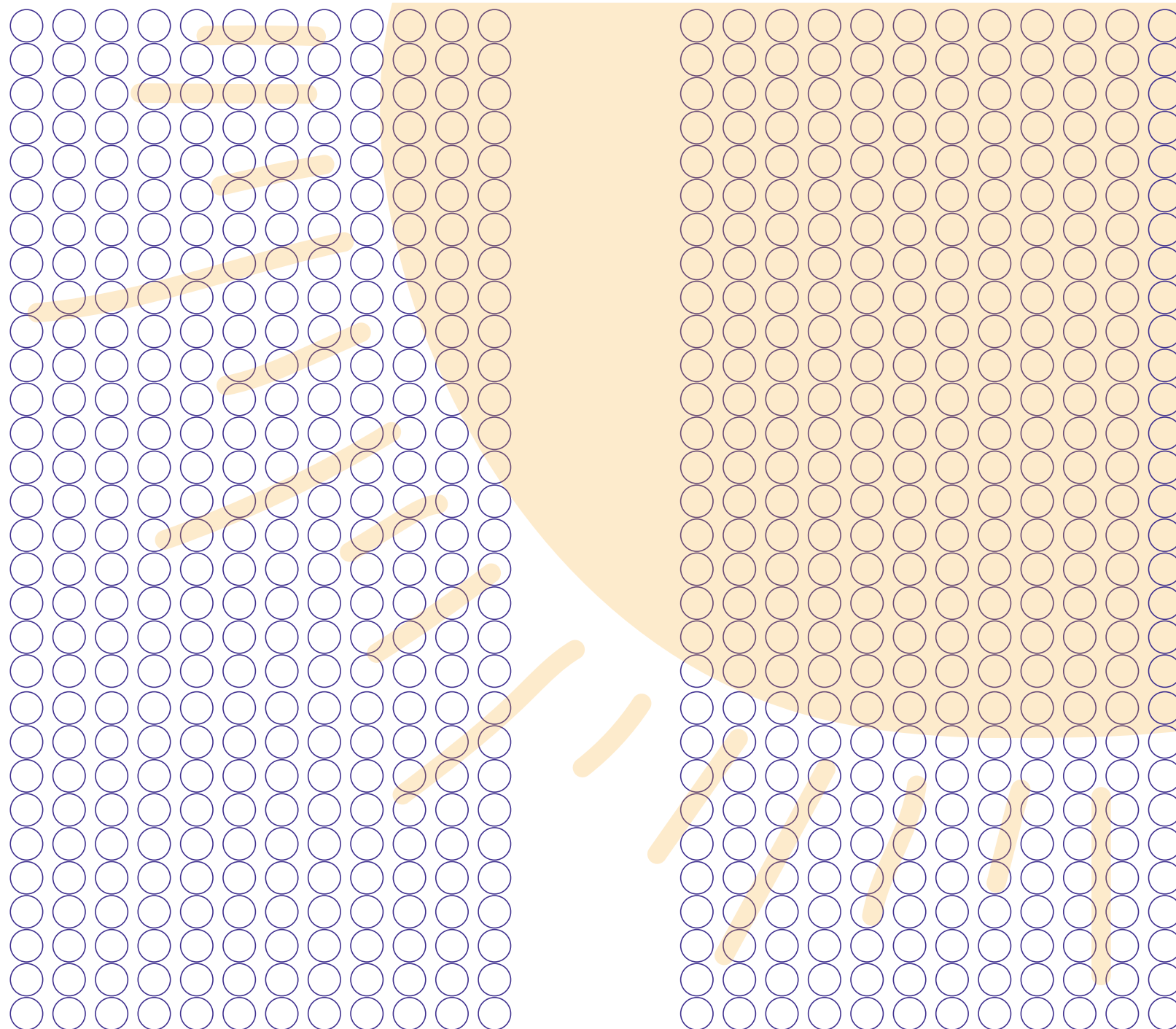


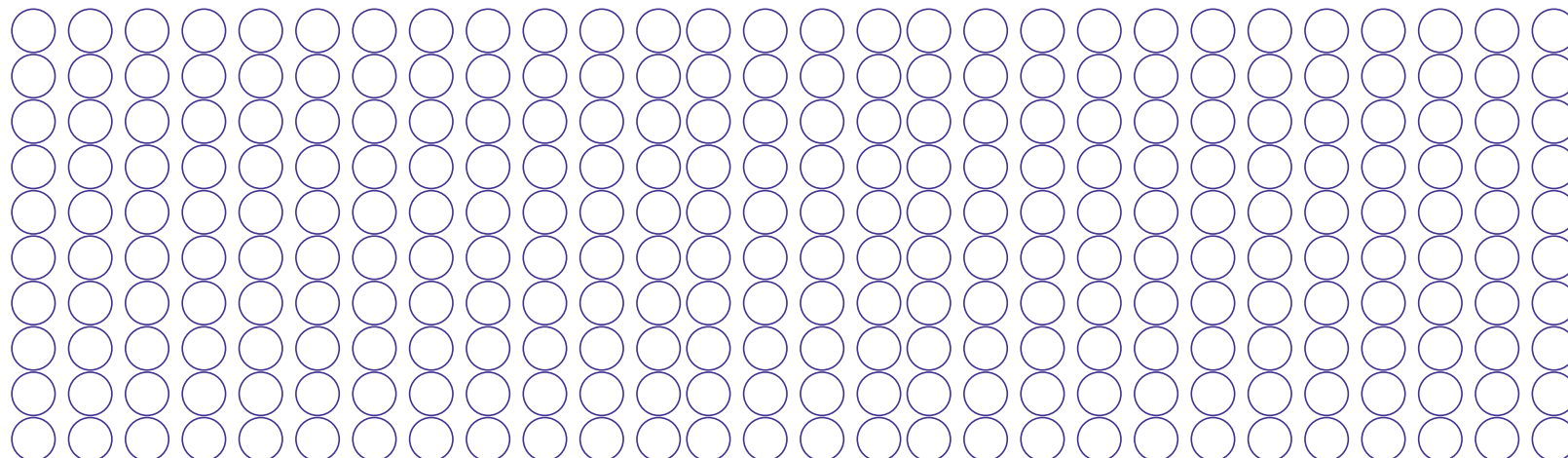
BAR**briefs**

Louisville Bar Association

April 2023



LET'S GET  OUTSIDE
1000 Hours Outside Challenge



Use this page to keep track of your 1,000 Hours Outside! Details about the LBA's Challenge on page 16.

VOLUME 23, NO. 04

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The mission of the Louisville Bar Association is to promote justice, professional excellence and respect for the law, improve public understanding of the legal system, facilitate access to legal services and serve the members of the association.

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Spring Has Sprung, Take Time For Fun

I'm married to a wonderful man named Jason. Jason's grandmother, Arlene, has long been a season ticketholder to the Cincinnati Pops Orchestra. But like so many women her age, Arlene is finding it hard to find friends who are healthy and mobile enough to go to performances with her. So, when I saw the Pops would be presenting a "Sound of Music" sing-along in February, it seemed like the perfect opportunity to go with Arlene to an afternoon at the orchestra, and include her nine-year-old great-granddaughter Millie Lou who is a "Sound of Music" superfan. As I clicked the "Purchase Tickets" button in early December, I felt pretty sure that Arlene would be thrilled to receive the tickets as a Christmas gift. Beyond that, I gave little thought to our plans, aside from wondering what bribe would be adequate to cajole the superfan's older brother Brooks not to sulk during the show.

As the performance approached, the universe (or rather, Arlene) began sending messages that the afternoon might involve more than I had bargained for. First came an e-mail message reporting that the event would feature an on-stage costume contest before the singing got started. That message was followed quickly by a suggestion that Millie Lou and I should enter the contest — with me wearing an authentic Austrian outfit that Arlene had bought on trip to Europe in 1973, and with Millie Lou wearing a slightly less authentic outfit that Arlene had bought on Amazon in 2023. At this point, I began questioning my selfless dedication to my grandmother-in-law's happiness and wondering just how good of a sport I was capable of being. But it was an offer I couldn't refuse. I comforted myself with logic. The dress was so frumpy and ill-fitting that no one would be paying attention to me. And all this nonsense would be happening in Cincinnati, so the odds that anyone other than our family would bear witness to my indignity were very low.

You've probably already guessed how this story ends: with the sing-a-long's emcee, charged with warming up the audience (and dressed as Max), thrusting a microphone in my face and demanding that I sing a few verses a cappella. Meanwhile, a few steps away stood District of Columbia Circuit Court of Appeals Judge Justin Walker (former Judge of the Western District), who also happened to be on stage because his daughter, too, loves the "Sound of Music" so much she came in costume. This surreal fever dream sequence happened so fast that all I could do as I heard my off-key voice ring out was focus on the tears of laughter streaming down Jason's and Brooks' faces in the second row and be thankful that the stage lights blinded me to the other 2,500 audience members. As it turned out, the long odds got me that day. But I can't remember the last time any of us laughed so hard and I will be forever grateful for the memory of that fun afternoon.

I share this humbling experience with you to impart a couple pearls of wisdom. First, we never know where or when we might run into a federal judge — so plan accordingly. And second, we should embrace opportunities to step out of our comfort zones and take time for fun, even when that can feel like a risk. Several members of the LBA have done just that this winter and spring by participating in the pickleball lessons that the LBA has organized. Almost none of the many members who signed up for the lessons had played before, and several have become so hooked that they've joined one of the two LBA pickleball teams that are now competing in a league together.

While some members fearlessly jumped right in, a few others reported feeling some trepidation about joining a team and not wanting to let teammates down or make fools of themselves. Fortunately, those concerns have been quickly allayed by the fun these teams have been having. Elder law attorney Misty Clark Vantrease recognized the benefits of taking on a new sport right way, explaining, "As an attorney who works with older clients, those that are the most happy and healthy are those that don't stop moving and never stop learning new things." Misty also commented that building a community and socializing outside the cocktail hour is refreshing and she feels much better the next day. She summed up the experience this way, "I haven't had this much fun losing since I tried a case in Judge Geoff Morris' court." The bond that the LBA players have formed on the pickleball courts strengthens the fabric of our legal community — not to mention the fitness and stress-relief benefits that come along with physical activity.

If you're feeling inspired to humble yourself by trying something new, I am happy to report that thanks to the generous support of Lawyers Mutual of Kentucky (LMICK), the LBA will be hosting a family-friendly pickleball event in June. And we have many other opportunities for frivolity and recreation coming up, including on April 19 for a trivia night at Jake & Elwood's benefitting the Summer Law Institute (details on page 10), the Let's Get Outside, 1000 Hours Outside Challenge and an LBA hiking and walking group with a kickoff on April 15 at Jefferson Memorial Forest (details on page 16).

Most of the time, our work demands intensity and focus. But we know what comes from all work and no play. Especially given the pressures of our profession, we should take opportunities for recreation and fun when they come our way, even when it might be tempting to play it safe. I hope to see you soon with other LBA members on the pickleball courts or on the trails!



***Most of the time,
our work demands
intensity and focus.
But we know what
comes from all work
and no play.***

Kate Lacy Crosby
LBA President

Thank You to Our 2023 Committee Chairs

COMMUNICATIONS



The Communications Committee strives to ensure continuity and focus of internal/external communications in support of the LBA's organizational and strategic objectives. It oversees communication content and methods, including through the website, on social media and in print publications.

Chair: [Bruce A. Brightwell](#)

COMMUNITY OUTREACH COMMITTEE



The Community Outreach Committee provides opportunities for attorneys to participate in service projects that make Louisville a better community. Current projects include: Back 2 School supply drive (benefiting Jefferson County Public Schools students), Santa's Court Toy Drive (benefiting The Salvation Army's Angel Tree program), the Summer Law Institute and the Summer Intern Program.

Chair: [Sarah McKenna](#)

CONTINUING LEGAL EDUCATION **CHAIRPERSON NEEDED!**

Committee members assist in providing input and advice to the CLE Department and by offering suggestions regarding topics, speakers, delivery methods, costs and marketing of CLE seminars. This committee helps various sections meet their obligation to produce seminars and has the option to develop seminars in addition to those produced by the sections.

LBA Staff Liaison: [Lisa Anspach](#), lanspach@loubar.org

DIVERSITY & INCLUSION



The Diversity & Inclusion Committee's overarching goal is to help the LBA more closely reflect the community it serves by encouraging persons from groups historically underrepresented in the legal profession to pursue careers in the law and to facilitate full participation by attorneys from such groups in bar programs and activities. Among other things, it plans special events (e.g., Black History Month program, Hispanic Heritage Month celebration) and administers a scholarship program for students at the UofL Brandeis School of Law.

Co-Chairs: [Maria Fernandez](#) & [John Selent](#)

GENDER EQUITY



The Gender Equity Committee examines and addresses issues related to pay inequity among attorneys based on gender, parental leave after the birth or adoption of a child and workplace sexual harassment. It also works in conjunction with the Jefferson County Women Lawyers Association to establish mentoring relationships for the benefit of females embarking upon legal careers.

Chair: [Jennifer Kleier](#)

HEALTH & WELLNESS

The Health & Wellness Committee examines and addresses issues related to bettering the profession by destigmatizing mental health issues, increasing overall well-being, offering fitness activities and resources and programs to strengthen legal professionals and law students.

Chair: [Jennifer Kleier](#)

INVESTMENT



The Investment Committee is responsible for managing the LBA's investment account. It is authorized to engage investment advisors and oversee their activities. It may establish brokerage accounts and make decisions to buy, sell or hold individual assets within guidelines established by the Board of Directors. It also reviews the investment policy statement and recommends any revisions or modifications for approval by the Board of Directors.

Chair: [Mark S. Franklin](#)

KENTUCKY LAWYER REFERRAL SERVICE



The KLRs Committee is responsible for reviewing and recommending to the Board of Directors rules and regulations for enrollment in and delivery of the LBA's lawyer referral services, including assignment of matters to participating attorneys, collection of fees and marketing of services to the public.

Chair: [Abigale Rhodes Green](#)

MEMBER SERVICES



The Member Services Committee is responsible for reviewing and recommending to the Board of Directors requirements for LBA membership as well as the development and delivery of member benefits.

Chair: [Amy DeRenzo Hulbert](#)

PRO BONO CONSORTIUM

The Pro Bono Consortium is a partnership between the LBA, the Legal Aid Society and the UofL Brandeis School of Law. It is responsible for providing attorneys with meaningful and varied opportunities to serve the legal needs of low-income and underserved populations in Louisville.

Chair: [Sarah McKenna](#)

Would you be interested in joining any of the LBA's committees?

We're always looking for new members with fresh ideas.

Email [Kristen Miller](mailto:kmiller@loubar.org), kmiller@loubar.org.

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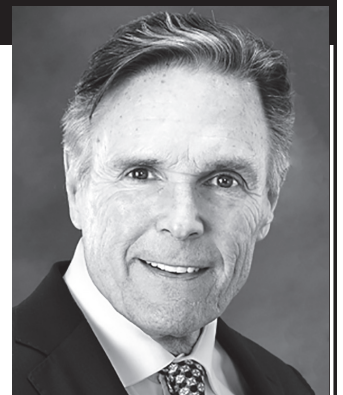
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A Message from the LBA's Health & Wellness Committee A Strengthened Focus on Health and Well-Being

The Covid-19 pandemic added to the realization that the responsibility of addressing mental health issues does not just lie with the individual, but instead needs to be a collective priority across entire professions and within organizations. The Louisville Bar Association has sought to do just that by creating our Health & Wellness Committee. It is committed to helping law students, legal professionals and attorneys maintain their overall wellness. Wellness is defined by The Global Wellness Institute as "the active pursuit of activities, choices and lifestyles that lead to a state of holistic health." The Committee hopes to provide support and opportunities which empower practitioners to choose a healthier future for themselves and their families.

The practice of law is demanding work that requires long hours of intense concentration. Practitioners are consistently exposed to situations resulting in compassion fatigue and secondary trauma, leading to chronic stress and burnout. Self-care can help, but to be successful, needs to be planned ahead of time, acted upon and practiced regularly.

The Committee is challenging all LBA members to complete 1,000 hours of outdoor activities between April 1 – December 31, 2023. This challenge is designed to encourage members to get outside and enjoy the beauty of nature while also staying active and healthy. A link for downloadable trackers to help members keep track of their progress will be available on the LBA's website, www.loubar.org. Members are encouraged to share their progress on social media using the hashtag #LBA1000. This challenge is a great way to stay connected with nature and the LBA. We encourage you to team up with other members to log your hours together!

Together with our event sponsor, Lawyers Mutual of Kentucky, we are hosting a hike/walk on April 15 at Jefferson Memorial Forest (see ad on page 16). This family and pet-friendly event is open to all ages and is a great way to get out and enjoy the beauty of nature. The hike/walk will be a leisurely stroll through the forest, and afterward, participants can enjoy a picnic at the Horine Campground. For more information, please visit the LBA's website and watch our social media.

The Committee is also planning several other events and initiatives throughout the year to continue its efforts to support and promote a healthier lifestyle. Do you have an idea for an activity or program you would like to see? Or are you interested in joining the Health & Wellness Committee? Contact Committee chair, Jennifer Kleier at jennifer@karemandkleierlaw.com or LBA staff liaison, Lisa Anspach at lanspach@loubar.org. ■



The LBA has entered two teams in this spring's pickleball league at the Baird Urban Sports Park, conveniently located on Main St. across from the LBA Bar Center.

For those who aren't hitting the court, you can join us to cheer on your LBA colleagues – the Sports Park will host food and beer trucks this spring for fans to enjoy.

LBA Team Members

Denise Helline
Elizabeth McConahy Jenkins
Justin Key
Dee Pregliasco
Judge Shelley Santry
Misty Clark Vantrese

LBA Schedule

4/13 LBA 1 vs. Smashing Pickles 6p
LBA 2 vs. Cover Your Aces 5:30p
4/20 LBA 1 vs. Waynes 5:30p
LBA 2 vs. Designated Dinkers 6p
4/27 LBA 1 vs. MAPS Security Picklebacks 6p
LBA 2 vs. Kitchen Heat 6p

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Is Strength Training right for you? YES!

Chris Thompson

Many people focus on nutrition and cardio exercise to look better, feel better and lose weight. This is a good start and can be partially effective. However, they are missing possibly the most important piece of the puzzle: strength training.

Muscle makes up the majority of our metabolism, and we begin to lose it at a rate of 1-2% per year after age 40, ouch! It's no wonder we have a harder time maintaining our weight as we age; our body is burning fewer calories due to the loss of muscle mass. What's worse, crash diets and extreme cardio further waste muscle and metabolism, making it all the tougher to lose fat in the long run.

Our strength and power drop off at an even faster rate, 4-8% per year after 40. By the time one reaches 50, they can barely jump over a curb. This is due to a lack of use and is very preventable. We don't want to spend the second half of our life in a weak and deconditioned state. Even worse, regular cardio (without strength training) further reduces your strength and power. The addition of strength training prevents this.

What else does muscle do? It stores sugar and carbohydrates in a safe place (in the muscle), as fuel for future exercise and it greatly helps control your blood sugar (which helps prevent diabetes). So instead of sugar intake raising your blood glucose and ultimately being converted to fat it's used as it's intended, for fuel. This benefit is invaluable.

Another benefit of muscle? One pound of muscle takes up half the space as one pound of fat so, the myth of becoming bulky is of zero concern. Burning fat and building muscle only makes you look leaner and more toned.

If these aren't reason enough to begin strength training, knowing that increased strength and muscle is directly tied to a longer life span should be. Recent studies have confirmed that strength, as measured by grip strength, has a direct correlation with life span. Those with weak grip strength show signs of accelerated aging of their DNA and those with the strongest grip strength had significantly longer life expectancy. The measurement of grip strength had a greater predictive factor for early death than blood pressure. So, grip up!

Now that we are convinced of the importance and benefits of strength training, how do we go about it? The great news is, it's never too late. In fact, those who have never lifted weights will see the fastest and greatest progress. And age is no issue; 70- and 80-year-olds respond faster than any age group so, get your parents lifting weights!

The most important component to any kind of fitness result is adherence; you must do the exercise on a consistent basis. Three days per week is plenty for strength training and it does not require a great deal of time. Just 20 minutes each of these days is plenty to make a significant impact. After four weeks you will notice tremendous strength improvements and, after six weeks you will see very visible results. You will be wondering why you took so long to figure this out.

In an ideal world, you would meet with a professional trainer for a program prescription and a tutorial on form and progression. At least one session to learn the ropes is highly recommended.

The basic ingredients for success include a total body workout, making sure not to omit any of

the major muscle groups. We want a balanced body for preventing injury. Also, the more muscle we stimulate, the more muscle we can grow and thus improve our metabolism.



A standard beginning would entail two sets of 12 repetitions per major muscle group, choosing a weight where 12 repetitions is fairly tough to complete. We must challenge the muscle in order for it to change. The body responds to a stressor by adapting. If the stressor is not great enough, the body will remain unchanged. So don't be afraid of lifting challenging weights once you have spent a couple weeks breaking in your muscles.

Many people are afraid of lifting heavier weights for fear of bulking, but again, this is not a concern. You must challenge your muscles for change. However, form is paramount, make sure your technique is spot on.

Strength training will open an entire new world with endless benefits. Not only physically, but a great boost in confidence follows as well. You will find the lifter's high and reap the benefits of increased metabolism, longevity, strength, power and decreased risk of death. Sounds like a no-brainer!

Time to ELEVATE your game and lift some weights!

Chris Thompson is the owner of Elevate Fitness, where LBA members receive a 25% discount on their bi-weekly rates. Contact Chris at chris@elevatefitness502.com or (502) 468-3059 for details. ■



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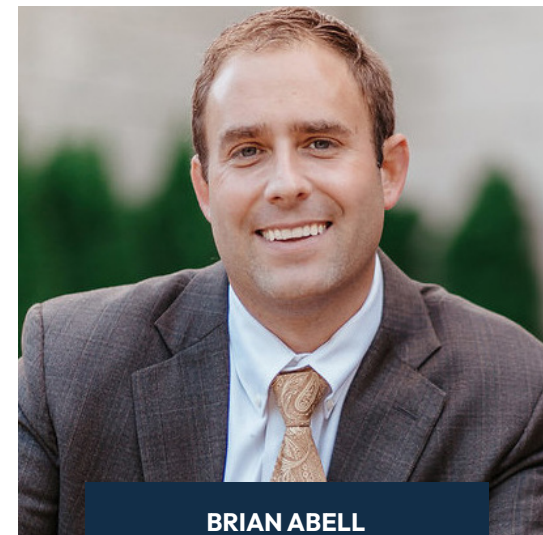
On his last tour in Afghanistan, Captain Henry Duke Livingston was gravely injured while trying to remove an explosive strapped onto a juvenile civilian. When Captain Livingston returned to the U.S., having completed his service in the Marines, he experienced more trauma when he lost his wife and his children in a tragic accident. Despite his profound loss and injury, Captain Livingston did what every good Marine does, and kept on moving forward.

Life would once again deal Captain Livingston another blow when he was diagnosed with cancer in 2022. In the late summer of that same year, a bureaucratic snag delayed the payment of his social security disability check and Captain Livingston fell behind on his rent. Captain Livingston was served an eviction notice while in Hospice care.

That's when Legal Aid Society's Volunteer Eviction Defense Project stepped in, and private attorney Brian Abell began to represent Captain Livingston. He negotiated with Captain Livingston's landlord and helped the Captain apply for rental assistance, persuading the landlord's attorney to press his client for a ledger and a copy of the lease to expedite rental assistance. Time was of the essence for Captain Livingston. Because of Mr. Abell's expertise, Captain Livingston remained in his home and was able to receive Hospice care with the dignity and respect he deserves, not only as a fellow human being but as a Veteran.



VOLUNTEER SPOTLIGHT



BRIAN ABELL
Abell Attorneys

“Being on the Legal Aid Society attorney referral list has been a fulfilling thing for me.”

“I’ve gotten to know people who are in situations through no fault of their own and helped them achieve a successful outcome.”

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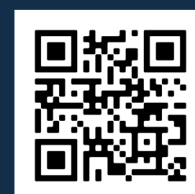
Legal Aid Society's Volunteer Eviction Defense Project launched in 2021 with the support of the Legal Services Corporation's Pro Bono Innovation Fund. Since that time, 117 low-income tenants have been assisted by one of the programs 27 committed and compassionate attorneys.

According to a 2019 report by The Center for American Progress, “Extensive research indicates that tenants with legal representation are much more likely to avoid an eviction judgment and to keep possession of their homes than unrepresented tenants.”

Legal Aid Society's own numbers reflect this; of the total Volunteer Eviction Defense Program cases closed in 2022, **80% OF CLIENTS AVOIDED EVICTION.**

JOIN OUR VOLUNTEER LAWYER PROGRAM TODAY

The Volunteer Eviction Defense Project is one of many pro bono programs operated by Legal Aid Society. Learn more about the opportunities to serve your community and remove barriers to justice by scanning the QR code, visiting YourLegalAid.org/Volunteer, or contacting Senior Attorney Rebekah Cotton, RCotton@YourLegalAid.org.



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"...and, we're better for it."



On March 7, 2023, the LBA's Diversity & Inclusion Committee held a Trailblazer Award Ceremony and panel discussion on "Where Race and Gender Meet: Experiences of Black Women in the Law."

During the event, attended by over 40 people, panelists shared their stories of what it's like to be a Black woman in the Louisville legal community. They discussed the challenges they have faced, including implicit bias, microaggressions and isolation. They also talked about the importance of having allies and the need to create more opportunities for Black women in the legal profession.

The Trailblazer Award Ceremony recognized Leslie Clemons, posthumously, whose passion for justice made her the perfect fit to work with volunteers and clients. Clemons had the ability to match people with the critical work of handling serious legal matters for clients who had nowhere else to turn.

The event was a celebration of diversity and inclusion in the legal profession and provided an opportunity for attendees to learn from and be inspired by the trailblazing women who are paving the way for others. Overall, the event was a powerful reminder of the importance of diversity and inclusion in the legal profession and the need for continued efforts to create a more equitable and just legal system.

If you were unable to attend the presentation, you can still watch it on the Louisville Bar Association's YouTube channel. To quote LBA President Kate Crosby after the presentation, "...and, we're better for it."



LOUISVILLE BAR
ASSOCIATION

Diversity & Inclusion Committee



Welcome

The Louisville Bar Association would like to welcome our newest members of the LBA!
The following were approved at our February Board meeting.

Matthew J. Brotzge, Blackburn Domene & Burchett PLLC
Ryan Patrick Fenwick, Law Office of Ryan Fenwick
Blake Gerstner, Phillips Parker Orberon & Arnett, PLC
Nicholas Matthew Jackson, ARG Financial Group
Christine Miller, Simms Russell Law, PLLC

Eric Shawn Rice, Rice Gumm PLLC
Gordon A. Rowe Jr., Steptoe & Johnson PLLC
Corey Shapiro, ACLU of Kentucky
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Janine Tate Webb, Yum!
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Rent Acceleration Clauses in Kentucky Commercial Real Estate Leases

Heavy Cudgel in a Landlord's Toolbox or "Paper Sword?"

Ashley K. Russell, Brian P. Lee and Andrew M. Noland

A well-drafted commercial lease provides several remedies for the landlord after a default by the tenant. Landlord remedies frequently include eviction and damages for lost rentals and costs of reletting the leased premises. Further, such remedies may include rent acceleration, allowing the landlord to collect all rent (base rent, real estate taxes, common area maintenance, insurance, etc.) that would be due for the remainder of the term. There is not a uniform American rule on the enforceability of these rent acceleration clauses. Accordingly, landlords and tenants (and their respective counsel) may not know whether rent acceleration clauses are enforceable in their respective jurisdiction.

Under Kentucky law, damages for breach of contract should place a plaintiff in the position it would have been in if the contract had been fulfilled—awarding a sum which is the equivalent to performance of the bargain. “[T]he measure of damages for breach of contract is ‘that sum which will put the injured party into the same position [they] would have been in had the contract been performed.’” *Hogan v. Long*, 922 S.W.2d 368, 371 (Ky. 1995). In this article we will focus on rent acceleration clauses as contractual damages. Do rent acceleration clauses place landlords in the position they would have been in if the tenant

did not breach the lease, or do they overstep their intended purpose? Are they enforceable under Kentucky law?

One early Kentucky case involving rent acceleration is *Jordan v. Nickell*, 253 S.W.2d 237 (Ky.Ct.App.1952). *Jordan* involved a commercial tenant that vacated the leased premises four years prior to the expiration of the term. The landlord sought to recover the entirety of the rent for the remainder of the term in an accelerated sum, arguing that acceleration was permitted under Kentucky’s common law doctrine of “anticipatory breach.” *Id.* at 239. The *Jordan* court drew a distinction between damages (i) in the event the lease was “forfeited” and the landlord re-entered the leased premises, and (ii) in the event that tenant “abandoned” the leased premises.

In the case of a “forfeiture,” the landlord would have a duty to mitigate its damages. In the case of an “abandonment,” the landlord would have no duty to mitigate its damages, because the tenant’s wrongdoing would not impose a duty on the landlord. Ultimately, the court in *Jordan* ruled that despite the tenant’s “abandonment” of the lease, it would not award rent acceleration because the lease provided for rent payments on fixed due dates. In *Jordan*, the Kentucky Court of Appeals

held that a landlord may only collect rents as they become due where “...the due dates of such payments are definitely fixed by the contract.” *Id.* at 239.

The Kentucky Court of Appeals further examined rent acceleration in *Nohr v. Hall’s Rental, LLC*, 2013 WL 462004 [unpublished] (Ky.Ct.App.2013). In *Nohr*, a tenant defaulted under a commercial lease which did not include a rent acceleration clause. Unlike the tenant in *Jordan*, this tenant did not “abandon” the leased premises. Instead, the landlord repossessed the leased premises through legal process. *Id.* at *1. The *Nohr* court stated that specific language in the lease which provided that the landlord could “recover all rent and damages accrued and accruing under this lease” clearly included future rent payments as part of landlord’s potential damages. *Id.* at *2. The *Nohr* court, however, concluded that the landlord had a duty to mitigate its damages, and was not entitled to collect all future rent in one lump sum payment, because the lease did not specifically provide for rent acceleration. *Id.* at *4. The *Nohr* court based its ruling on the absence of an acceleration clause in the lease, while the court in *Jordan* focused on the fixed rent payment dates in the lease along with equitable principles.

More recently, in *Anyconnect US, LLC v Williamsburg Place, LLC*, 636 S.W.3d 556 (Ky.Ct.App.2021), the Kentucky Court of Appeals again held that after a tenant default, a landlord was entitled to recover future rent under the lease, but only when it became due and payable by the tenant under the lease. In *Anyconnect*, the tenant failed to pay rent and vacated the leased premises, and landlord retook possession. The landlord attempted to relet the space but was unable to find another tenant. *Id.* at 562. The lease at issue did not include a rent acceleration clause. *Id.* at 564. The court specifically noted in footnote 6 that, “Prior to the expiration of the lease’s term however, landlord was entitled to recover rental payments as they became due under the lease because there was no acceleration clause in the lease.” *Id.* at 564. It is unclear how the *Anyconnect* court would have ruled had the lease in question provided for rent acceleration after default.

To summarize, there is no specific Kentucky case law that analyzes a clear rent acceleration clause after a lease default. Three Kentucky cases discuss rent acceleration in leases that did not include specific rent acceleration provisions, and in those cases, the courts only allowed the landlord to recover rents as they became due. (Continued on next page)

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JAKE AND ELWOOD'S

(Continued from previous page)

Federal courts have also occasionally discussed rent acceleration under Kentucky law. In *G.D. Deal Holdings, Inc. v. Baker Energy, Inc.*, 501 F.Supp.2d 914 (W.D.Ky.2007), a federal court interpreting Kentucky law permitted a landlord to collect accelerated rent, discounted to present value. In *G.D. Deal*, a landlord and tenant entered a multi-location lease. The tenant subsequently defaulted under the lease and declared bankruptcy, and the lease was rejected in bankruptcy. *Id.* at 924. The landlord's lender foreclosed on the real estate, preventing the landlord from mitigating its damages by reletting the leased premises. *Id.*

The lease in question permitted the landlord to recover the total remaining rent payments (with a discount factor of 12%) less the present value (also discounted by 12%) of the "fair market rental value" for the leased premises for the remainder of the lease term. *Id.* at 922. The court permitted the landlord to recover the entire present value of the remaining rent payments without subtracting the fair market rental value of the leased premises due to the landlord's preclusion from mitigating its damages. *Id.* at 924. The court assumed the enforceability of the rent acceleration clause as written. Importantly, the court held that discounted rent acceleration did not constitute "liquidated damages" subject to potential equitable reduction, because (i) the lease did not specify a set amount of damages agreed upon by the parties, and (ii) the actual damages would not be difficult to ascertain, if not for the bankruptcy proceeding. *Id.* at 923.

G.D. Deal Holdings has not spawned a progeny of federal cases enforcing rent acceleration in Kentucky. In a more recent unpublished decision, a federal court declined to accelerate rent, holding that "...[landlord] is only entitled to such damages as the rental payments become due..." *Fayette Middle Anchor, LLC v. Kinnucan Enterprises, Inc.*, 2019 WL 6684502, at *4 [Not Reported Fed Supp.] (E.D.Ky.2019). The lease in *Fayette* did contain acceleration language, but limited acceleration to "all current and that portion of future rent and other monetary obligations due hereunder which exceeds the fair market value of such rent." *Id.* at *3. The *Fayette* court stated that, despite the lease language allowing immediate recovery for a portion of rents, a landlord "cannot recover for rental payments that have yet to become due because the alleged harm... has yet to occur" *Id.* at *4.

In conclusion, there is limited published Kentucky precedent analyzing leases with clear rent acceleration language. In leases without clear rent acceleration language, Kentucky courts generally have only allowed a landlord to collect rents when due, after subtracting potential mitigation recovery to the extent the landlord is required or able to mitigate its damages.

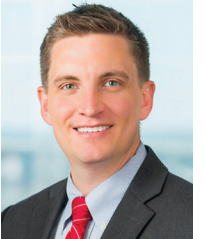
The limited Kentucky precedent on rent acceleration makes drafting leases more difficult for a landlord's attorney. It is not entirely clear when rent acceleration is enforceable, and

attorneys will have to gauge how to strike a balance between being aggressive for their clients and setting realistic expectations as to enforceability. Providing a landlord with multiple optional remedies could maximize a landlord's potential recovery upon default. A careful attorney might provide a landlord the option of (1) accelerating rent, discounted to present value (and potentially, less the discounted fair market rental value of the leased premises, accounting for reletting costs, brokerage fees and vacancy), or (2) collecting rent as it becomes due under the term of the lease, less any recovery of rents after the landlord's reasonable efforts to relet the space, but subtracting from such substitute rents all attorney's fees, broker fees and other costs of reletting.

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MEETING SCHEDULE

Association of Legal Administrators

The monthly chapter meeting of the KY Association of Legal Administrators will be held in person on Thursday, April 13 beginning at 11:45 a.m. at the office of Frost Brown Todd in Louisville (400 W. Market St., Ste. 3200); and Lexington (250 W. Main St., Ste. 2800). Guests are welcome to join us for lunch. RSVP to Tina Kirkland, tkirkland@fbtlaw.com, no later than Wednesday, April 12. ■

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On Thursday, March 2nd, LBA members and friends gathered at the Mercury Ballroom to celebrate our legal community's biggest night out, the LBA Bench & Bar Social.

Everyone felt like rock stars under the colorful, flashing lights. This event really hit all the high notes, providing attendees an opportunity to catch up with friends, network with colleagues and meet new members of our legal community.

We couldn't have pulled off such an epic show without our expert team of roadies, the LBA staff, and the support of our loyal fans, the LBA membership. A big thanks to Ladyfingers Catering, for making sure the green room was stocked with all the snacks we requested on our rider, and to the team at Mercury Ballroom, who left free tickets for some of their upcoming shows for each guest at the merch table.

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You Aren't From Around Here, Are You?

Invasive Species in Kentucky

Douglas Scott Porter



Conservation Officer is Kyle Clark

The pictures embedded in this article aren't from The History Channel's *Swamp People* show, but instead show animals that were illegally brought into Kentucky. Above, Conservation Officer Kyle Clark is pictured with a 4 1/2 foot long alligator that was captured after it had been illegally imported into Kentucky and released into Greasy Creek in Harlan County this past July.

This is an example of non-native, exotic wildlife that have been brought into Kentucky, which can pose a threat to human health, safety or the natural resources — especially if the plant or animal species can adapt to Kentucky's climate or environment and begin to colonize and out-compete other species.

Throughout the history of civilization, humans have used various species of plants and animals for either food purposes or as companions, such as pets and decorative plants. These species are non-native — they are brought from other environments and ecosystems and establish themselves in their new locations.

Introduced species, such as cows, are intentionally brought over for a specified purpose, and remain a food source to this day. This intentional purpose is contrasted with other species that are non-native to a region and can adapt and grow out of control. When a non-native species enters a new ecosystem, a variety of results can occur: it does not last beyond that initial introduction, or it becomes established, thrives and rapidly grows as it may not have any natural predator in the new ecosystem, thus becoming an invasive species.

Invasive species is the buzzword for a non-native species that begins to take over an area and outcompete native ones, an issue that has been increasing over the last few decades. Invasive species are a growing problem and are an "irreversible kind of pollution." Through advances in technology, it is now possible to reverse many chemical forms of pollution, but biological forms of pollution are extremely difficult if not impossible to reverse and can cause permanent damage to the environment or other wildlife populations.

The impact of invasive species is expected to increase with growing global travel and trade along with changing climate altering habitats, and that has ecologists, farmers and government agencies increasingly concerned about the threats this creates to the local ecology, economy and human health, and native wildlife populations. (*Aliens on the Shore, Science and Society, www.ncbi.nlm.gov.*)

What are Invasive Species and Why are They a Concern?

An invasive species can establish itself from either a single seed or a herd, growing rapidly due to a lack of competition or natural predation. Probably the most publicized and well-known invasive species in the U.S. today, and star of the History Channel's *Serpent Invasion Swamp People*, are the giant constrictor snakes found in the Florida Everglades. These snakes include boa constrictors, rock pythons, Burmese pythons and their hybrids, which are now crossbreeding.

The history of the Burmese python is relatively simple — the non-native reptiles were introduced in the 1970s from pet releases and escapes from breeding facilities or exotic zoos. Without any known predators, the initial population grew, fueled by rapid gestation periods and high reproduction rates that led to a population explosion.

As their anatomy developed, Burmese pythons gained the ability to consume massive amounts of food, including native species, so as populations grew, native species not only lost available food leading to lower populations but they were also preyed upon by the voracious snakes. (*Giant Constrictor Snakes in Florida: A Sizeable Research Challenge, https://www.usgs.gov/centers/fort-collins-science-center/science/giant-constrictor-snakes-florida-sizeable-research.*)

The rapid growth of an invasive species is not reserved to only reptiles in southern Florida. The impact on native ecology ranges depending on the species and how it operates. The ecological damages due to invasive species can range from outcompeting native species, leading to a higher chance for extinction, or it can choke native plants and waterways, leading to severe economic damage.

Whether it is birds, mammals, fish or reptiles, drops in native species can be directly attributed to invasive species. Animals that previously thrived in their natural habitat are continually threatened by growing populations of invasive species. Due to those growing threats to native species, public notion of how to deal with these nonnative animals have hit the point where the only goal is total eradication, as Florida offers year-round season and bounty on these snakes.

Human activity such as trade, transportation, travel and tourism have all grown substan-

tially, increasing the speed and volume of species movement to unprecedented levels. Invasive species are often unintended hitchhikers on cargo and other trade vessels. Still, more species are deliberately introduced as pets, ornamental plants, crops, food or for recreation, pest control or other purposes. (*National Invasive Species Management Plan, National Invasive Species Council, www.oar.noaa.gov/National Invasive Species Management Plan.pdf.*)

Invasive Species in Kentucky

As a landlocked state, Kentucky must deal with a variety of species that can be harmful to the native ecosystem and other wildlife populations. The Kentucky Department of Fish and Wildlife Resources (KDFWR) has a list of 26 "nuisance species" considered severe threats to the state. (<https://fw.ky.gov/More/Pages/Nuisance-Species-Plans.aspx>.) Dozens of invasive species have made their way into Kentucky, however there are five in particular the KDFWR considers the most threatening:

ASIAN CARP



Four major species of Asian carp, originally native to southeast Asia, are found in Kentucky: grass carp, black carp, silver carp and big head carp. Silver and big head carp first began appearing in Kentucky in the 1970s, while grass carp were introduced in the U.S. around 1963 and escaped in the '70s. The fish were brought to the U.S. for different biological control measures, such as controlling snail populations, water reclamation and aquaculture and pond management involving the breeding and harvesting of fish, algae and other organisms.

These species pose a threat because of their diet and their ability to rapidly breed in prolific numbers. These fish colonize rivers rapidly and muscle out and eat much of the plankton native species rely on. One example is how the black carp eat a native mussel species which is already endangered. Grass carp strip banks of healthy vegetation, which some fish use as protection while it also helps to diversify the bank's active species. Also, when native vegetation is stripped, other invasive species, like hydrilla, can move in.

Because of the proliferation of these fish, the KDFWR has been very aggressive in its response. There is currently a program for the

monitoring and containment of carp, in which it surveys areas to see where populations are expanding or decreasing. Similar to the measures Florida has implemented to address the giant snakes, the KDFWR contracts with commercial fishing in some areas and offers a subsidy to help control the species.

ZEBRA MUSSELS



The zebra mussel is native to the Black and Caspian seas in eastern Europe. It was introduced to the U.S. in the mid-to-late 1980s when mussels were released by container ships dumping water. They first showed up in Kentucky in 1991 and spread through larger river systems and can now be found throughout Ohio and Kentucky rivers. The species does not adapt well to high-flow bodies of water, so the state's dam systems have helped the mussels flourish.

Zebra mussels are filter feeders eating mainly plankton, and they compete with native wildlife by taking up valuable nutrients and space. They can also affect water chemistry, causing algae blooms. The mussels have had significant commercial and aesthetic impacts, as they attach to hard surfaces and other animals in large numbers. They can get stuck in pipes, on boats and motor systems and cover beaches, which may affect access.

Once established, this species is difficult to eradicate because chemical treatments affect other species. The education and outreach approach has been very efficient and helped stop the organism from moving into internal lake systems.

WILD PIGS



Common wild pigs are hybrids of domestic farm pigs and Eurasian wild boars. The Eurasian wild boars were brought to the U.S. by settlers in the 1500s to provide more hunting opportunities. There are several isolated populations of the pigs throughout the state.

(Continued on next page)

This is a very destructive species because wild pigs eat pretty much anything. Their main diets include plant matter, such as roots, tubers and corn crops, as well as earthworms. However, they also eat acorns, frogs and salamanders, and disrupt ground-nesting birds by eating their eggs. They out-compete and deprive native wildlife of the exact same food source.

Pigs are the perfect invasive species. They are highly intelligent, have high reproductive rates and have no fear of any natural predators in Kentucky. They can eat anything, and they can live anywhere and adapt very quickly.

The pigs' diet causes increased competition for food in areas where they are present. They drive out deer and turkeys, destroy forest floors by digging, disrupt water quality by wallowing and are equally devastating to crops and agriculture.

Kentucky is one of the only states in the southeast where the wild pig population is declining, due to KDFWR and the state's aggressive trapping program. In problem areas, remote-controlled traps and cameras are put in place. Biologists must monitor how many pigs are present in the area and trap them all before closing the trap door. Otherwise, if only a few are caught, the others are smart enough to leave the area or become "trap shy."

The KDFWR urges Kentuckians not to shoot at the pigs. Although one or two may be removed, this practice results in educating the remaining sounder. The pigs become nocturnal and leave the area. The pigs will avoid all human activity, avoid traps and cannot be found. Once a sounder is then relocated the females in that group have had another litter resulting in more pigs than originally existed. As part of the education and outreach, the KDFWR also provides free, professional pig tracking services.

HYDRILLA



The plant, also known as water thyme, is native to Asia. It was first brought to the U.S. in the 1950s for use in aquariums. Variations of the species began showing up in Kentucky as early as 1999. The plants are prominently located in waters near Kentucky, Dewey and Paintsville Lakes. They are also in the Ohio River and Cave Run Lake.

The plant is able to reproduce asexually, using only female or male parts, and vegetatively, meaning fragments of the plant can begin a new colony. Hydrilla tends to just choke out large stretches of bank where it has sufficient access to light. Efforts to combat the plant largely rely on early detection.

The species is very resistant, and there are even some strains of hydrilla that are completely resistant to some of the most effective herbicides that you can use on it. Even if the herbicide is effective on the foliage of the plant, it has a network of tubers that allow the hydrilla to easily reestablish itself.

The plant is spread through accidental or incidental transportation. It can be moved in bait water or by equipment. The KDFWR publicizes that it should not be transported, and that fishing or boating equipment be inspected, cleaned and dried and that water is not dumped or transported to a different location.

BUSH HONEYSUCKLE



This plant can be found throughout Kentucky, but the "problem areas" are in the central region of the state, such as Louisville, Lexington and surrounding counties. The bush honeysuckle plant is native to northeast China, Japan, Korea and far east Russia. It was first brought to the U.S. in 1898 for use in the New York Botanical Garden.

It has been used for wildlife cover, soil erosion control and as a decorative bush. It began spreading into natural areas and reproducing on its own. The plant spreads easily; its seeds are carried mainly by birds and other animals. It is also extremely flexible and can grow just about anywhere including the sides of rocks or in heavily shaded areas. Because of this, the plant chokes out understories of forests, which creates increased competition for native plant.

It is very difficult to eradicate. To remove, it requires cutting the plant and treating the source with herbicide. Follow-up treatments are necessary, and because the plant is so widespread, it can be a tedious and labor-intensive task once the plant is established.

Laws Addressing Invasive Species

In addition to management strategies, regulatory measures can be an additional tool in combating and dealing with invasive species. Invasive species populations span geographic and jurisdictional boundaries thus, efforts to manage invasive species must be coordinated across boundaries.

Federal laws permit agencies to act on growing populations, issuing various guidelines for states and the public to follow as well as implementing its own control mechanisms. States will also create laws and control recommendations for the public to deal with the growing species. Federal and state laws work in conjunction with one another, but states will issue more precise laws targeted at the species

found in those states.

Federal Laws

Federal laws targeting invasive species date as far back as 1900 to the Lacey Act, which had a provision to curtail the introduction of injurious species. While no one law addresses all the concerns of invasive species, many federal laws address some aspect of invasive species and play a role in addressing invasive species. These include and are certainly not limited to:

1. The Lacey Act 18 U.S.C. 42 and through regulations contained in 50 CFR Part 16.
2. Executive Order 13112 (1999) signed by President Clinton defining invasive species as an alien species whose introduction does or is likely to cause economic or environmental harm or harm to human health and created the National Invasive Species Council and the Invasive Species Advisory Committee.
3. Nonindigenous Aquatic Nuisance Prevention and Control Act (1990): 16 USCS 4701-4751.
4. The Asian Carp Prevention and Control Act-Amending the Lacey Act to add Asian Carp onto the injurious species list due to its impact on the Mississippi River, Great Lakes, and other inland waterways through the central states. It prohibits the importation and shipment of certain species of carp (would amend injurious species provisions of 18 U.S.C. 42). (See S.B. 1421).
5. Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA, 7 U.S.C. §§136-136y).
6. Federal Water Pollution Control Act of 1948, also known as Clean Water Act (CWA, 33 U.S.C. §§1251-1376).
7. Fish and Wildlife Act of 1956 (16 U.S.C. §742).
8. The Virus-Serum-Toxin Act, (21 U.S.C. §151 et seq).
9. The Animal Damage Control Act of 1931, as amended (7 U.S.C. §§426 et seq.).
10. The Federal Seed Act of 1939, as amended (7 U.S.C. §§1551 et seq.).
11. The National Environmental Policy Act of 1970 (NEPA, 42 U.S.C. §§4321 et seq.).
12. The Endangered Species Act of 1973, as amended (ESA, 16 U.S.C. §§1531-1543).
13. Federal Noxious Weed Act of 1974 (7 U.S.C. §2814).
14. The Alien Species Prevention and Enforcement Act of 1992 (ASPEA, 39 U.S.C. §3015).
15. The Noxious Weed Control and Eradication Act of 2004 (7 U.S.C. §§7781-7786).

Kentucky Law

Beyond the federal actions related to the control of invasive species, states themselves enact laws relative to the species affecting the local ecosystems. The KDFWR has a multitude of statutes and regulations to address invasive a nuisance species. These include:

1. KRS 150.180 Buying, selling, or transporting protected wildlife, mussels and fishes,

raw fur or processed wildlife.

2. KRS 150.183 Importing, transporting or possessing endangered species of wildlife.
3. KRS 150.275 Permit to take and transport wildlife for commercial nuisance wildlife control, scientific or educational purposes.
4. KRS 150.370 Open Season for Wildlife.
5. 301 KAR 2:081 Transportation and holding of live native wildlife.
6. 301 KAR 2:082 Transportation and holding of exotic wildlife (<https://fw.ky.gov/Wildlife/Pages/Transportation-and-Holding-of-Live-Exotic-Wildlife.aspx>).
7. 301 KAR 2:082 Importation of game birds.
8. 301 KAR 3:030. Year-round season for wildlife.
9. 301 KAR 3:040 Wildlife disaster contingency measures.
10. 301 KAR 3:120 Commercial nuisance wildlife control.

Conclusion

Invasive and nuisance species have major biological, economical and aesthetic impacts on Kentucky. Biological Impacts include the degradation of native habitats, reduced abundance of native species and the loss of biodiversity on a global level. Economic impacts include increased business costs due to interference with commercial fishing, aquaculture operations, logging and agriculture. In addition, tourism dollars are lost when recreational experiences such as hunting, hiking, fishing, swimming and boating are no longer possible or pleasant. Aesthetic impacts of nuisance species are negative when invasion by non-native species results in an inability of the citizens of Kentucky to enjoy and pass along to future generations favorite fishing, hunting and hiking areas.

If the spread of invasive species is not prevented, then their presence in United States and Kentucky may become irreversible and damage to the ecosystems and economy may be beyond repair.

If you have any questions or would like more information on invasive and nuisance species in Kentucky, or fish and wildlife in general, please visit the Department's website at: <https://fw.ky.gov/Pages/default.aspx> or call 800-858-1549 or the Law Enforcement Division at 1-800-25-ALERT.

Scott Porter currently serves as General Counsel to the Kentucky Department of Fish and Wildlife Resources, where he assists the Department with all legal matters including regulatory actions, property acquisition, easements, contracts, construction, permitting, environmental, natural resources and fish and wildlife related matters. He served as chair of the LBA's Environmental Section during 2019 and 2020. Scott can be reached at (502) 564-5116 or scott.porter@ky.gov. ■



LET'S GET OUTSIDE



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HEALTH & WELLNESS COMMITTEE



1000 HOURS OUTSIDE CHALLENGE

How much time to actually spend outdoors? Starting April 1, 2023, the LBA's Health & Wellness Committee is challenging you to spend 1,000 hours outside this year - and track the hours. Visit the LBA website for a link to a trackable form or make your own and share it!

“We need to be moving. We've got to be moving. We're tired because we have not been moving enough. - Dr. Carla Hannaford”

GRAB YOUR SNEAKERS OR HIKING BOOTS!

We're launching a hiking and walking group at the LBA and we'd love for you to join us. We'll hit the trails walking on April 15 at Jefferson Memorial Forest with a picnic lunch at the Horine Campground afterward. This is a family and dog-friendly event! For more information and to register visit the LBA's website at www.loubar.org or email Lisa Anspach at lanspach@loubar.org.



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R. Sean Deskins

The American Bar Association held its 2023 Midyear Meeting in New Orleans, LA in early February. In true New Orleans fashion, the Louisiana State Bar Association welcomed delegates with a Second Line parade to the Louisiana Supreme Court building where a reception was held in their honor. After enjoying the festivities, delegates got to work with a series of delegation and caucus meetings in preparation for the full House of Delegates (House) meeting on Monday, February 6.

Consisting of 589 delegates representing state and local bar associations, ABA divisions, sections and affiliated organizations, the House is the ABA's policy-making and highest-governing body. Along with electing the ABA's officers and approving the budget and other business, the House debates proposed resolutions to determine the ABA's stance on issues related to the association's four goals: (1) serve our members, (2) improve our profession, (3) eliminate bias and enhance diversity and (4) advance the rule of law. Kentucky's own Palmer Gene Vance, II of Stoll Keenon Ogden's Lexington office, leads the House as Chair and is the ABA's second-highest officer.

At the Midyear Meeting, the House debated nearly 30 proposed resolutions concerning matters including the encouragement of the judiciary to implement policies supporting the participation of junior lawyers in courtroom proceedings as well as best practices for remote depositions. Later, the House adopted a resolution encouraging the U.S. Supreme Court to adopt a code of judicial ethics that is binding on justices of the Supreme Court (at present, the Code of Conduct for U.S. Judges applies only to circuit, district, bankruptcy and magistrate judges).

The House also approved a resolution supporting reasonable legislation and regulations to enable authorized government entities and financial institutions to obtain adequate, accurate and timely information concerning the beneficial ownership of entities. The goal is to combat money laundering, terrorist financing and corruption without imposing burdens on attorneys that may jeopardize the attorney-client privilege or otherwise obstruct the attorney-client relationship. Details concerning the proposed resolutions and whether they were adopted or failed can be found on the ABA's website: https://www.americanbar.org/news/reporter_resources/midyear-meeting-2023/house-of-delegates-resolutions/.

The most hotly-debated proposed resolution dealt with whether to eliminate the mandate that law schools require the LSAT or another standardized test as part of the admissions process. Under Standard 503 of the ABA Standards for Approval of Law Schools (Standards), "[a] law school shall require each applicant for admission as a first year J.D. degree student to take a valid and reliable admission test to assist the school and the applicant in assessing the applicant's capability of satisfactorily completing the school's program of legal education." The Council for the ABA Section of Legal Education and Admission to the Bar (Council), which the U.S. Department of Education recognizes as the accrediting body for law schools, proposed making Standard 503 permissive. If the Council's proposal were to prevail, the new Standard 503 would read: "A law school may use admission tests as part of sound admission practices and policies."

Council leadership and other proponents of eliminating the LSAT requirement argued that test scores generate racial, ethnic and socioeconomic disparities and claimed there is an overreliance on test scores. They contend that eliminating the LSAT requirement would give law schools greater flexibility to develop their own admissions policies that take into account the school's missions and other considerations. Additionally, they stated that removing the test mandate would result in an increase in the diversity of applicants and admitted students since tests scores have been shown to generate racial, ethnic and socioeconomic disparities.

Opponents, including the Law School Admissions Council (LSAC) and dozens of law school deans, argue that removing the LSAT requirement will result in less diversity in law school admissions. They claim that, without the objective LSAT score, law schools will be forced to rely on subjective factors, such as extracurricular activities and reputation of the applicant's undergraduate *alma mater*, which tend to favor persons who do not come from historically disadvantaged backgrounds. Those delegates opposing the Council's proposal emphasized that there is no evidence that eliminating the LSAT requirement will accomplish the goal of increasing diversity in law school admissions.

After several rounds of debate, the House voted not to adopt the Council's proposed resolution. The Council is expected to re-submit its proposed amendment to Standard 503 at the ABA Annual Meeting in Denver, CO this August.



R. Sean Deskins is an attorney at Oldfather Law Firm. He has an extensive litigation practice focusing on complex tort, fiduciary, employment and business disputes. Deskins currently represents the LBA in the ABA's House of Delegates and serves on the LBA's Board of Directors. ■



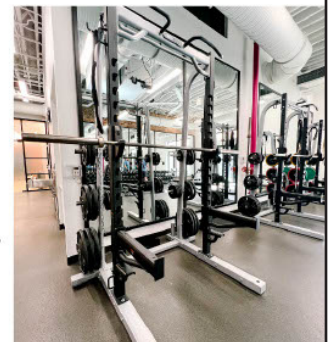
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In 2022, lawyers participating in the Kentucky Lawyer Referral Service earned a combined \$1.1 million through KLRS referrals! Those cases came from the more than 14,000 calls KLRS staff received last year—71% of which were referred to vetted lawyers on the service.

FAQs

• What's required for an attorney to join KLRS?

Attorneys who wish to join KLRS just need to meet a few simple requirements:

- Have a minimum of 2 years of experience practicing law
- Provide proof of up-to-date liability insurance with liability limits of \$100,000/\$300,000 minimum
- Maintain an active law license through either the Kentucky Bar Association (KBA) or the Indiana State Bar Association (ISBA), and
- Have no disciplinary actions with your state bar association or any pending criminal charges

• How much does it cost to join KLRS?

Annual dues are \$75 for LBA members and \$125 for non-members. Additionally, KLRS receives 15% of any fees of \$200 or more earned from a referred client.

• How many panels of law are included with a KLRS membership?

Two full panels of law are included in a yearly KLRS membership, and you can join additional panels for \$30 each.

• Do you have to take free cases or reduced fees for KLRS clients?

No. You may elect to receive reduced-fee referrals for clients who qualify, but we do not require any KLRS attorney to take a referred case at a reduced rate. KLRS does not have a pro bono fee schedule and we are transparent with callers regarding fees.

• Can I give a case to another attorney?

Cases may be transferred/given to another attorney within your firm or office. Panel members shall maintain primary supervisory responsibility and control of each case.

• What if I need to pause my availability?

Just let KLRS know the length of time you will be unavailable and we can pause your referrals. When you are ready to take referrals again, we will put you back in the rotation for each of your panels.

• Do you offer interpretation services?

The LBA and KLRS recently partnered with Language Line Services for interpretation purposes. As an LBA member, you receive a personalized discount when you set up a Language Line account. They have specialized legal and medical interpreters and provide on-demand and scheduled interpretation for more than 200 languages.

• Do I have to take calls for cases all over the state?

No. You get to choose which counties you want to work in, whether that means just one county or all 120!

• What if I'm licensed in Indiana and not in Kentucky?

We receive many calls from clients in southern Indiana, and we would love to have you join us.

• What are the most in demand areas of practice?

Currently, we have an immediate need for attorneys who practice in these areas or have these skills:

- Landlord/Tenant or Tenant Rights
- Auto Consumer Fraud
- Guardianship/Conservatorship
- Police/Jail Misconduct
- Unemployment
- Veterans Disability
- Retirement/Pensions
- Bilingual attorneys for all areas of law

PANELS NEEDED:

Tenant Rights, Police/Jail Misconduct, Auto Consumer Fraud and Adult Guardianship/Conservatorship.

In just the first three months of 2023, KLRS has been forced to turn away more than 300 callers because we had too few attorneys available on certain panels to accept their cases. Don't miss another potential client – help us make sure everyone gets a fair chance to pursue their claims!

KLRS WELCOMES NEW LBA MEMBERS TO THE SERVICE.

Andrea Hunt, Cobb Law

Panels: Business Law & Professional Negligence/Product Liability

Makenzie Ackermann, Schurman Ackermann

Panels: Business Law, Domestic/Family Law and Wills & Estates

Shelby Hall, Schurman Ackermann

Panels: Business Law, Domestic/Family Law and Wills & Estates

Michael Ryan, Lawrence & Associates

Panels: Social Security, Tort Law and Worker's Compensation

Joseph Mayhorn, Mayhorn Law

Panels: Domestic/Family Law and Real Estate

Kevin Monsour, Bruce Law Group

Panels: Business, Labor/Employment Law and Tort Law

Christopher Harrell, Harrell Law

Panels: Domestic/Family Law and Social Security

KLRS COMMITTEE CHAIR



Abigale Rhodes Green
Grossman Green PLLC

How long have you belonged to KLRS?

Since 2016

What is the top benefit to joining KLRS?

Helping educate the community on legal issues and representing individuals who might otherwise lack access to an attorney.

What is your number 1 goal for the KLRS Committee?

Provide quality information for the public while also providing profitable leads for participating lawyers.

What would be your karaoke song?

I have zero musical skill. Lately, I've been listening to 90's country with my daughter and would probably sing "It's a Great Day To Be Alive" by Travis Tritt.

What would be your karaoke song?

I have zero musical skill. Lately, I've been listening to 90's country with my daughter and would probably sing "It's a Great Day To Be Alive" by Travis Tritt.

Favorite Podcast?

"What It Takes" by the American Academy of Achievement. The episodes with Ruth Bader Ginsberg, Oprah and Lauryn Hill are my favorites.

Last book you read?

"The Seven Husbands of Evelyn Hugo" by Taylor Jenkins Reid.

HOW CAN I JOIN?

Contact the KLRS Director, Debby Dye, at (502) 569-1362
E-mail us at klrs@loubar.org | Go online to www.loubar.org

MEMBERS on the move



Bowles



Cox



Davidson



Huse

Vaughn Pettit is pleased to announce the addition of **Judge David Bowles (Ret.)** to the firm. Prior to serving 14 years as a Kentucky District Judge, Judge Bowles was a Lieutenant with the Jefferson County Police Department, retiring in 2001 to begin his law practice. Before being elected to the bench, he practiced in all state and federal courts in the Commonwealth of Kentucky and the Southern District of Indiana, handling public sector defense, civil rights defense, employment law and probate matters. His former clients included police officers, jailers, elected officials and local governments across the Commonwealth. Judge Bowles is pleased to resume his work in public sector defense and is also available for mediation in probate and public sector matters.

Gordon Rees Scully Mansukhani is pleased to announce that attorney **Megan P. Keane** has joined the firm as Senior Counsel. She is part of the firm's Commercial Litigation, Real Estate, Bankruptcy, Restructuring & Creditors' Rights, Trials, Appellate and Community Association Law practice groups. Keane has over a decade of experience in commercial and business litigation and general liability defense. She has developed a broad skill set, representing financial and real estate-related entities, among other clients, in various complex matters. Keane serves as the Young Lawyer Delegate for Kentucky to the American Bar Association House of Delegates. She received her J.D. from the University of Louisville Brandeis School of Law.

Let us know what you've been up to!

Members on the Move announcements are printed **FREE** of charge!

Send announcements to Shannon Greer, sgreer@loubar.org.



Wyatt, Tarrant and Combs is pleased to announce that **Julie Watts** has been selected to the Alice Houston Women's Leadership Program. This inaugural class of women are a part of Leadership Louisville's newest initiative and is designed to accelerate and sustain the growth of mid-level women leaders into positions of influence. Watts is a Partner in the firm's Litigation & Dispute Resolution, Labor & Employment and Intellectual Property Protection & Litigation Service Teams. Watts earned her J.D. from the Indiana University Maurer School of Law, where she was the senior managing editor of the Indiana Journal of Law and Social Equality.

Lynch, Cox, Gilman & Goodman is pleased to announce that **Stacey Huse, Matthew Cox** and **Jessica Ronald** have been named shareholders in the firm. Huse is admitted to practice in Kentucky and Indiana and concentrates her practice in the areas of employee benefits, ESOPs, transactional matters and general corporate law. Cox is admitted to practice in Kentucky and concentrates his practice in the area of general litigation. Ronald is admitted to practice in Kentucky and the U.S. Patent and Trademark Office and concentrates her practice in the area of Intellectual Property.

O'Bryan, Brown & Toner is pleased to announce that **Brian W. Davidson** and **Jennings D. Kleeman** have joined the firm. Davidson attended the University of Kentucky where he earned both his undergraduate and law degrees. He joined O'Bryan, Brown & Toner after spending six years with a local firm where he focused on defending workers' compensation claims at every level. His primary area of focus at the firm is workers compensation law. Kleeman received his J.D. from University of Cincinnati College of Law and worked at a Cincinnati firm practicing real estate law prior to joining O'Bryan, Brown & Toner. His practice is focused on insurance defense litigation. ■



Keane



Kleeman



Ronald



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1 office approx. 8' x 10' - with adjoining room that can be used for secretarial office or storage/copy area

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Experienced Legal Assistant:

A highly reputable Business/Commercial Litigation firm specializing in business disputes, employment law, estate and securities litigation, real estate litigation and more is hiring a Legal Secretary to join their practice. This position is direct-hire with the law firm and is full-time. Highlighted requirements: 5+ years Legal Secretary/Assistant experience in supporting litigation attorneys. Experience should include supporting Partner-level litigation attorneys. Strong computer and e-filing skills required; minimum typing speed of 60 wpm, intermediate to advanced skills in MS Word, Excel, Adobe Pro, Electronic Filing with state and federal courts, formatting appellate briefs and proofreading skills. Position requires the ability to exercise mature judgment, perform well under pressure, prioritize work well, take direction from other team members and monitor and prepare for upcoming deadlines. Attention to detail required. They offer generous benefits, including 401k, profit sharing, life insurance and more. Compensation also includes a discretionary bonus and paid parking downtown. Send resumes in MS Word format to the LBA Placement Service Director, David Mohr, dmohr@loubar.org.

Medical Malpractice Attorney:

The LBA's Placement Service is currently working with a boutique defense litigation law firm located in downtown Louisville that is looking to hire a highly-motivated associate attorney to join its medical negligence defense team. Candidates must have strong academic credentials, excellent skills in legal writing, analysis, organization and self-management, committed work ethic, experience in taking depositions and arguing motions, attention to detail and client relations skills. The ideal candidate will have at least one to three years of experience. Work hours: Billable expectation - 1600 hours. Salary: Competitive salary and benefits commensurate with experience. Send resumes in MS Word format to the LBA Placement Service Director, David Mohr, dmohr@loubar.org.

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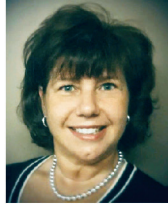
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Join us in-person at the LBA, 600 W. Main St., Suite 110, or watch a livestream of the discussion at the LBA's Facebook page. For more information, contact the LBA at (502) 583-5314.

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Coalition for the Homeless



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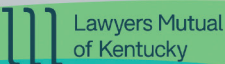
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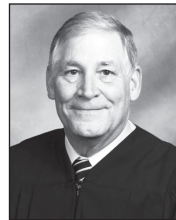
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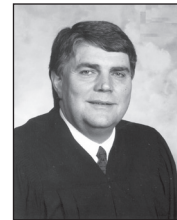
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