parties of his or her findings, if any, and may thereafter be called to testify by the court or by any party. The witness shall be subject to cross-examination by each party. The court may determine the reasonable compensation of such witness and direct its payment out of such funds as may be provided by law. The parties also may call expert witnesses of their own selection at their own expense.]

VII. [RCr 9.48 Separation of witnesses]

RCr 9.48 will be deleted:

[If either a defendant or the Commonwealth requests it, the judge may exclude from the hearing or trial any witness of the adverse party not at the time under examination, so that the witness may not hear the testimony of the other witnesses. This provision shall not apply to the parties to the proceeding.]

VIII. [RCr 9.52 Avowals]

RCr 9.52 will be deleted:

[In an action tried by a jury, if an objection to a question propounded to a witness is sustained by the court, upon request of the examining attorney the witness may make a specific offer of his or her answer to the question. The court shall require the offer to be made out of the hearing of the jury. The court may add such other or further statement as clearly shows the character of the evidence, the form in which it was offered, the objection made, and the ruling thereon. In actions tried without a jury the same procedure may be followed, except that the court upon request shall take and report the evidence in full, unless it clearly appears that the evidence is not admissible on any ground or that the witness is privileged.]

IX. RCr 9.78 Confessions, [and] Searches, and Witness Identification; Suppression of Evidence

The proposed amendments to RCr 9.78 are:

If at any time before trial a defendant moves to suppress, or during trial makes timely objection to the admission of evidence consisting of (a) a confession or other incriminating statements alleged to have been made by the defendant to police authorities, [or] (b) the fruits of a search, **or (c) witness identification**, the trial court shall conduct an evidentiary hearing outside the presence of the jury and at the conclusion thereof shall enter into the record findings resolving the essential issues of fact raised by the motion or objection and necessary to support the ruling. If supported by substantial evidence the factual findings of the trial court shall be conclusive.

X. RCr 12.05 Petition for Rehearing and Discretionary Review Motion not required for exhaustion

Proposed new rule RCr 12.05:

In all appeals from criminal convictions or post-conviction relief matters from and after January 1, 1976, a litigant shall not be required to petition for rehearing or to file a motion for

discretionary review to either the Kentucky Court of Appeals or Kentucky Supreme Court following an adverse decision of either the circuit court or Court of Appeals in order to be deemed to have exhausted all available state remedies respecting a claim of error. Rather, when the claim has been presented to the appellate court, and relief has been denied, the litigant shall be deemed to have exhausted all available state remedies available for that claim. If rehearing or discretionary review is sought on less than all of the claims of error presented on appeal, the litigant, nevertheless, shall be deemed to have exhausted all available state remedies respecting the claim(s) of error for which rehearing or discretionary review is not sought. Finality of the opinion for all

claims of error is governed by CR 76.30(2).

XI. **RCr 13.03 Review of trial dockets**

Proposed new rule RCr 13.03:

At least once each year trial courts shall review all pending criminal actions on their dockets. Notice shall be given to each attorney of record of every case in which no pretrial step has been taken within the last year, that the case will be dismissed in thirty days for want of prosecution except for good cause shown. The court shall enter an order dismissing without prejudice each case in which no answer or an insufficient answer to the notice is made.

PROPOSED AMENDMENTS TO THE SUPREME COURT RULES

I. **SCR 3.030(2) Membership, practice by nonmembers and classes of membership**

The proposed amendments to section (2) of SCR 3.030 are:

~~(2)~~ A person admitted to practice in another state, but not in this state, shall be permitted to practice a case in this state only if he subjects himself to the jurisdiction and rules of the court governing professional conduct, pays a per case fee to the Kentucky Bar Association, such fee to equal the amount of the then existing Kentucky Bar Association annual membership dues charged to lawyers admitted at least five years, and engages a member of the association as co-counsel, whose presence shall be necessary at all trials and at other times when required by the court. No motion for permission to practice in any state court in this jurisdiction shall be granted without submission to the admitting court of a certification from the Kentucky Bar Association of receipt of this fee.

II. **SCR 4.300 Section 4C(2) Commentary**

The proposed amendments to section 4C(2) Commentary of SCR 4.300 are:

Commentary

Section 4C(2) prohibits a judge from accepting any governmental position except one relating to the law, legal system or administration of justice as authorized by Section 4C(3). The appropriateness of accepting extra-judicial assignments must be assessed in light of the demands on judicial resources created by crowded dockets and the need to protect the courts from involvement in extra-judicial matters that may prove to be controversial. Judges should not accept governmental appointments that are likely to interfere with the effectiveness and independence of the judiciary.

Section 4C(2) does not govern a judge's service in a nongovernmental position. See Section 4C(3) permitting service by a judge with organizations devoted to the improvement of the law, the legal system or the administration of justice and with educational, religious, charitable, fraternal or civic organizations not conducted for profit. [For example, service on the board of a public educational institution, unless it were a law school would be prohibited under Section 4C(2), but service on the board of a public law school or any private educational institution would generally be permitted under Section 4C(3).]

Shop Talk

Continued from page 30

limits. With each more powerful collaborative feature, technical complexity increases. To easily respond to an invite, all parties need Outlook. To easily schedule around conflicting appointments, all parties need to be on the common network with Exchange Server. Not easy, not simple.

Evolution

Which path should we follow? Do we wait for common technology independent of any one product, or should we adopt the same product? A tough decision; adoption of a common ground may be years off. Ambitious

proprietary solutions, no matter how powerful, can drive up costs and, perhaps, reduce the flexibility legal and judicial systems need. The federal courts did adopt Acrobat, but Adobe has succeeded in making Acrobat something of a "standard" in formatted document exchange independent of particular kinds of other technologies.

Certainly we can look at the simple, common features, like attachments, distribution lists and calendar invitations and begin working those into daily practice. Folks will create their own clever interim solutions; I hope the community continues to share those solutions as they have with other aspects of practice. The

courts and bar associations themselves may begin to create practice aids, or create frameworks to make life easier all around, like the easier use of standard documents.

If you have thoughts on how these systems might evolve to the benefit of legal and court practice, please pass them on to Michael.losavio@louisville.edu. ■

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Judicial Ethics Opinions

JUDICIAL ETHICS OPINION JE-104

Question: In the absence of a formal request from the Governor may a judge communicate with the Governor's office regarding a pardon and in the absence of a formal request from the parole board may the judge communicate with the board regarding a parole proceeding?

Answer: No. The judge, may, however, respond to a formal request from either of these decision-making authorities and provide information based on personal knowledge.

Canon 2 requires that a judge be careful not to abuse the prestige of his office. He should not use his judicial office to advance the private interests of others or give the impression that certain persons are in a special position to influence him. He should not testify voluntarily as a character witness.

The Commentary to Canon 2D, however, provides that a judge may respond to formal requests from certain decision-making authorities: "a judge must not initiate the communication of information to a sentencing judge or a probation or corrections officer but may provide to such persons information for the record in response to a formal request." This provision of the Commentary is not

mandatory; the word "may" is used, not "shall," and a judge should always keep in mind the appearance of impropriety. For these reasons, the information provided should be accurate and based on the judge's personal knowledge. While the Governor and the parole board are not mentioned specifically, the Committee believes that if the above guidelines

are followed, the Code is not violated if a formal request is made and the judge provides the information requested.

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

Advisory Ethics Opinions

Where to find them in the *Bench & Bar*

KBA E-336	Winter 1990	Volume 54, #1
KBA E-337	Winter 1991	Volume 55, #1
KBA E-338	Summer 1990	Volume 54, #3
KBA E-340	Fall 1990	Volume 54, #4
KBA E-341-343	Spring 1991	Volume 55, #2
KBA E-344-346	Summer 1991	Volume 55, #3
KBA E-347-348	Fall 1991	Volume 55, #4
KBA E-349	Spring 1992	Volume 56, #2
KBA E-350 & 351	Summer 1992	Volume 56, #3
KBA E-352-359	Summer 1993	Volume 57, #3
KBA E-360 & 361	Summer 1993	Volume 57, #3
KBA E-362 & 363	Spring 1994	Volume 58, #2
KBA E-364-367	Summer 1994	Volume 58, #3
KBA E-368 & 369	Fall 1994	Volume 58, #4
KBA E-370-373	Winter 1995	Volume 59, #1
KBA E-374	Spring 1996	Volume 60, #2
KBA E-375-379	Summer 1995	Volume 59, #3
KBA E-380-384	Fall 1995	Volume 59, #4
KBA E-385 & 386	Winter 1996	Volume 60, #1
KBA E-387	Spring 1996	Volume 60, #2
KBA E-388 & 389	Summer 1996	Volume 60, #3
KBA E-390 & 391	Fall 1996	Volume 60, #4
KBA E-392 & 393	Winter 1997	Volume 61, #1
KBA E-394	Spring 1997	Volume 61, #2
KBA E-395-399	November 1998	Volume 62, #5
KBA E-400	Summer 1997	Volume 61, #3
KBA E-401 & 402	Spring 1998	Volume 62, #2
KBA E-403	July 1998	Volume 62, #3
KBA E-404 & 405	September 1998	Volume 62, #4
KBA E-406	March 1999	Volume 63, #2
KBA E-407	July 1999	Volume 63, #4
KBA E-408	November 1999	Volume 63, #6
KBA E-409 & 410	January 2000	Volume 64, #1
KBA E-411	May 2000	Volume 64, #3
KBA E-412 - E-415	July 2000	Volume 64, #4
KBA E-416	July 2001	Volume 65, #4
KBA E-417	November 2001	Volume 65, #6
KBA E-418	March 2002	Volume 66, #2
KBA E-419	July 2002	Volume 66, #4
KBA E-420	March 2003	Volume 67, #2
KBA E-421	July 2003	Volume 67, #4
KBA E-422 & 423	March 2004	Volume 68, #2

**COMMONWEALTH OF KENTUCKY
JUDICIAL CONDUCT COMMISSION**

IN RE THE MATTER OF:

**RON JOHNSON, CIRCUIT JUDGE
TWENTY-SIXTH JUDICIAL CIRCUIT**

AGREED ORDER OF PUBLIC REPRIMAND

Ron Johnson is Circuit Judge for Kentucky's Twenty-Sixth Judicial Circuit, composed of Harlan County. Judge Johnson has waived formal proof and has agreed to accept the disposition made in this order.

The Commission determined the following facts after an informal investigation. Judge Johnson, at a recess during the qualification of a new jury panel, requested that a member of this jury panel, whose family had previously been involved in a settled property dispute, confer with him in his chambers. The juror worked in the Harlan County Courthouse and he and Judge Johnson had had a friendly relationship prior to the property dispute. Judge Johnson's purpose in calling the juror into his chambers was to inquire of the reasons for actions and expressions of this individual toward Judge Johnson which Judge Johnson viewed as hostile and unfriendly ever since the Judge had successfully prevailed upon the parties (the juror was not a party to the action) to settle the property litigation.

The meeting was not only unsuccessful but deteriorated quickly into an angry and hostile exchange during which the Judge uttered profanities, asked the individual to leave the Judge's office, and stated that he did not want a thing to do with him. The Judge states in mitigation that his anger was caused in part by his perception that the juror thought he should have been favorably disposed to the juror's family in the property dispute and by the unexpected response of the juror to an agreed judgment. He further states that the incident was intended by him to be a personal conversation between friends. However, the Commission concludes that the conversation in Judge Johnson's chambers at his direction with a person who although an employee of the County Courthouse was nevertheless in his court as a member of a jury pool, could not under the circumstances be a strictly personal matter.

Judges occupy a position of great authority and prestige and are held to a higher standard of conduct. Judges are not to use intemperate language toward persons appearing in their court and their chambers are considered part of the court. They must stay above the fray. Judge Johnson failed to do this.

The Commission concludes that Judge Johnson violated Canon 3B(4) by being undignified and discourteous to a member of his jury panel. The Commission also notes that Judge Johnson was privately reprimanded previously for losing his temper and using intemperate language toward a juvenile defendant and a family member of a litigant involved in cases before him.

In making the determinations in this order by a majority of the full Commission, the Commission gave due consideration that Judge Johnson fully cooperated in the investigation and candidly admitted the details of the conduct he engaged in.

IT IS THEREFORE ORDERED that for the foregoing conduct, Judge Johnson is hereby publicly reprimanded.

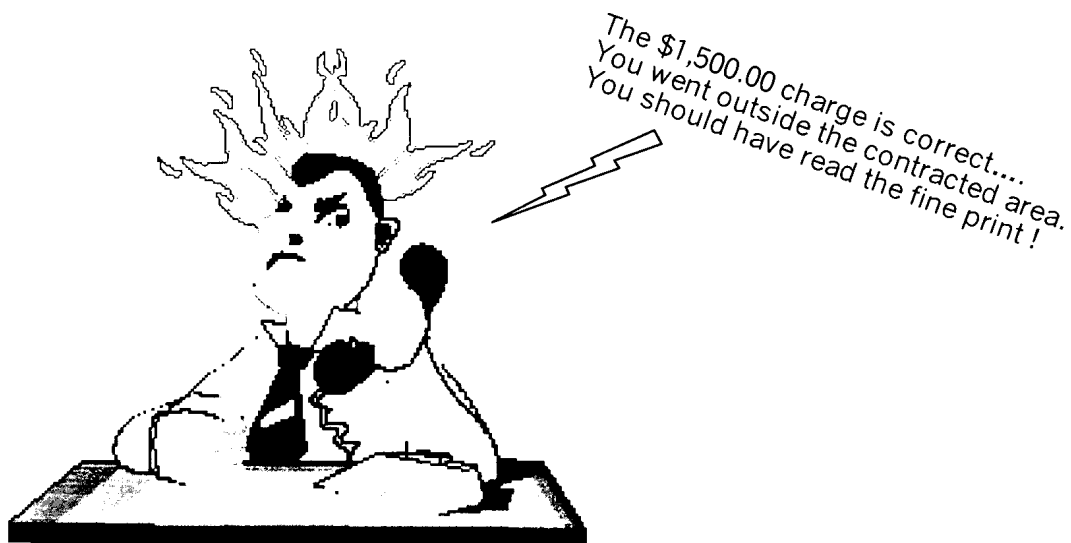
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STEPHEN D. WOLNITZEK, CHAIR

AGREED TO:

RON JOHNSON

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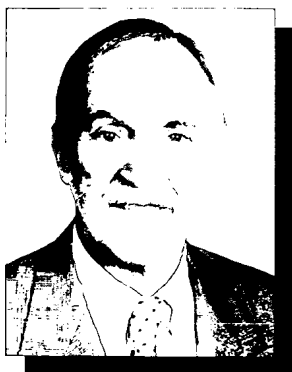


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A Series

By Professor Rick Bales

Using Pictures & Graphics

"A picture is worth a thousand words." Cliché, yes, but true. Use pictures and graphics to promote clarity, brevity, and convenience.¹

Educators and psychologists tell us that people have at least seven different learning styles, only one of which involves thinking in words.² There is no indication that this variation disappears once a person enters law school. You are more likely to reach your reader if you use several different forms of communication (e.g., written and visual) than you are if you rely only on a single form of communication alone.

Moreover, using overlapping forms of communication increases retention. One study estimates that most of us remember only 10% of what we read. Visual learning results in 30% retention – a three-fold increase. Using both pictures *and* words can push retention to 50% or higher.³

Until the last decade or so, using pictures and graphics was at best difficult and often ineffective (think fuzzily-photocopied photographs). Today, however, capturing or creating high-quality pictures and graphics is easy – all it takes is a computer, a scanner, a printer, and the investment of a couple of hours to learn the software.

Several sources of software are readily available and each works a little differently. This essay will not, therefore, attempt to provide step-by-step technical instructions on using pictures and graphics. However, it will provide some general suggestions for using pictures and graphics in legal writing.

First, use a variety of media to convey your message. A photograph might vividly illustrate an argument for or against a "blighted area" rationale for eminent domain; scan the photograph (don't just copy it) and include it in your brief. A drawing from a police officer's traffic accident report might save a hundred words of written explanation. The juxtaposition of mathematical or scientific formulas can help explain a patent infringement case. A table, pie chart, scatter plot, or data map can help present large quantities of data; a

time line can help a reader understand a sequence of events.

Second, place the picture or graphic in the body of your writing, immediately adjacent to your written description or explanation. Don't make the reader flip back to an appendix – or worse yet, to another document – to find it.⁴



Rick Bales is a Professor at Chase College of Law.

Third, don't lie.⁵ Don't digitally alter photographs; don't attempt to mislead the reader by omitting key information from a chart or table. Ethical rules concerning false or misleading statements apply to pictures and graphics just as they do to the written word.

Finally, embrace and explain complexity. Some facts and legal issues are complex. If you try to compensate by over-simplifying or omitting data, the reader will assume you're hiding something. Instead, use a picture or graphic to make complex material understandable. After all, the purpose of any picture or graphic "is the clear portrayal of complexity."⁶

Footnotes

1. Thomas G. Collins & Karin Marlett, *New Tools Can Enhance Legal Writing*, N.Y. St. B.J. (June 2003) at 10.
2. HOWARD GARDNER, *FRAMES OF MIND: THE THEORY OF MULTIPLE INTELLIGENCE* (1983); THOMAS ARMSTRONG, *MULTIPLE INTELLIGENCES IN THE CLASSROOM* (1994).
3. Marie Wallace, *Climbing the Learning Ladder*, <http://www.llrx.com/columns/guide69.htm>, cited in Collins & Marlett, *supra* note 1, at 11 n.14.
4. Herald Price Fahringer, *Working with Words*, N.Y. St. B.J. (Apr. 1982) at 167.
5. EDWARD TUFTE, *THE VISUAL DISPLAY OF QUANTITATIVE INFORMATION* 52-87 (2d ed. 2001).
6. *Id.* at 191.

Getting Physical

Are You Ready for an Office Catastrophe?

Most of us thought when we decided to go to law school that we had found a way out of dealing with the humdrum and tedious details of making a living that most people have to face. No punctilious attention to little stuff like where do office supplies come from or how the office gets cleaned. Someone else would take care of all that nitty-gritty. The practice of law would be uninterrupted excitement and professional satisfaction. Reality turned out to be quite different from those idealistic expectations. We all soon learn that there is no avoiding managing the physical aspects of practicing law. One must have office space, employees, money, expensive office equipment, libraries, etc., etc. And then it is necessary to contemplate that it all might go up in smoke. Who does that thinking for your practice? Who plans for how you will manage anything from a total office wipe out to a simple power outage of a few hours, but at a critical time?



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

The purpose of this article is to focus on the practical aspects of risk management that relate to how you physically operate your practice. There are serious malpractice risks and professional responsibility issues when client files and property are destroyed, work control dockets are lost causing missed deadlines, and client appointments cannot be kept. Every practice must have a plan, formal or informal, for the continuity of the practice when a catastrophe occurs. This process involves planning for how to immediately respond when trouble happens, how to quickly resume time sensitive activities, and ultimately how to restore your practice to normal operations.

Fortunately, my fellow risk managers at Wisconsin Lawyers Mutual Insurance Company (WLMIC) have done some outstanding work on disaster planning for the Wisconsin Bar. They have generously permitted me to make extensive use of their work in this article so that it can be shared with the Kentucky Bar.¹

Can It Happen To You? Let Me Count The Ways!

Disasters, catastrophes, and sudden emergencies come in all shapes and sizes. The following list includes many of them:

- Serious illness, injury to, or death of you, a partner, an associate, secretary, legal assistant, office manager, or technical support person
- Natural disasters, including:
 - a. flood
 - b. tornado
 - c. severe weather
 - d. fire
- Technology failure, including:
 - a. computer or telecommunication system failure
 - b. electrical storm damage
 - c. security breaches (hackers, viruses, etc.)
- Acts of terrorism or war
- Interruptions in normal transportation systems
- Environmental disasters, including chemical spills or leaks, nuclear reactor malfunction, etc.²

The potential losses as a result of a catastrophe are enormous. Some of the more important are:

- Loss of current income and clients
- Loss of future or potential income or potential clients
- Lost productivity and idle employee costs
- Unanticipated business expenses, such as late fees

or penalty payments, missed deadlines and appointments

- Malpractice claims.³

Add to these risks that there is a budding new tort theory of “negligent failure to plan” and even the most planning averse lawyer should see the necessity of getting physical about risk management.

Before It Happens – Anticipate and Plan

The first priority in anticipating a disaster in the office is the safety and welfare of the people in the office. People are the top priority for obvious reasons and also because failure to plan for their safety is the most likely reason that a negligent failure to plan suit could be brought. Begin the process with a risk assessment covering office safety considerations and insurance requirements. Make a complete inventory of all office contents. Be sure to include computer hardware and software specifications. Make lists of critical contacts to include emergency help contacts, clients, opposing counsel, courts, and business contacts (e.g., landlord, suppliers, etc.). Review insurance policies to assure adequate coverage. In addition to malpractice, property, and general liability coverage, consider adding policies or endorsements that cover business interruption, valuable paper destruction, and cleaning expenses. Make sure that policy limits are high enough to realistically cover your anticipated losses.

WLMIC suggests this approach for establishing a disaster plan:

- Establish an evacuation procedure.
- Establish a procedure for notifying, and accounting for all employees. Include in your plan steps to be taken in the event telephone service is unavailable. Will you arrange to meet at a specific location?
- Decide upon a meeting place outside the office, with instructions to employees about when to meet in the event of a disaster. Take a head count of your employees at the alternate meeting site. Keep a current directory, at a location other than your office, of employees’ home addresses; phone numbers, including cell phones and pagers; and emergency contact persons. Be sure key people in your office know the location of this directory.
- Arrange for an alternative work site. An alternative site might be anything from someone’s garage or basement to formal workspace at a satellite office or rented facility. Consider a *mutual aid agreement*—a prearranged agreement developed

between two or more entities to render assistance to the parties of the agreement in the event disaster strikes.

- Protect your computer data. Establish program backup procedures and be sure to test them on a regular basis. You don’t want to discover during a disaster that your data backup system is faulty. Make sure your office administrator or other key employee has information (duplicated in a location off-site) about your hardware and software, including: location; serial number; original price and purchase date; and vendor.
- Protect your paper files. One such plan is the Paper LESS Office™. For information, go to www.microlaw.com.
- Every employee should receive a written copy of your disaster plan or business recovery plan. Every employee should know his or her responsibilities in carrying it out.⁴

WLMIC advises that these documents be maintained in an off-site location:

- Your firm’s insurance policies, including policy numbers, agents’ names and telephone numbers, and instructions for filing claims.
- Your lease and name and phone number of the office building manager, if applicable.
- The location of computer equipment for restoring data, along with the location of your off-site backup disks or tapes.
- Detailed records of firm income, accounts receivable, payroll and other documentation for filing a claim under your business interruption insurance.
- A recent valuation of your property (building and contents) for filing a property insurance claim.
- A list of all library contents and subscriptions.
- A list of pertinent information about office equipment, including furniture, fax machines, photocopiers, dictation equipment, telephone equipment, etc. Should include serial numbers, purchase dates and prices, vendor, warranty information, and service contracts.
- Maintain at least one off-site calendar and keep it up-to-date.
- Clerk of court and key court personnel contact information for all courts in which you have active files.⁵

Planning for office records protection and recovery is the most critical requirement in quickly resuming operations after a disaster and the successful restoration of normal operations. WLMIC offers these checklists for man-

aging paper and electronic files before disaster strikes:

Paper files:

- **Define and identify “vital” records.** Vital records – defined as those essential for business to continue – make up 3 to 15 percent of all records.
- **Scan or microfilm active or mission-critical files** and store the copies off-site. Microfilm is preferred medium for high-volume, long-term storage. As long as you have light and a magnifier, you can access the information. Microfilm eliminates concerns about “data migration,” a term of art that describes the challenge of maintaining access to electronic data stored in formats that quickly become obsolete.
- **Label or color code your files** or file cabinets in such a way that active or vital records can be identified and recovered first following a disaster.
- **Store paper files in metal cabinets** that can be closed and locked at the end of each workday. Store files off the floor, where water damage is less likely to occur. Encourage employees to put files away at the end of the workday. Fireproof file cabinets are expensive, heavy, and offer very little protection in a fire.
- **Contract in advance with a document recovery service** that has expertise and equipment for salvaging and restoring paper documents. These services typically vacuum dry or vacuum freeze dry documents, either

at their facility or trucks that can be parked outside your building. Ask if the cost of “pack out,” i.e., packing and removing damaged documents, is included.

- **Evaluate the security of off-site records storage.** Is the facility staffed? Does it have a sprinkler system? Fire alarm? How often are those systems tested? How are the temperature and humidity controlled? What insurance does the facility owner carry to cover your property?
- **Review your property insurance coverage.** Does your business owners policy cover the building contents, as well as the structure? Do you have business interruption insurance or extra expense insurance? Does your insurance cover the expense of removing and recovering destroyed and damaged files?
- **Consider purchasing valuable papers insurance** to cover the cost of restoring or replacing valuable papers, such as client files and operating records. This coverage typically is added by endorsement.
- **Keep a camera and film or video recorder** and tape handy to document property damage before clean up begins.
- **Develop a system for making and prioritizing files** for recovery. Describe the system in your disaster recovery plan.
- **Keep a supply kit** - preferably off-site - for recovering damaged files. Your property insurance requires you to take steps to prevent further damage from occurring after a disaster.

- **Identify freezer space** where you can safely store damaged files for recovery later. Freezing inhibits mold and mildew growth and slows deterioration while you determine if the files merit recovery.⁶

Electronic files:

- **What information will you store electronically?** You will want access to current client matters, prototype documents, electronic forms, calendar and docket system, contact information, time records, and firm financial data.
- **Will you scan and store incoming information as well as firm-generated documents?** To image everything that comes into the office could be difficult, but it's not hard to make a copy and send it to the clients. Combine that with referencing all the important points made in incoming correspondence in your own outgoing correspondence, which routinely is copied to the client and also is part of your internal backup system, and a lot can be salvaged without the paper file.
- **How will you identify records?** Is your file and document naming convention descriptive, intuitive, and scalable?
- **What formats will your firm use to archive information?** Portable document format, better known as .pdf, is recommended for archiving records. The latest version of PaperPort® now scans directly to .pdf files. Corel WordPerfect® has .pdf for-

mat as one of its "save document" formats. There is an add-in for Microsoft® Word to do likewise.

- **How will you recover your electronic records after a disaster?** Can you electronically search multiple formats? Software exists that can search scanned documents and .pdf files as well as internally generated documents for key words and phrases. Make sure you archive earlier versions of operating systems and software to access stored information.
- **What hardware and software will you need to access your data?** Periodically test your ability to recover data from backup media at a remote location. If your computer equipment is damaged by water, smoke, heat, flying debris, or other hazards, a data recovery service may be able to retrieve data from computer hard drives and magnetic media. Check your property insurance to see if the cost of data recovery is covered.
- **What media will you use for electronic records storage?** Magnetic storage media (disks, tapes) have a life span. Maintain a regular schedule for replacing tapes and disks. Alternatively, there are web-based data storage services, where you can rent space by the gigabyte or by the month. Evaluate the information security measures used and the long-term viability of the service provider.
- **How frequently will you backup the information?** Daily, weekly, monthly, yearly? If a tornado destroys your firm at 3 p.m. today, will

current work product –probably the most urgent, got-to-have-it-now information – be secured? Think about what you can do to capture today's work product, as well as all prior work product. Try automatic file saves to multiple storage locations, for example, Zip disks, external universal serial bus (USB) hard drives, or flash memory products.

- **How long will you keep electronic records?** The Wisconsin statute of limitations for attorney malpractice is six years from the date of *discovery* of the error or omission. Ethics grievances may be investigated for up to 10 years. At the time you close a file, assign a date for

future review and purging. [Note: *Lawyers Mutual of Kentucky* recommends that records be kept for at least ten years. For more on file retention see "The Secret Life of Client Files" at www.LMICK.com in the Bench & Bar section of *Risk Management*.]

- **How will you ensure confidentiality of client information?** Who will have access rights to electronically stored documents? If you work with outside service providers or store your data on commercial web storage, take steps to safeguard confidential information.
- **Who will be responsible for backing up your firm's records?** Who is that



*"We are thankful
Sydney is with us."*

- Anna

Sydney beat cancer because of the care she received at Kosair Children's Hospital. "We know the hospital would not even be there if it was not for Kosair Charities," said Sydney's mother, Anna. "Without Kosair Charities doing what it does, we might not have had such a wonderful hospital to take Sydney to."

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person's backup when she or he is out of the office?

- **Where will the backup media be stored?** You need to store backup media off-site, far enough away that it won't be affected by the same disaster, yet in a place where you can access it.⁷

Finally, don't forget emergency supplies must be readily available. The following list is a helpful guide:

- First aid supplies
- Flashlights
- Blankets
- Tarpaulins and plastic sheeting
- Plastic storage boxes
- Fans and/or dehumidifiers
- Wet and dry vac
- Waterproof, grounded, heavy duty extension cords
- Sponges, brushes, and hoses
- Wheeled cart
- Absorbent paper and freezer or wax paper
- Cell phone or other portable communications device
- Petty cash, as ATMs may not be operable during some types of disasters
- Emergency water and food supplies
- Wet weather gear and warm clothing such as boots, hats, gloves, etc.
- Portable battery operated radio⁸

When The Worst Happens Execute The Plan

Follow these steps in reacting to a disaster:

- **Wait for permission to re-enter the building.** Smoldering fire, falling debris, and high water levels are clearly identifiable hazards; less obvious perils include downed electrical

wires, natural gas leaks, and toxic chemical release. At a disaster scene, the fire department is in charge – not the police or utility.

Check the surroundings:

1. Check electrical, HVAC, and plumbing systems. Make sure they are in order; i.e., no loose wires, no damaged or leaking water or gas pipes, etc.
2. Check for standing water and other water damage.
3. Ensure employees aren't in danger of being struck by falling objects.
4. If there was a fire, carefully open all metal storage units and cabinets. They could still be hot, and could start a flash fire upon opening.

- **Call your property insurance agent** to report the damage and get instructions. Your insurance company may be able to arrange for repairs more quickly or affordably than you can on your own.
- **Photograph or videotape** the premises to document damage, once you regain access.
- **Act quickly** to freeze or recover vital records. Water-damaged paper begins to mold, mildew and disintegrate within 36 to 48 hours.
- **Contact a document recovery service**, if available. Look in the phone book under "business documents and records-storage and management." Widespread disaster will create a high demand for these services.
- **Assess damage and classify records for recovery.** Color code files with color tape, markers, chalk, or paper tags

with wire holders.

- i. Black = Destroy – file is not salvageable
 - ii. Red = Recover – file is vital to firm operations
 - iii. Yellow = Freeze – recover only when needed
 - iv. Green = Use – no recovery needed
- **Remove unharmed and salvageable files** from the premises and protect them from further damage.
 - **List the destroyed records** (if possible), including the client or file name and when, why, how, and by whom the file was disposed.⁹

For electronic files take these actions:

- **Prevent further damage** to computer servers and storage media. Remove from the premises, if possible.
- **Rinse damaged electronic media** in clear water. Store in sealed, waterproof bags. Do not attempt to dry or freeze disks and tapes, as you would paper documents.
- **Dispose of damaged computer equipment properly.** Landfills cannot accept computer equipment until hazardous materials within have been removed. Plus, confidential information stored on hard drives or electronic media may still be accessible.¹⁰

After taking the forgoing steps in immediate reaction to the crisis, proceed to execute the portion of the plan that concerns identifying time-sensitive matters that require prompt attention. Once these are under control work can begin on restoring the practice to normal operations.

Summing Up

Regardless of the size of your practice a disaster plan is essential. Smaller firms do not have the same requirements as a firm occupying three floors of an office high-rise in Louisville, but they still need a plan. Solo practitioners can have backup computers at their home and at the home of a secretary or paralegal. Cell phones mean that you are never without telephone service. There are numerous practical and relatively inexpensive methods for smaller firms to adequately prepare for catastrophe including a Buddy System that provides for reciprocal backup with a qualified peer. Use this article as a starting point in making your plan. The Internet has a number of sites that provide further information to assist in plan-

ning. One that was a helpful resource for this article is "managing practice interruptions" at www.practicepro.ca/disasterrecovery.

Endnotes

1. The primary resource for this article is WLMIC's manuscript "Recovering from Disaster Step by STEP," by Ann Massie Nelson, Director of Marketing, Communications and Risk Management; Sally Anderson, Director of Claims; and Deborah Kilbury Tobin, Risk Management Specialist. My thanks to them for their gracious permission to use these materials with minor formatting and editorial modifications.
2. *Id.* at 3.
3. *Id.* at 4.
4. *Id.* at 4.
5. *Id.* at 5. This list with some modification appeared in the article *Disaster Recovery Plan Can Help You Manage*

Risk by Ann Massie Nelson in the *Wisconsin Lawyer*, December 2001 at page 34.

6. *Id.* at 14. This list with some modification appeared in the article *Act Quickly to Recover Damaged Records* by Ann Massie Nelson in the *Wisconsin Lawyer*, June 2003 at page 23.
7. *Id.* at 17. This list with some modification appeared in the article *Electronic Records Plan Aids Recovery* by Ann Massie Nelson in the *Wisconsin Lawyer*, August 2003 at page 23.
8. *Id.* at 6.
9. *Id.* at 7, 16. This list with some modification appeared in the article *Act Quickly to Recover Damaged Records* by Ann Massie Nelson in the *Wisconsin Lawyer*, June 2003 at page 23.
10. *Id.* at 18. This list with some modification appeared in the article *Electronic Records Plan Aids Recovery* by Ann Massie Nelson in the *Wisconsin Lawyer*, August 2003 at page 24. ■

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MAY 2004

18 Traffic Law Update
Cincinnati Bar Association

18 Louisville Healthcare
Consortium Half-Day
Louisville Bar Association

18 Ethics CLE
*Fayette County Bar
Association*

19 In-House Brown Bag
Louisville Bar Association

20 Local Government Seminar
Cincinnati Bar Association

20-21 7th Annual AAML/LBA
Family Law Seminar
Louisville Bar Association

21 Social Security
Cincinnati Bar Association

21-22 Consumer Bankruptcy
Update 2004
UK-CLE

24 Appellate Brown Bag
Louisville Bar Association

26 Intellectual Property Day
Long
Louisville Bar Association

27 Ethics at Churchill Downs
Louisville Bar Association

28 Internet/e-Commerce &
Computer Law
Cincinnati Bar Association

JUNE 2004

2 Solo/Small Firm Brown Bag
Louisville Bar Association

3 Social Security Brown Bag
Louisville Bar Association

8 Louisville Bar Association
Brown Bag
Louisville Bar Association

9 Environmental Day Long
Louisville Bar Association

10 Professional Responsibility
Louisville Bar Association

10 Ethics at Glassworks—
Anthony E. Davis
Louisville Bar Association

11 Litigation Brown Bag
Louisville Bar Association

11-12 9th Biennial Employment Law
Institute
UK-CLE

14 Probate Half Day
Louisville Bar Association

16 Criminal Half Day
Louisville Bar Association

17 Business Half Day
Louisville Bar Association

17-18 Employee Benefits
Conference
Cincinnati Bar Association

18 Family Law Day Long
Louisville Bar Association

CLEvents June 2004

Continued

- 22-23 Annual Conference
*Department of Public
Advocacy*
- 23 Labor Law Half Day
Louisville Bar Association
- 23-25 Annual Convention
Kentucky Bar Association
- 24 Tax Law Brown Bag
Louisville Bar Association
- 25 Ethics Brown Bag
Louisville Bar Association
- 28-29 Video Replay
Kentucky Bar Association

- 29-30 Last Chance Video 2004
UK-CLE
- 29-30 Annual Bench and Bar CLE
*Fayette County Bar
Association*
- 30 Ethics Brown Bag
Louisville Bar Association

JULY 2004

- 11-16 Trial Advocacy Institute
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- 16-17 31st Annual Midwest/
MidSouth Estate Planning
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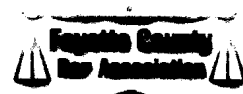
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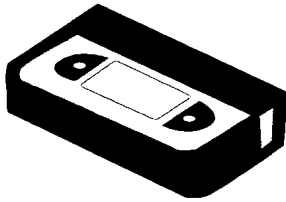
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William J. Baird, IV practices law in Pikeville with the law firm of Baird & Baird. A graduate of the University of Kentucky and the Salmon P. Chase College of Law, he was admitted to the Kentucky Bar in 2002. Mr. Baird is a Life Fellow.

Morris E. Burton of Frankfort is a graduate of the University of Kentucky and the University of Kentucky College of Law. Mr. Burton was admitted to the Kentucky Bar in 1954 and formerly served as Commonwealth Attorney of Franklin County. He has recently retired from the practice of law.

J. Mel Camenisch, Jr. practices law in Lexington with the law firm of Stoll, Keenon & Park. A graduate of Vanderbilt University and the University of Kentucky College of Law, he was admitted to the Kentucky Bar in 1986.

Deno C. Capello, Jr. practices law in Lexington with the Becker Law Office. A graduate of Ohio State University and the University of Kentucky College of Law, he was admitted to the Kentucky Bar in 1987.

Dennis M. Clare practices law in Louisville. A graduate of Belmont Abbey College and the University of Louisville Brandeis School of Law, he was admitted to the Kentucky Bar in 1968. Mr. Clare is a Life Fellow.

Laura D'Angelo practices law in Lexington with the law firm of Kinkead & Stilz. A graduate of York University, Toronto, and the University of Kentucky College of Law, she was admitted to the Kentucky Bar in 1996.

Sandra Mendez Dawahare practices law in Lexington with the law firm of Dawahare & Kershaw. A graduate of George Washington University and Georgetown University Law School, she was admitted to the Kentucky Bar

in 1978 and is also a member of the Virginia Bar.

William J. Deupree, Jr., prior to his death in December 2003, practiced law in Covington for more than fifty years and also served as Master Commissioner of the Kenton Circuit Court in recent years. A graduate of Duke University and Indiana University School of Law, he was admitted to the Kentucky Bar in 1946. Mr. Deupree has been enrolled *posthumously* as a Kentucky Bar Foundation Life Fellow.

Geoffrey B. Greenawalt practices law in Frankfort. A graduate of Pennsylvania State University and the University of Kentucky College of Law, he was admitted to the Kentucky Bar in 1989.

Richard M. Guarnieri practices law in Frankfort with the law firm of Johnson, True & Guarnieri. A graduate of Centre College and the University of Kentucky College of Law, he was admitted to the Kentucky Bar in 1986.

William R. Hilliard, Jr. of Lexington is Executive Vice-President/General Counsel with Thomas and King, Inc. A graduate of Boston University and the University of Louisville Brandeis School of Law, he was admitted to the Kentucky Bar in 1978. Mr. Hilliard is a Life Fellow.

Richard M. Hopgood practices law in Lexington. A graduate of the University of Kentucky and the University of Kentucky College of Law, he was admitted to the Kentucky Bar in 1982 and is also a member of the Tennessee Bar.

Elizabeth S. Hughes practices law in Lexington with the law firm of Gess Mattingly & Atchison. A graduate of Vanderbilt University and the University

of Kentucky College of Law, she was admitted to the Kentucky Bar in 1991. Ms. Hughes is a Life Fellow.

J. Clarke Keller practices law in Lexington with the law firm of Stites & Harbison. A graduate of the University of Notre Dame and the University of Kentucky College of Law, he was admitted to the Kentucky Bar in 1984.

James M. Kennedy practices law in Lexington with the law firm of Baird & Baird. A graduate of the University of Kentucky and the University of Kentucky College of Law, he was admitted to the Kentucky Bar in 1988. Mr. Kennedy is a Life Fellow.

John E. Lange, III practices law in Newport with the law firm of Lange, Quill & Powers. A graduate of Thomas More College and the Salmon P. Chase College of Law, he was admitted to the Kentucky Bar in 1971 and is also a member of the Ohio Bar. Mr. Lange is a Life Fellow.

Donald P. Moloney, II practices law in Lexington with the law firm of Sturgill, Turner, Barker & Moloney. A graduate of Xavier University and the University of Kentucky College of Law, he was admitted to the Kentucky Bar in 1973.

Lewis Paisley of Lexington previously served as a Judge of the Fayette Circuit Court and on the Court of Appeals, Dist. 5, Div. 1. Currently, Judge Paisley is serving as a Senior Judge. A graduate of Georgetown College and the University of Kentucky College of Law, he was admitted to the Kentucky Bar in 1976.

Gregory P. Parsons practices law in Lexington with the law firm of Stites

& Harbison. A graduate of the University of Kentucky and the University of Kentucky College of Law, he was admitted to the Kentucky Bar in 1982.

Maria Ransdell of Lexington currently serves as a Fayette District Court Judge. A graduate of the University of Kentucky and the University of Kentucky College of Law, she was admitted to the Kentucky Bar in 1979. Judge Ransdell is a Life Fellow.

W. Brent Rice practices law in Lexington with the law firm of McBrayer, McGinnis, Leslie & Kirkland. A graduate of the University of Kentucky and the University of Louisville Brandeis School of Law, he was admitted to the Kentucky Bar in 1978. Mr. Rice is a Life Fellow.

Hugh Montgomery Richards practices law in London. A graduate of the University of Kentucky and the Salmon P. Chase College of Law, he was admitted to the Kentucky Bar in 1979.

Michael D. Risley practices law in Louisville with the law firm of Stites & Harbison. A graduate of Murray State University and the University of Kentucky College of Law, he was admitted to the Kentucky Bar in 1983.

Larry S. Roberts practices law in Lexington with the law firm of Roberts & Smith. A graduate of the University of Kentucky and the University of Kentucky College of Law, he was admitted to the Kentucky Bar in 1969.

Leslie Rosenbaum practices law in Lexington with the law firm of Rosenbaum & Rosenbaum. A graduate of the University of Kentucky and the University of Kentucky College of Law, he was admitted to the

Kentucky Bar in 1972. Mr. Rosenbaum is a Life Fellow.

Arthur A. Rouse practices law in Louisville with the law firm of Wyatt, Tarrant & Combs. A graduate of Florida State University, New York University and St. John's University School of Law, he was admitted to the Kentucky Bar in 1982. Mr. Rouse is a Life Fellow.

Robert E. Ruberg recently retired from the Covington law firm of O'Hara, Ruberg, Taylor, Sloan & Sergeant. A graduate of the University of Kentucky and the University of Kentucky College of Law, he was admitted to the Kentucky Bar in 1951. Mr. Ruberg is a Life Fellow.

Joshua E. Santana practices law in Lexington with the law firm of Santana & Fay. A graduate of Transylvania University and the University of Kentucky College of Law, he was admitted to the Kentucky Bar in 1976.

T. Bruce Simpson, Jr. practices law in Lexington. A graduate of the University of Kentucky and the University of Kentucky College of Law, he was admitted to the Kentucky Bar in 1983. Mr. Simpson is a Life Fellow.

John M. Tranter practices law in Nicholasville with the law firm of Tranter & Tranter. A graduate of the University of Kentucky and Thomas M. Cooley Law School, he was admitted to the Kentucky Bar in 1994. Mr. Tranter is a Life Fellow.

C. Michael Weldon practices law in Richmond with the law firm of Burnam, Thompson, Weldon, Simons & Dunlap. A graduate of the United States Military Academy and Vanderbilt University Law School, he was admitted to the Kentucky Bar in 1976. Mr. Weldon is a Life Fellow.

Following is a list of applicants who have applied to take the July 27 & 28, 2004 Kentucky Bar Examination. If anyone has knowledge pertinent to determining the character and fitness of any of these applicants to become a member of the Kentucky Bar, please provide that information to:

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Laura Ann Rice Louisville KY	Hailey Lewis Scoville Highland Heights KY	Robert Coleman Stilz III Lexington KY	Christina Lynn Vessels Lexington KY
Paul Gregory Richmond Lexington KY	Tobi Edwin Shartzer Crestview Hills KY	Robert Paul Strobo Chicago IL	Robert Tway Wagner Louisville KY
Kerri Ann Ripperger Louisville KY	John Robert Sheryak Louisville KY	Jill Maria Sudduth Lexington KY	Michael Odell Walker Lexington KY
Robert Charles Rives IV Lexington KY	Melvin Bradley Shuffett Jr. Greensburg KY	Michael Franklin Sutton Bloomington IN	Anna M Warnock Lexington KY
Micah Brandon Roberts Manchester KY	Leslie Katherine Smith Louisville KY	Donald Ray Sutton Williamsburg KY	Timothy James Weatherholt Nashville TN
John Hyden Roberts Manchester KY	Jenohn Leshea Smith Lexington KY	Michael Weldon Tackett Highland Heights KY	Mary Teresa Wehrman Newport KY
Krista Joy Roettger Arlington VA	Gwendolyn Leonette Gaines Smith Ft. Knox KY	Meghan Kathleen Talbott Louisville KY	Gregory Brian Floyd Wells Louisville KY
Jerred Paul Roth Lexington KY	John Lewis Smith Lanesville IN	Stacy Lynn Taulbee Berea KY	Joel Landon Wesch Valparaiso IN
Mackenzie Victoria Royce Southroyalton VT	Mark Thomas Smith Louisville KY	Tracy Jean Taylor Lexington KY	Charles Phillip Wheeler Jr. Midway KY
Christopher Carter Ruml Louisville KY	Tyler Griffin Smith Lexington KY	Donovan Cornelius Taylor Lexington KY	James Christopher White Frankfort KY
Sean Joshua Rush Heidrick KY	Josh Marston Smith Lexington KY	Jason Alexander Templin Lexington KY	Laurie Wicker North Aurora IL
Ralaina Joy Ruvalcaba Bowling Green KY	Scott M Smith Henderson KY	Daniel Louis Thompson Louisville KY	Mary Erin Wilkins Shepherdsville KY
Joseph Anthony Saladino Highland Heights KY	Amanda Wills Snider Shelbyville KY	Jeffrey Brent Traugher Louisville KY	Connie Lynn Wilkinson-Tobbe Louisville KY
Micah Edward Salsman Lexington KY	Jason Randell Sowards Lexington KY	David Andrew Trevey Lexington KY	Joel Robinson Wilson Louisville KY
Kenneth O'Neil Salyer Louisville KY	Kimothy Merrill Sparks Lexington KY	Emily Ann Turner Nashville TN	Brian David Wimsatt Louisville KY
Barbara Ann Salyer Lexington KY	Sally Sue Spielvogel Mt. Sterling KY	Kyle Elliot Turner Nicholasville KY	Joseph Anthony Worthington Jr. Louisville KY
Lauren Rochelle Sander Ft. Thomas KY	John Warren Spies Highland Heights KY	Job Darbin Turner IV Lexington KY	Abigail Catherine Wuest Reedsburg WI
Justin Aaron Sanders Ft. Mitchell KY	Jennifer Ann Steele Frankfort KY	William Camp Vail Jr. Louisville KY	Heather Renae Wyrick Lexington KY
Edmund Scott Sauer Bardstown KY	Angela Richie Stephens Louisville KY	Elizabeth Knox C Van Nagell Lexington KY	Jennifer Eileen Zell Ft. Mitchell KY
Julie Renae Scott Park Hills KY	Miranda Susanne Stevens Grundy VA	Susannah C Vance Lexington KY	Melinda Kaye Zeller Fisherville KY



*Salmon
P. Chase
College of Law*

Chase Alumni Present Annual Career Options Days for Students

The College of Law would like to thank the Chase Alumni Association for once again sponsoring the annual Alumni Career Options Days for Chase students. Brian M. Ellerman '01, of Adams, Stepner, Woltermann & Dusing, moderated this year's program, while Dean Gerard St. Amand and Associate Dean for Enrollment Management Kelly Beers '88, welcomed students. Kelly Farrish '79 discussed solo practice and office sharing arrangements. Darran D. Winslow '01, who clerked for Judge William O. Bertelsman from 2001-2002, talked about judicial clerkships. Donald G. Benzinger '83, Senior Vice President, The Bank of Kentucky, Inc., advised students on careers in business and banking. Kenneth Easterling '88, Chief Prosecutor, Kenton County Attorney's Office and the Honorable Richard A. Bernat, Magistrate, Hamilton County Court of Common Pleas, informed students about opportunities in governmental service. Kelly W. Schulz '01, of Toyota Motor Manufacturing North America, Inc., discussed corporate in-house counsel positions. Sara Sidebottom '78, Legal Counsel for Northern Kentucky University, educated students about academic careers. Paige Leigh Ellerman '99, of Taft, Stettinius & Hollister, LLP, spoke with students about employment at large law firms. The Alumni Association provided food and beverages for each session and also sponsored two \$500 drawings to be used toward a bar exam preparation course or a NKU Bookstore voucher.

continued opposite column



*Louis D. Brandeis
School of Law*

Student Organizations Demonstrate Leadership, Service and Initiative

The schedules were full this year for student organizations at the Brandeis School of Law. The Student Bar Association and the Student Bar Foundation hosted a fall Homecoming Day brunch at the law school to introduce the community to the newly created Student Bar Foundation. The SBF mission includes providing grants to students to carry out public service projects during the summer. In March, the SBF held a Charity Auction at the Louisville Bar Association, raising close to \$8,000 for its grants.

The *Brandeis Law Journal* had two new initiatives this year. The cover of the publication was redesigned to incorporate the mosaic image of the Scales of Justice from the law school and to reflect the university colors. On three different occasions, students gave presentations about their paper topics, with faculty responding. These well-attended presentations create greater awareness of the work done by the *Law Journal*.

The Lively Wilson Oral Advocacy Program office space was dedicated this past fall. The student board facilitated and organized a number of oral advocacy competitions at the law school and worked with the faculty advisors for the extramural competitions. This was a remarkable year, with several awards for individuals and teams in various competitions.

Delta Theta Phi and the Christian Legal Society sponsored a canned food drive for Wayside Christian Mission, resulting in over 400 cans of donated food. The Animal Legal Defense Fund works with the Humane Society to support animal rights. The Women's Law Caucus and the Equal Justice Society cosponsored a presentation by Kentucky Supreme Court Justice Janet Stumbo, who spoke about women in politics. The Brandeis Equal Justice Society has done several things to help promote the school's awareness of public service work. In October, members of the executive board traveled to Washington, DC to attend a national conference on public interest law. In February, they held a poverty law symposium, inviting local lawyers to discuss legal concerns regarding poor and indigent persons. The BEJ also sponsored a bake sale to raise money for the "V-day Campaign," an organized effort to fight violence against women. They also attended a public-interest-law retreat in Bradford Wood, outside Indianapolis, which is sponsored by the Indiana University-Indianapolis School of Law. They have been asked to help plan and participate in this event next year. Finally, in April, they held a diversity forum on "Serving Immigrant Survivors of Domestic Violence." The Black Law Student Association donated, prepared, and served food to the residents of the Ronald McDonald House. The activities of these organizations exemplify the Brandeis Law School commitment to public service.

Continued on page 65



Our Tradition of Opportunity is Being Imperiled

One cannot travel around the Commonwealth meeting UK College of Law graduates, as I have had the privilege to do these past four years, without coming to understand the opportunity that the College has always represented. You hear the stories often. Frequently they involve a student who came from a very modest background, the first in his family to go to college, whose life was changed by the University of Kentucky. Or the student from a community which had no tradition of producing lawyers who came to the College, did well, and returned to her community. Or the distinguished judge who received a scholarship and was thus able to attend law school. This is a pattern of opportunity which is repeated over and over again in our history. It is an important tradition of which we can be proud.

We have been able to provide this opportunity over the years in large part because of our history of having very low tuition. Being able to keep costs low has enabled students of modest backgrounds to afford a legal education. It has permitted families of limited resources to help their sons and daughters attend law school. And it has allowed us to stretch our always hard-pressed scholarship funds to cover as many students as possible.

The history of tuition at the College of Law is an interesting one. We did not even charge tuition until 1969. Until that time there was a fee, not denominated tuition, which covered admission to classes and all campus athletic and cultural events, as well as health services. And it was an exceedingly modest fee. In 1913 the annual fee was \$10. By 1949 it had risen only to \$120, and by 1968 the fee was only \$280. With the advent of tuition, denominated as such, the charges again grew modestly. At the start of the 1980s the annual charge was only \$932, and by the end of the decade it was \$2,278.

Sadly, the tradition of opportunity at the College of Law, fostered by the history of low tuition, is imperiled today. Since 2001, the University of Kentucky has suffered a cumulative loss of over \$71,000,000 in public funding. As a consequence of this withdrawal of public support, law school tuition will have increased 43% in two years. Next year it will cost in excess of \$10,000 in tuition and fees for a Kentucky resident to attend the College of Law.

It is not that our tuition will be out of line with our peer institutions. We continue to be among the lowest of our peer group because, regrettably, other public law schools are being forced to raise their tuition levels as much or more than UK. Nor is it that our tuition levels are being used to fund excessive spending – we continue to do more with less than our peers, we continue to have faculty salaries which lag significantly behind our competitors, and we continue to be impeded by a facility which is demonstrably inadequate.

The problem is that we are in danger of diminishing our tradition of opportunity. We risk being forced to turn away some of the students who in past

Continued on page 65

Chase College of Law Moot Court Teams Excel at Giles Sutherland Rich and McGee Competitions

Chase Moot Court Teams continued to excel at competitions this spring. Congratulations to the team of Rob Dawson, George Fee and Scott Miller who represented Chase College of Law in the McGee Moot Court Competition at the University of Minnesota. The team defeated both Cornell Law School and Stetson University College of Law in the oral argument. Additionally, Rob Dawson placed in the top ten Oral Advocates in the preliminary round, with 39 teams competing. Chase student Rick Brueggemann served as the team's coach.

Congratulations also to the Chase Moot Court Team of Michael Lambert and Tim Huffner, who advanced to the semi-final round of the Giles Sutherland Rich Memorial Moot Court Competition held in Chicago and sponsored by the American Intellectual Property Law Association.

Chase Student Wins National Black Law Students Association Scholarship

Chase College of Law is pleased to announce that Chase student Yolanda Josephine Layne has been selected as a recipient of the Rodney Pullium Memorial Scholarship given by the National Black Law Students Association (NBLSA). Ms. Layne was selected for this award after drafting a proposal outlining her vision for the NBLSA as it is related to a need in the African American community. Her winning proposal was chosen based on purpose, practicality, content, grammar and style. ■

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

Summary of Minutes KBA Board Of Governors Meeting January 16-17, 2004

The Board of Governors met on Friday and Saturday, January 16-17, 2004. Officers and Bar Governors in attendance were *President J. Stevenson, President-Elect K. Westberry, Vice President D. Sloan, Immediate Past President S. Catron, House of Delegates Chair Larry H. York, House of Delegates Chair-Elect Linda Hopgood, Young Lawyers Section Chair S. Hiestand, Bar Governors 1st District C. Woodall, M. Whitlow; Bar Governors 2nd District — C. English, Jr., C. Moore; 3rd District — R. Madden; 4th District — J. White, M. O'Connell; 5th District — S. Kinkead, Jr., D. McSwain; 6th District — Margo Grubbs, and 7th District — D. Combs, J. Rosenberg. Absent: Bar Governor B. Bonar and Bar Governor J. Dyche.*

In Executive Session, the Board considered one (1) discipline case and two (2) default cases. Robert Coleman of Paducah, Sheila Mann of Frankfort and Roger Rolfe of Florence, non-lawyer members serving on the Board pursuant to SCR 3.375 participated in the deliberations.

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

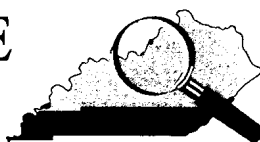
- Heard status reports from the Budget and Finance Committee, Client Assistance Program, Lawyers Assistance Program and Office of Bar Counsel.
- Approved to endorse the proposed loan repayment assistance legislation presented by the Commonwealth's Attorney Association.
- Approved the appointment of Greg Belzely of Louisville to the Joint Local Federal Rules Commission for the Western District for a four (4) year term ending on December 31, 2007. Also approved the reappointment of James Cleveland of Ashland to the Joint Local Federal Rules Commission for the Eastern District for a four (4) year term ending on December 31, 2007.
- Plans are being discussed to have the Bar Center WING II Dedication in late April or early May.
- Approved the reappointment of William M. Johnson of Frankfort as Trustee of the Bar Center Trustees for a two year term ending on December 1, 2006.

To KBA Members

Do you have a matter to discuss
with the KBA's Board of Governors?
Board meetings are scheduled on
June 22, 2004
July 23-24, 2004
September 17-18, 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.

ON THE LOCAL SCENE



Northern Kentucky Bar Association Presents 2003 Awards

The NKBA Distinguished Lawyer of the Year Award was presented to H. Douglas Rouse at the NKBA

NKBA Distinguished Lawyer of the Year H. Douglas Rouse

2003 Holiday Dance and Silent Auction. This award is presented to a member of the NKBA who has made a meritorious contribution to the enhancement of the legal community. Rouse graduated from Walton-Verona High School in 1957. After serving in the U.S. Navy as an aviation jet engine mechanic, he went on to college at Eastern Kentucky University in Richmond. Rouse graduated from the University of Kentucky College of Law in 1967. From 1967 until the mid 1970's, he practiced law in Carrollton in the firm of Shepherd & Rouse. He then moved to Florence and practiced with esteemed colleagues, Joseph Bamberger and Michael Collins, until 1979. Rouse then practiced as a solo practitioner until 1983. At that time, he entered a partnership with the firm of Rouse, Skees, Wilson & Dillon. In early 2003, Rouse again began practicing on his own as H. Douglas Rouse, PLLC. His practice is primarily focused on civil law with criminal work, plaintiff's personal injury, estate settlement, property litigation, domestic relations and torts.

The 2003 Lifetime Achievement Award was presented to Gerald F. Dusing and Paul J.

2003 Lifetime Achievement Award Gerald F. Dusing and Paul J. Schachter

Schachter at the NKBA 2003 Personal Injury Seminar. The purpose of this award is to recognize a trial attorney who is a member of the NKBA and has a distinguished, lengthy career as an outstanding advocate of client causes, an exemplary citizen and a model of the chosen profession. Gerald Dusing is a member of Adams, Stepner, Woltermann & Dusing, P.L.L.C. He has practiced law in the same firm for twenty-nine years. He received his B.A. from Thomas More College and his J.D. from the University of Kentucky College of Law. Schachter received his undergraduate degree from the University of Massachusetts. He earned his J.D. from the University of Cincinnati College of Law and is licensed to practice law in both Kentucky and Ohio. Schachter serves as a member of the Northern Kentucky Volunteer Lawyers for the Poor and has served on the Pro Bono Panel since its inception.

The 2003 NKBA Justice Award was presented to Mark Modlin, MS, NCC. Modlin is the first recipient of this award, which will be presented annually to a deserving non-attorney, non-judiciary member of the community who by a single act or a lifetime of work has honored,

2003 NKBA Justice Award Mark Modlin

contributed to, and helped to improve the local justice system. He was appointed by the Campbell County Fiscal Court as a jail counselor with the Campbell County Detention Center. During his time with the state, he recognized the need for anger management programs. For more than 20 years, Modlin assisted defense and plaintiff attorneys in over 3,500 criminal and civil cases in federal and state courts across the country. Modlin also regularly consults during mediations assisting attorneys and clients in obtaining satisfactory results while avoiding potentially lengthy and expensive trials.

Brandeis continued

Law School Serves as Forum for Ideas

This past year law school speakers have included former Secretary of Defense William Cohen and Associate Justice Stephen Breyer. The diversity committee also presented several programs on a variety of topics including the ADA and public accommodations and housing, the Patriot Act, same sex marriage, school desegregation in Louisville, and cultural competency for immigrants.

In addition to programs hosted by the law school itself, speakers and panels sponsored by the Ali Institute and the McConnell Center were presented at the law school during the past year.

In cooperation with the Louisville Bar Association, the law school hosted a CLE program on use of technology by lawyers at a January event. In February, the law school hosted representatives from law schools around the country to share ideas about distance learning in legal education.

UK continued

generations we would have been able to serve. And try as we might to stave off that loss through temporary substantive economies or by foregoing opportunities, and as much as we work to catch up through raising more scholarship money, we cannot long defend against a retreat from the public commitment to public education.

It may not be my place to suggest how the Governor and legislature should resolve the policy issues they face, or to propose how they can honor the public commitment to education at all levels. But it is my place, I think, to observe one way in which the chronic cuts in educational funding are hurting the Commonwealth. The history of opportunity at the UK College of Law is being imperiled, and that fact needs to be part of our public debate.

In Memoriam



Edwin S. Campbell
Erlanger

John G. Debbeler
Cincinnati

William J. Deupree, Jr.
Covington

A. James Higgs
Frankfort

William A. Johnson
Paintsville

William J. Kearney, Jr.
Louisville

Michael W. McGrath, Jr.
Prospect

William M. Meaney
Jeffersonton

Maurice L. Miller, Jr.
Louisville

Michael Lynn Moreland
Irvine

Thomas P. Nicholas II
Louisville

Eugene C. Rice
Paintsville

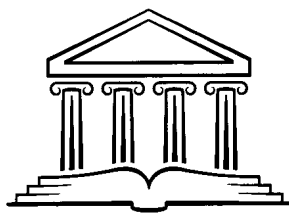
Robert G. Scherer
Louisville

Weldon Shouse
Lexington

Faust Y. Simpson
Morganfield

Edwin R. Smith
Palm Beach, FL

Richard Lee Wilson
Louisville



KENTUCKY BAR ASSOCIATION

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Legal World
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kybar.org**

R E G I S T R A T I O N

Kentucky Bar Foundation Annual Golf Scramble

An event of the Kentucky Bar Association 2004 Convention

Friday, June 25

Shotgun Start • 1:30 p.m.

Marriott Griffin Gate Resort & Golf Club, Lexington, KY

The 2004 Kentucky Bar Foundation Golf Scramble features a shotgun start for eighteen holes of play and is to be held at the Marriott Griffin Gate Resort & Golf Club. Prize-winning contests are included, and refreshments will be available during the afternoon and at the awards presentation following the end of the rounds! All net proceeds from the scramble support KBF grants made annually each June. Cost to play is \$95 per player and law firm sponsorships for each hole or tee cost \$300. Players of all skill levels are welcome!

Please Print:

Name _____

Address _____

City _____ State _____ Zip _____

Tel. # _____ Fax # _____

☐ I wish to play golf. Enclosed is my check for \$95.

☐ I wish to be a hole or tee sponsor. Enclosed is my check for \$300.

☐ I wish to do both. Enclosed is my check for \$395.

Please pair me with _____ Handicap or Average Score _____

*Please make checks for Golf Scramble payable to the **Kentucky Bar Foundation**.
Detach this form and mail with check to:*

Kentucky Bar Foundation, 514 W. Main St., Frankfort, KY 40601-1883

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN AND WESTERN DISTRICTS OF KENTUCKY**

IN RE: CASE MANAGEMENT/ELECTRONIC CASE FILING (CM/ECF)

NOTICE

The United States District Courts for the Eastern and Western Districts of Kentucky are pleased to announce that effective **August 30, 2004**, each Court will begin accepting electronic filings from registered Filing Users through the Court's Electronic Case Filing System, referred to as "ECF". ECF is designed to capitalize on the use of automated technology in the administration of justice by promoting cost savings, more efficient maintenance of court records and improved public access to case file information.

Beginning **June 1, 2004**, the registration form to become a Filing User in ECF will be available on the Courts' web sites or may be obtained from the Clerks' Offices. Attorneys seeking to file documents electronically must be admitted to practice before the Court and must have completed and submitted the prescribed registration form to the clerk for the District in which the attorney intends to become a Filing User. If the Filing User intends to electronically file documents in both Districts, a separate registration form must be completed for both the Eastern and Western Districts.

Minimum Systems Requirements for ECF are:

- * Computer running a standard platform such as Windows or Macintosh;
- * Internet access to the web site;
- * Netscape 4.6, Netscape 4.7 or Internet Explorer 5.5;
- * Word processing software;
- * Software to convert documents into .pdf (portable document format)
- * Personal e-mail account;
- * PACER (Public Access to Court Electronic Records) account.

Various methods of **training** for ECF will be available, including but not limited to, training at the courthouse by court personnel and through the tutorials on the Courts' web pages. Check the Courts' web sites after June 1, 2004, for training schedules and how to enroll. If you desire to attend a training class conducted by court personnel, please don't delay. Seating is limited for each training session.

The Courts' Joint Administrative Policies and Procedures governing ECF along with the Joint Notice of Electronic Availability of Case File Information, User Manual, and other information relating to CM/ECF will be posted on the Courts' web sites as they become available.

The Courts' web sites are located at www.kywd.uscourts.gov and www.kyed.uscourts.gov

Leslie G. Whitmer, Clerk,
Eastern District of Kentucky

Jeffrey A. Apperson, Clerk,
Western District of Kentucky

ON THE MOVE



Kevin M. Murphy



Beth H. McMasters

The Louisville law firm of **Thompson Miller & Simpson PLC** is pleased to announce that **Beth H. McMasters**, **Kevin M. Murphy** and **Allison O. Wildman** have joined the firm. McMasters is a 1987 graduate of Bellarmine University and a 1994 graduate of the Brandeis School of Law. She concentrates her practice in the area of healthcare litigation. Murphy is a 1999 *cum laude* graduate of Hanover College and a 2002 graduate of Emory University School of Law. His practice focuses on products liability and medical malpractice defense in cases pending in Kentucky and Indiana. Wildman is a 1998 graduate of Colgate University and a 2001 graduate of the University of Kentucky College of Law. She concentrates her practice in the areas of product liability and healthcare litigation.



Allison O. Wildman

Daniel P. Murphy, Jr. has been named a member at the law firm of **McMurry & Livingston, PLLC** in Paducah. He joined the law firm in 1998 and joins



Daniel P. Murphy, Jr.

the ranks as a member with Milton M. Livingston, Jr., W. Fletcher McMurry Schrock, David C. Booth, Phillip L. Little, G. Kent Price, Kerry D. Smith, Julie Howard Price and Stephen E. Smith, Jr. Murphy earned his J.D. from the University of Kentucky College of Law. He focuses his practice in the areas of real estate, litigation, utility law and general business law.



Lyn A. Douglas

The Louisville law firm of **Fulton & Devlin** is pleased to announce that **Lyn A. Douglas** has joined the firm. Douglas received her B.A. from Bellarmine University and her J.D. from the University of Kentucky College of Law. She will continue to concentrate her practice in the areas of workers' compensation and insurance defense and subrogation.

The Paducah law firm of **Whitlow, Roberts, Houston & Straub, PLLC** is pleased to announce that **J. Duncan Pitchford** has joined the firm as an associate. Pitchford earned his B.A. in 1997 from Centre College. He graduated, *magna cum laude*, from Washington and Lee University School of Law in 2000. Pitchford served as judicial law clerk to the Honorable Thomas B. Russell, U.S. District Court, Western District of Kentucky, from 2000 to 2002.

Dinsmore & Shohl LLP has hired associate attorney **Erica A. Lee** to practice in the Litigation Department of the Louisville office. Lee received her B.A. from Western Kentucky University in 1999. She earned her J.D. from the University of Kentucky College of Law in 2002.

Stites & Harbison PLLC announces that two of its Louisville-based attorneys, **Thad M. Barnes** and **Angela Stinebruner Burchett**, and three of its Lexington-based attorneys, **M. Jane Brannon**, **Daniel E. Danford** and **W. Blaine Early III**, have been elected to membership in the law firm. **David E. Saffer** has joined the firm as Counsel. Barnes received his B.A. in 1990 from the University of Kentucky. In 1993, he earned his J.D. from the University of Louisville School of Law. Barnes' practice focuses on complex commercial litigation, intellectual property litigation, product liability law and construction law. Burchett received her B.S., *summa cum laude*, from the University of Kentucky. She earned her J.D., *cum laude*, from the University of Louisville School of Law. Burchett's practice focuses on representing commercial lenders that make loans in anticipation of issuing commercial mortgage-backed securities. Brannon received her B.A., *magna cum laude*, from Transylvania University in 1992. She earned her J.D., *magna cum laude*, from the University of Kentucky College of Law in 1995. Brannon's practice includes defense of insurance bad faith, premises liability and products liability claims. Danford received his B.A. from the University of Denver and his M.S. from the University of Wisconsin at Madison in 1982. In 1996, he earned his J.D. from Vanderbilt University School of Law. Danford's practice focuses on litigation, appellate practice and equine administrative law. Early received his B.A. from DePauw University in 1976 and his Ph.D. from the University of Louisville in 1988. He earned his J.D., *cum laude*, from the University of Kentucky College of Law in 1996. Early concentrates his practice in natural resource, mining, waste and energy law; environmental compli-



Thad M. Barnes



Angela S. Burchett



Daniel E. Danford



M. Jane Brannon



W. Blaine Early III



David E. Saffer

partner. He received his B.S., *summa cum laude*, from the University of Evansville in 1992. Saffer is a 1995 *cum laude* graduate of the Brandeis School of Law at the University of Louisville. His practice will focus on representing institutional lenders in making all types of commercial loans.

Benjamin D. Allen and **Christopher S. Turner** have joined the Lexington law firm of **Yunker & Associates**. Allen received his J.D. from the University of Kentucky College of Law in 2002. Turner received his J.D. from the University of Kentucky College of Law in 2001. Allen and Turner will join the firm's practice in concentrating in consumer law, complex civil litigation, intellectual property and utility regulation.

The Covington law firm of **Wolnitzek & Rowekamp, P.S.C.** is pleased to announce that **Shane C. Sidebottom** has recently become associated with the firm. With four years of experience litigating before U.S. Immigration Courts and representing clients before agencies of the Department of Homeland Security, he will continue his practice in state and federal civil litigation and criminal law in both Kentucky and Ohio.

William E. Johnson, J. Guthrie True, Richard M. Guarnieri, Paul C. Harnice, David J. Guarnieri and **William C. Ayer, Jr.** are pleased to announce their continued partnership to engage in the practice of law as **Johnson, True & Guarnieri, LLP**. They are located at 326 West Main Street in Frankfort and may be reached by telephone at (502) 875-6000.



G. Michael Cain II



Karen Chrisman

The law firm of **McBayer, McGinnis, Leslie & Kirkland** is pleased to announce that **G. Michael Cain II** and **Karen Chrisman** have recently joined the firm as litigation associates in its Frankfort office. Cain is a *magna cum laude* graduate of Morehead State University and a 1997 graduate of the University of Dayton Law School. Chrisman received both her bachelor's degree and her master's degree from Eastern Kentucky University. She graduated from the University of Kentucky College of Law in 1985. Cain and Chrisman will concentrate their practice on insurance defense, commercial litigation and administrative law.

The Frankfort law firm of **Christopher M. Hill & Associates, P.S.C.** is pleased to announce that **Eric S. Deskins** and **Adrienne B. Ernst** have joined the firm as associates. Deskins received his B.B.A. from Southern Methodist University in Dallas, Texas in 1999. He earned his J.D. from Salmon P. Chase College of Law in 2002. Deskins' practice

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 July edition of *Who, What, When & Where* is June 1, 2004.

WHO, WHAT, WHEN & WHERE

will focus on creditor's rights and real estate. Ernst received her B.A., *cum laude*, from the University of Kentucky in 2000. She earned her J.D. from the University of Kentucky College of Law in 2003. Ernst's practice will focus on creditor's rights and bankruptcy.

Saladino, Oakes & Schaaf, PLLC is proud to announce that **Daniel S. Stratemeyer** is now practicing with the Paducah law firm.



Daniel Stratemeyer

Stratemeyer graduated, *magna cum laude*, from Southern Illinois University at Carbondale and obtained his J.D. from the University of Illinois. He became licensed to practice law in the state of Illinois in 1992 and in the Commonwealth of Kentucky in 1993. While working at Saladino, Oakes & Schaaf, Stratemeyer will be concentrating in personal injury and workers' compensation cases.

Bruce Kleinschmidt, formerly with the University of Texas Law School and Indiana University School of Law, is now serving as senior staff attorney with the **Community Organizations Legal Assistance Project** of Indianapolis. The group exists to assist non-profit organizations with incorporation and obtaining tax exempt status and then to operate under Indiana and federal law.

The Bowling Green law firm of **Hughes & Coleman Law Firm, PSC** is pleased to announce that **Christina L. Bradford** has joined the firm as an associate. Bradford's practice will focus on assisting clients in personal injury.

The Lexington law firm of **Vimont & Wills PLLC** is pleased to announce that **Valerie D. Kessler** has re-

cently joined the firm as an associate attorney and **Richard M. Wehrle** has been named the managing member. Kessler is a 2003 graduate of the University of Kentucky College of Law. She will concentrate her practice in the areas of tax, estate and business planning. Wehrle will continue his practice in the areas of estate, charitable and tax planning.



Valerie D. Kessler

The Indiana Office of **Boehl Stopher & Graves, LLP** is pleased to announce that **James L. Fischer, Jr.** has become a partner with the firm. Fischer may be reached by telephone in New Albany at (812) 948-9233.

Michael Davidson is pleased to announce that **Lisa J. Oeltgen** has become an associate at the **Law Offices of Michael Davidson** located



Lisa J. Oeltgen

at 135 West Short Street in Lexington. She may be reached by telephone at (859) 225-1717.

The Louisville law firm of **Gray & Weiss** located at 1200 PNC Plaza has changed its name to **Gray Weiss & White**. The law firm's members are **Mark K. Gray, Janice M. Weiss** and **Matthew L. White**. **Gary M. Weiss** will remain Of Counsel. The members of the firm concentrate their practice in the areas of personal injury, medical malpractice, bad faith, class action and commercial/antitrust litigation.

The law firm of **Clark & Ward** announces that **Licha H. Farah, Jr.** has been made a partner with the firm. Farah practices in the firm's Lexington office.

The Louisville law firm of **Mosley Sauer & Townes PLLC** announces that **M. Thomas Underwood** has joined the firm as a member. Underwood graduated, *magna cum laude*, from the University of Kentucky in 1996. He received his J.D. from the Brandeis School of Law at the University of Louisville in 1999. Underwood concentrates his practice in the areas of business and employment law.

The Louisville law firm of **Ogden Newell & Welch PLLC** is pleased to announce the election of **Joseph (Jody) A. Kirwan** and **Allyson K. Sturgeon** as members of the firm. A 1993 *summa cum laude* graduate of Bellarmine University, Kirwan received his J.D. from the University of Kentucky College of Law in 1996. He concentrates his practice in the health care field and has counseled many clients on HIPPA regulations and corporate compliance. Sturgeon earned her undergraduate degree in 1987 from Bellarmine University. She graduated, *cum laude*, from the Brandeis School of Law at the University of Louisville in 1993. Sturgeon has focused her practice in the areas of telecommunication and utility regulation.

The Danville law office of **Sheehan, Barnett, Hays, Dean and Pennington, P.S.C.** is pleased to announce that **William M. Dishman, Jr.** and **Elizabeth G. Nickels**, formerly of Silliman, Dishman & Nickels, have joined the firm as Of Counsel. Dishman and Nickels may be reached by telephone at (859) 236-2641.

The law firm of **Buckingham, Doolittle & Burroughs, LLP** is pleased to announce that **Ronald M. Wilt** has been named managing partner of its Cleveland, Ohio office. Wilt earned his B.A. with honors from Earlham College. In 1988, he was awarded a doctoral fellowship to Vanderbilt University. Wilt graduated from the University of Cincinnati College of Law in 1992. He is licensed to practice law in both Kentucky and Ohio.



Ronald M. Wilt

Delores Pregliasco, Vicki L. Buba and **Melanie Straw-Boone** are pleased to announce their new partnership, **Pregliasco, Buba, Straw-Boone**. They are located at First Trust Centre in Louisville. Pregliasco, a 1977 graduate of the University of Louisville School of Law, will continue her practice in family law and mediation. Buba, a 1995 graduate of the University of Louisville School of Law, will continue her practice in employment and family law. Straw-Boone, a 1994 graduate of the University of Louisville School of Law, will continue her practice in family law. **Cynthia Compton Stone, Douglas S. Haynes, Paul V. Hibberd** and **Julie A. Johnson** are associated as Of Counsel with the law firm. Haynes will continue his practice in family law and mediation. Hibberd will continue his practice in family law and civil litigation. Johnson will continue her practice in family law and civil litigation.

Brooks, McComb, Fields & Ruble is pleased to announce that **Steven A. Collins** has joined the Lexington law firm as an associate. Collins graduated, *magna cum laude*,

from the University of Kentucky. He 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, Kentucky Court of Appeals. Collins will concentrate his practice in civil rights and education law.

Walter Bedford, Jr. has returned to private practice. His office is located at 807 West Market Street in Louisville. He will concentrate his practice in employment and workers' compensation law. Bedford is a graduate of the University of Kentucky College of Law. He recently left Kentucky State Government where he served in a variety of assignments, including Administrative Law Judge for the Kentucky Department of Workers' Claims, Assistant General Counsel in the Labor Cabinet and Assistant General Counsel in the Cabinet for Families and Children.



Walter Bedford, Jr.

IN THE NEWS

Chief Justice Joseph E. Lambert announces that **Susan Johnson**, Chief Regional District Judge for the Mountain Region and District Judge for Johnson, Lawrence and Martin counties, has been elected president of the Kentucky District Judges' Association. Judge Johnson was elected president by her fellow judges at the District Judges' College and will serve a two-year term. As Kentucky District Judges' Association President, Judge Johnson administers the business of the association, which is comprised of the state's 114 district judges. Judge Johnson earned a

bachelor's degree from Pikeville College and a law degree from the University of Tulsa College of Law. Before being appointed and then elected to the District Court bench in 1992, she was in private practice with her father, B.E. Mullins, as a partner with Mullins Law Office, PSC in Paintsville.



Judge Johnson



Judge McDonald

Judge Tom McDonald has retired from Jefferson Circuit Court after serving more than twenty years on the bench. He will continue to sit as a Senior Judge. Judge McDonald is pleased to announce the opening of his mediation and arbitration practice. He recently served on the faculty of the National Judicial College in its civil mediation course. Judge McDonald may be reached by telephone at (502) 228-7617.



Wm. T. Robinson III

Wm. T. (Bill) Robinson III was recently selected ABA Treasurer-Elect 2004 by the American Bar Association Nominating Committee. Following an initial one-year

term as treasurer-elect, Robinson will serve a three-year term as treasurer. He will help oversee an operating budget of ninety-five million dollars. Member-in-Charge of Greenebaum's Northern Kentucky and Greater Cincinnati offices, Robinson has consistently provided volunteer leadership in his regional community and in the

WHO, WHAT, WHEN & WHERE

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

Woodward, Hobson & Fulton, L.L.P. is proud to announce the election of **Jennifer Kincaid Adams** to the Jefferson Community and Technical College Foundation, Inc. Board of Directors. The JCTC Foundation is an organization with the primary purpose of supporting the colleges through fundraising initiatives. Adams practices in the Louisville office of Woodward, Hobson & Fulton, L.L.P.

Thomas A. Prewitt, a partner with Graydon Head & Ritchey LLP, has been appointed to the Kentucky Innovation Commission.



Thomas A. Prewitt

The KIC oversees the statewide implementation of Kentucky's new economy plans. Prewitt practices in the Fort Mitchell office. His practice primarily consists of commercial and business-related litigation, with an emphasis on business-to-business dispute resolution and prevention. Prewitt is admitted to practice law in both Kentucky and Ohio.

Frost Brown Todd LLC is pleased to announce that **Bernard L. McKay** has been certified by the Ohio State Bar Association as an estate planning, trust and probate specialist. McKay is vice chairman of the firm's Personal Planning and Family Business Department. He concentrates his practice in the areas of estate planning, trust and probate

administration and litigation, family business and succession planning, and individual taxation.

Thomas E. Rutledge, a member of Ogden Newell & Welch PLLC, has been appointed an ABA Section of Business Law Advisor to the Uniform Business Trust Act, a project of the National Conference of Commissioners of Uniform State Laws.

RELOCATIONS

John Mulvey, an attorney licensed to practice law in both Kentucky and

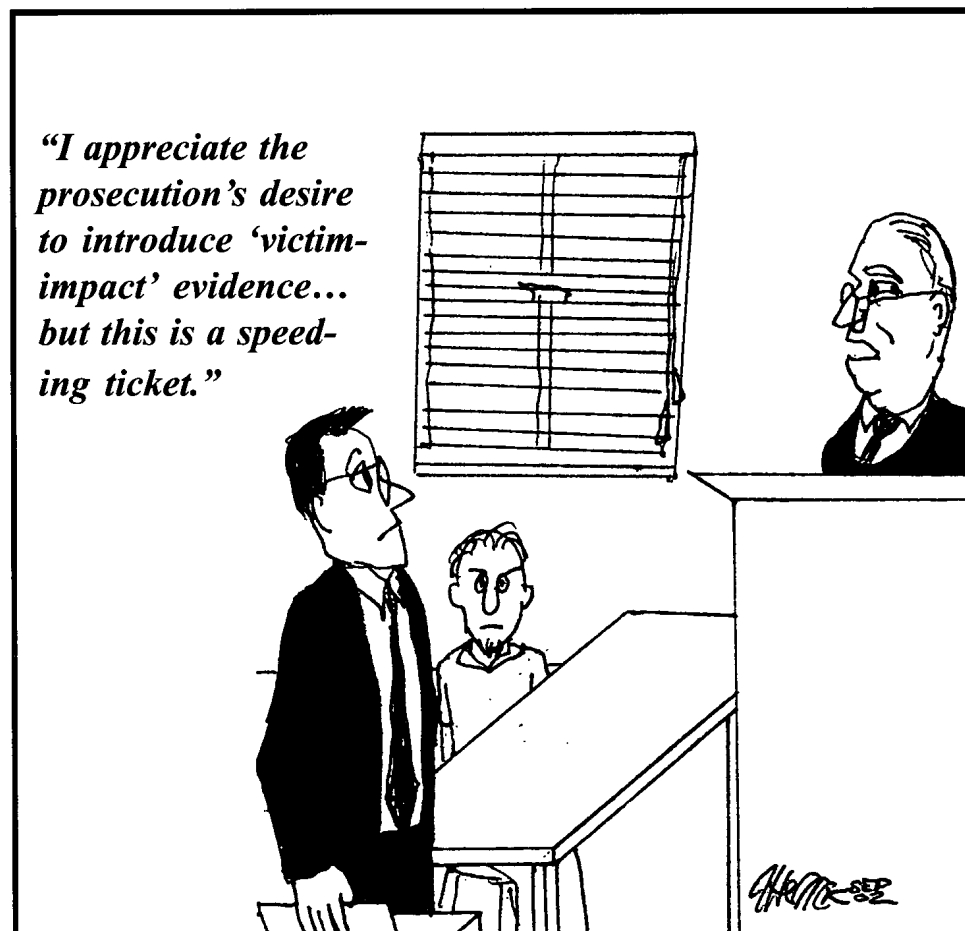
Ohio, is pleased to announce the relocation of his office to the Park Avenue Lawyers Building in Suite 104 at 2306 Park Avenue in Cincinnati, Ohio. Mulvey may be reached by telephone at (513) 721-0001 or by email at jmulvey@cincylawyers.com. He continues to practice in the areas of criminal defense, personal injury, bankruptcy and general litigation.



John Mulvey

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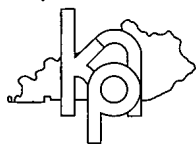
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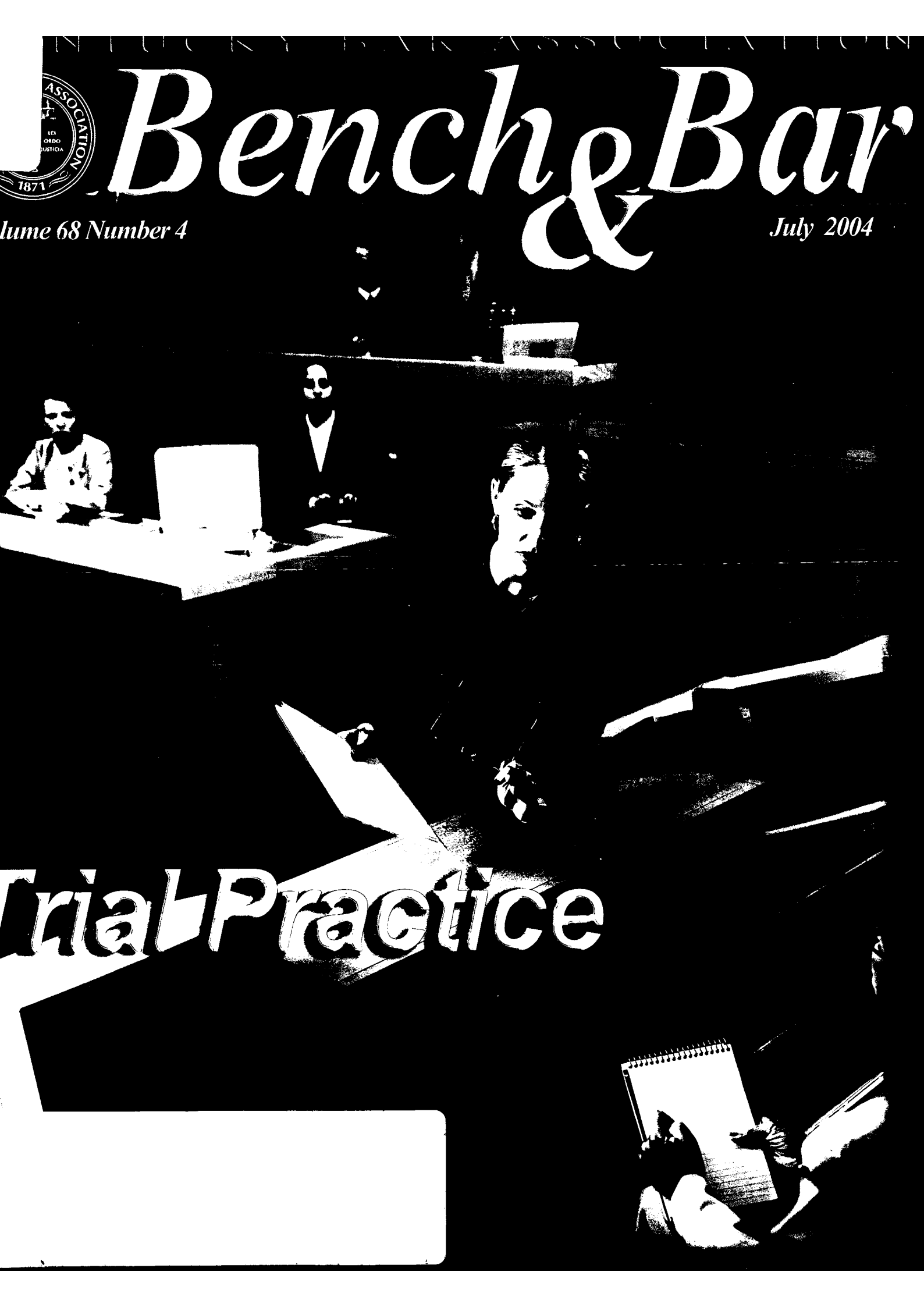


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