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Professional Excellence

Events

In this issue

Thanks to the Great People Behind a Great Bar Association

I don't know if its the good streak of great weather, the great night of sleep I just had, the at least 20,000 plus steps a day I'm getting or just catching up with old friends, but I find my mood excellent. Part of it has to be surrounding myself with good people. I'm not sure who or how it was said, but I know that we become the company we keep. In this arena, I excel. I always make sure I'm not the smartest, most ambitious or generous person in any room. It pushes me to be a better person.

With this in mind, I want to recognize how deep the talent pool is on the Louisville Bar Association Board of Directors. It is incredible. We're a bar that continues punches way above our weight class in any city our size. Our programming and community engagement is excellent. As such, I want to highlight our board members and thank them for their service.

Aaron Marcus is a thoughtful leader who carefully weighs issues in front of him. Kenyon Meyer just screams competency, excellence and fun. Mike O'Connell gives so many young lawyers, including yours truly, their start in the practice of law and is remarkably caring about the welfare of the city of Louisville. Same with Leo Smith at the Public Defender's Office, who lives a life of service to the community. He's stepping down from the board this month and we'll miss him. Huge shoes to fill.

Judge Ann Bailey Smith is among the most sober-minded and kind-hearted, fantastic judges I know. Judge Santry is an amazingly respected Family Court Judge and fun; she keeps the Board in stitches while contributing to the bar. Chelsea Granville Reed had me at the first meeting when she chaired the LBA Litigation Section – it remains one of our most involved sections. Susan Phillips is a giant of the medical malpractice field and so generous. Once I was at a deposition at her office when there was an active shooter downtown, and she offered me a glass of wine until the shooter was caught. I declined, but what a host! Like Susan, Tanner Watkins is a KBA representative to our board, but he has a hidden talent as an auctioneer. Judge David Hale single-handedly brought federal practitioners back in the LBA fold. Abby Green worked diligently on the Kentucky Lawyer Referral Service, in between trial wins. Tricia Lister has been an active board member between elections and community service to the city.

Dean Melanie Jacobs, a very impressive person and friend. My respect for her is endless; and she strengthened the LBA's connection to UofL Law School. Zach Hoskins, also between trials and nerding out on comics, is a dedicated board member. I have been adverse to him on a number of occasions and he is an honest and outstanding lawyer. Same with Andrew Pellino; I recently had my first case with him. He's a fantastic family man, and looks and acts like Captain America. Upon the advice of Mark Fenzel, someone I admire, I brought Bruce Paul on the LBA Board. Intellectual property lawyers are way smarter than this simple car wreck lawyer. In addition to bar service, I keep catching him on his way to present at some conference.

I went to law school with Justin Key and he is not only a great pickleball partner, but an excellent and dedicated family law lawyer. He never shields from volunteering his limited time to the LBA. In fact, we served together as section chairs and vice-chairs of the LBA's Solo & Small Practice Section, early in our practice. Sean Deskins works for Ann Oldfather and, like Abby, has a lot of high-value successful trials. He also is active with the ABA and serves as a dear friend and confidant to me. Same with Joe Stennis, I've known him since law school, he was awesome then and now. I'm especially grateful for his efforts in the Bar Center fundraising campaign.

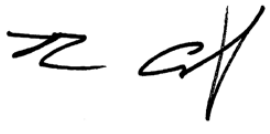
Matthew Swafford is an engaged member with critical thinking skills. And for this personal injury lawyer, it is always good to know a guy working for an insurance company. Same with Al'Lisha Hanserd, always good to know someone in subrogation and I am thankful for her active participation. Gerina Weathers is making history at the Commonwealth Attorney's Office; I know that won't be her last stop. Charles Stopher's leadership at the Louisville Bar Foundation is inspiring, and he might be the world's most likeable guy. I've been lucky to know him since elementary school.

Briana Bluford's work on the Bylaws Committee has been invaluable and I am proud of her work with the Young Lawyers Section, even with working with the Kentucky Lottery; she's got a lot on her plate. Amy Cubbage has an impressive track record of public service. And we welcome Judge Mary Wolford to her first year of service and welcome her to the bench.

I look forward to Maria Fernandez' presidency. She has been LBA-focused for at least fifteen plus years, that I personally know of, and likely much more. I was thrilled to get Jennifer Ward Kleier on the Executive Committee with her commitment to mental health. Kate is an impressive partner at an impressive firm and has been a great neighbor, past president and a bit of a therapist to me. She has an eye on detail that serves us well, ensuring tax compliance. Sam Wardle: forget it. Great lawyer, I have cases against him and referred him cases. Huge amount of respect for him and his heavy lifting on the Bylaws Committee.

Getting input from others, especially as impressive as the members of the board are, is crucial for making big decisions. Their advice allows me and the LBA to be open to evolving when presented with new views and insights.

Like I said, the Louisville Bar Association's talent pool runs deep. We continue to accomplish great things for the bar and community and function as a bar in larger cities with more resources. It is important to pause and show my personal gratitude for each of these people and the board as a whole. Like you, I hold these people in esteem and am grateful for their service.



Bryan R. Armstrong
LBA President

> *I'm not sure who or how it was said, but I know that we become the company we keep.*

2024 OCCC Attorney Survey Results

We Must Do Better – We Will

Since my administration began, two of the foundational principals guiding the Office of the Circuit Court Clerk (OCCC) have been our commitment to seeking continuous improvement and our open-door policy to enhance communication.

The open and honest feedback that we have received through the years has been vital to our success – suggestions and input that have come from our own TEAM members, from the customers we serve and, of course, the attorneys who utilize our operations as our most frequent patrons.

Through the annual Attorney Survey, we receive your anonymous and candid feedback. We use this data to calibrate our operations and improve service. Further, we share any input about electronic filing with the Administrative Office of the Courts (AOC), which administers eFiling and our case management system (KyCourts), and we pass along judge-related feedback to the local judiciary.

Earlier this year, we conducted our Attorney Survey, and I would like to express my appreciation to those who took the time to respond. While rating our overall OCCC service provided, we tabulated 32.08 percent who said we delivered "Excellent" service, 46.7 percent who said "Good" service and 16.98 percent who noted "Satisfactory" service. However, 4.24 percent noted that their experience was either "Poor" or "Unsatisfactory." This provides us with an opportunity to address what is not working well.

As we have traditionally offered as part of the survey, there was an open-ended question: "How can we improve?" and we received input from 69 attorneys. While there were those who said we were doing well, others said we have missed the mark and need to improve. The comments noted several specific areas for improvement, such as better customer service etiquette, answering phones in a more timely fashion and staying on top of basic core functions, such as keeping the paper files up to date (among other suggestions). My promise to you is that we must do better, and we will do better.

Thank you for your feedback, especially the difficult observations where you take us to task. Getting honest comments is the reason why we conduct this annual exercise, not just to check a box and move on. We hear you and we are determined to address every complaint for resolution, both internally and in conjunction with the AOC. We will always strive for continuous improvement because it is an honor and privilege to serve as your Circuit Court Clerk, and you deserve this level of commitment from your public servants.

– David Nicholson, Circuit Court Clerk. ■

KYLAP Launches American Foundation for Suicide Prevention's First Interactive Screening Program Designed for Legal Professionals

Kentucky Lawyer Assistance Program (KYLAP) has partnered with the American Foundation for Suicide Prevention (AFSP) to implement AFSP's Interactive Screening Program (ISP), offering mental health and suicide prevention support to Kentucky's legal professionals including lawyers, judges and law students. AFSP is the country's leading organization at the forefront of advancing science, advocacy and education for suicide prevention, including support for those affected by suicide.

The Kentucky Legal Professionals' Interactive Screening Program (KLP-ISP) is an evidence-based, online screening program that provides a safe and secure method for individuals to **anonymously** and proactively connect to peer and clinical support before crises emerge. Kentucky is proud to offer this new screening tool, which is the first of its kind in the country targeted specifically to legal professionals. As part of the partnership, Kentucky Lawyer Assistance Program will offer ISP for all legal professionals as defined in SCR 3.910 (all Kentucky law students, lawyers and judges).

As of May 1, 2024, this program is now open to all Kentucky Bar Association members. To access this screening program, visit *https://kylap.caresforyou.org*.

If someone you know is considering suicide or in a mental health crisis, dial 988 for the Suicide and Crisis Lifeline. ■

The LBA will be participating in the *Out of the Darkness: Suicide Prevention Walk* on November 2.

Details on how to join Team Walking for Tomorrow coming soon!

A Constitutional "Red Flag": Symbol or Speech?

Chief Judge Ann Bailey Smith

"It's never an insult to be called what somebody thinks is a bad name. It just shows you how poor that person is, it doesn't hurt you."

From "To Kill a Mockingbird" by Harper Lee

An American flag flown upside down, a Supreme Court Justice and a crude insult have been in the news as the result of a *Washington Post* story which was only recently brought to light concerning an event that occurred between the January 6, 2021 attack on the United States Capitol and the inauguration of President Biden. An upside-down American flag at the Alexandria, Va., home of United State Supreme Court Justice Samuel Alito was photographed and questions were raised. When confronted with this photograph, Justice Alito told reporters in an e-mail that this was his wife's doing (vaguely reminiscent of the Adam and Eve biblical story); she was upset over a yard sign in her neighbor's yard that was demeaning to then-President Trump, and the neighbor had called his wife a bad name. This resulted in his wife flying the United States flag upside down. Justice Alito also stated that his wife, Martha-Ann Alito, has First Amendment rights while Mrs. Alito explained that the upside-down flag is an international sign of distress.

This incident, along with a flag flown at the Alitos' vacation home in New Jersey which reads "Appeal to Heaven," has raised the issue of recusal in light of cases pending before the United States Supreme Court where former President Trump is a defendant. It has been reported that upside down American flags and Appeal to Heaven flags were carried by some of those who attacked the Capitol on January 6, 2021. Justice Alito says that he was unaware that the Appeal to Heaven flag had any connection with the effort to overturn the 2020 presidential election.

With the Fourth of July holiday upon us, where the Stars and Stripes are proudly displayed throughout this country, I thought it would be interesting to look at some laws and cases that concern the American flag.

In 1903, Nebraska enacted "An Act to Prevent and Punish the Desecration of the Flag of the United States," which criminalized using the flag of the United States "to sell, expose for sale, or have in possession for sale, any article of merchandise upon which shall have been printed or placed, for purposes of advertisement, a representation of the flag of the United States." In this instance, the American flag was displayed on a can of "Stars and Stripes" beer and the two men who used the flag to advertise their beer were convicted in violation of the act and fined $50. The case was eventually appealed to the United States Supreme Court with Justice John Marshall Harlan writing the opinion for the Court, which upheld the conviction in *Halter v. Nebraska*, 205 U.S. 34 (1907). In the opinion, Justice Harlan states: "Therefore a state will be wanting in care for the wellbeing of its people if it ignores the fact that they regard the flag as a symbol of their country's power and prestige, and will be inpatient if any open disrespect is shown towards it."

In 1942, Congress enacted the Flag Code Resolution (Public Law 77-623) to codify existing rules and customs pertaining to the use of the American flag. There was, however, no penalty provided for violating any of its provisions. Section 4 (a) reads that "The flag should never be displayed with the union (the blue part of the flag with the stars) down save as a signal of distress." Most typically this would invoke an American ship at sea facing peril.

In the 1960s, the burning of the American flag as a means of political protest prompted nearly every state in the nation to enact or enforce existing laws against desecrating the flag. In 1989, the United States Supreme Court held that Gregory Johnson's burning of the American flag during a political demonstration in opposition to former President Ronald Reagan being re-nominated at the Republican National Convention in Dallas was expressive conduct protected by the First Amendment. The State of Texas, in arguing to uphold Johnson's conviction for desecrating the flag stated that Texas had an interest in preserving the American flag as a symbol of nationhood and national unity. The Court noted that Texas agreed with federal law that the proper method of disposing of a flag that is tattered or torn is to burn it, so Texas cannot say it's okay in that circumstance but not okay when a person burns the flag as a matter of protest. Justice Brennan, in writing for the 5-4 majority, stated:

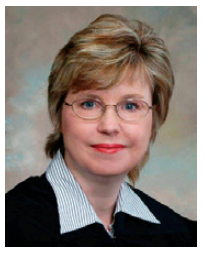
> And, precisely because it is our flag that is involved, one's response to the flag burner may exploit the uniquely persuasive power of the flag itself. We can imagine no more appropriate response to burning a flag than waving one's own, no better way to counter a flag burner's message than by saluting the flag that burns, no surer means of preserving the dignity even of the flag that burned than by.... according its remains a respectful burial. We do not consecrate the flag by punishing its desecration, for in doing so we dilute the freedom that this cherished emblem represents. *Texas v. Johnson*, 491 U.S. 397, 419-420 (1989).

The American flag is the most recognized symbol of the United States. As it represents the land of the free, the flag is used, and sometimes abused, in protest. As of the writing of this article, Justice Alito has stated that he will not recuse from cases involving former President Trump.

. . .

In other news, our own Judge Susan Gibson was acknowledged in the credits of author Kim Michele Richardson's book "The Book Woman's Daughter," which is a sequel to her highly acclaimed novel "The Book Woman of Troublesome Creek." Ms. Richardson is a Kentucky author who writes about life in Appalachia. Judge Gibson contributed legal research to some of the themes addressed in the sequel. A well-deserved shout out to Judge Gibson for assisting in making this book such a success.

And, finally, I want to acknowledge the 53 years of service that the Louisville Metro Public Defender's Office has provided to our community. As of July 1, per legislative enactment, the Public Defender's Office will be under the direction of the Department of Public Advocacy as one of its branch offices. During its more than five decades in existence, the Public Defender's Office had only three leaders: Colonel Paul Tobin, Dan Goyette and Leo Smith, who were dedicated to providing indigent criminal defendants with the best legal representation that money can't buy. So many excellent attorneys have come from that office over the years that I couldn't even begin to name names. This community, our legal profession and the courts of Jefferson County owe a debt of gratitude to the Louisville Metro Public Defender's Office for its excellent representation of those accused of crimes who could not afford to retain private counsel.



Chief Judge Ann Bailey Smith presides in Division 13 of Jefferson Circuit Court. ■

U.S. Supreme Court Says Money Damages for Copyright Infringement Can Be Recovered for Any Timely Claim

Jason Raff

The U.S. Supreme Court recently issued an important decision affecting a plaintiff's ability to recover money damages for copyright infringements that occurred more than three years before filing suit.

Imagine you are an aspiring musical artist who has recorded a few songs, but whose career has not yet taken flight. You make some poor choices and end up in prison. When you get out ten years later, you discover that a record company has been profiting from your songs during your time in lockup. You immediately hire a lawyer and file suit for copyright infringement, claiming money damages for the last ten years. You win the case, but the infringer argues that, under Supreme Court precedent, you can only recover damages for the three years prior to filing suit, while the infringer gets to keep its profits from the remaining seven years of infringements.

These were roughly the facts in *Warner Chappell Music, Inc. v. Nealy*, 144 S.Ct. 1135 (2024), in which the U.S. Supreme Court in a 6-3 decision held that a copyright owner can obtain monetary damages for any timely infringement claim, no matter when the infringement occurred. The decision resolved a split among three Federal Circuit Courts of Appeals resulting from differing interpretations of the Supreme Court's last major decision about the recovery of damages for copyright claims in *Petrella v. Metro-Goldwyn-Mayer*, 572 U.S. 663 (2014).

How Did We Get Here?

The federal Copyright Act (17 U.S.C. §§ 101 *et seq.*) allows owners of copyrights in expressive works to recover money damages for others' violations of any of the copyright owners' six exclusive rights under copyright. Often, money damages take the form of the infringer's profits attributable to the infringing use of the copyrighted work. But the Copyright Act expressly limits suits for infringement to those that are "commenced within three years after the claim accrued." 17 U.S.C. § 507(b).

So, when does a copyright claim accrue? The Supreme Court last discussed copyright claim accrual in 2014 in *Petrella*, where the plaintiff knew of the defendant's infringing use of the story to the movie *Raging Bull* for approximately 15 years before filing suit. The *Petrella* Court was thus faced with the question of whether laches—where a plaintiff unreasonably delays filing suit in a way that prejudices the defendant—was a defense to copyright infringement. Before reaching the laches question, the Court first discussed, but declined to expressly adopt, the various accrual theories that lower courts had recognized in copyright claims. These included:

Injury rule. Under the injury rule, a copyright claim accrues when the infringement occurs, and the plaintiff has a complete and present cause of action.

Discovery rule. Under the discovery rule, a copyright claim accrues when the plaintiff discovered or through diligence should have discovered the infringement. Currently, the discovery rule is applied in copyright infringement cases in every federal circuit.

Separate accrual. When the defendant commits successive infringing acts, the statute of limitations runs separately from each infringement.

The *Petrella* Court held that laches did not apply in copyright infringement cases, but because each infringing act "starts the clock" anew, a plaintiff with actual or constructive knowledge of a series of infringements will be limited to those infringing acts that occurred in the three years before the suit was filed.

Then, the *Petrella* opinion uttered these fateful words: "[A] successful plaintiff can gain retrospective relief only three years back from the time of suit. No recovery may be had for infringement in earlier years. Profits made in those years remain the defendant's to keep." This phrase led to a split among the Second Circuit and the Ninth Circuit about whether Section 507(b) bars recovery for damages that occurred more than three years before suit, even where the plaintiff did not and could not discover the infringement.

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The Second Circuit and Sohm

The Court of Appeals for the Second Circuit was the first appeals court to interpret *Petrella in Sohm v. Scholastic Inc.*, 959 F.3d 39 (2d Cir. 2020). In *Sohm*, the plaintiff timely filed suit in 2018, within three years of discovering that defendant had been infringing his copyrighted photographs since 2004. On appeal from the district court's summary judgment order, the Second Circuit held that *Petrella* did not alter the circuit's application of the discovery rule but, citing the above language, *Petrella* did limit the plaintiff's recoverable damages to the three years prior to filing suit.

The Ninth Circuit and Starz

Like the plaintiff in *Sohm*, the plaintiff in *Starz Entertainment, LLC v. MGM Domestic Television Distribution, LLC*, 39 F.4th 1236 (9th Cir. 2022), timely filed suit after discovering the defendant's infringing conduct, but some of the infringements occurred more than three years before the date of filing. The defendant claimed that *Petrella* established a complete bar to monetary recovery for infringements beyond the three-year "look-back" period. The Ninth Circuit disagreed and, taking direct aim at *Sohm*, held that the *Petrella* Court did not pass on the applicability of the discovery rule, but instead only addressed laches as a bar to recovery. The *Starz* court held that a plaintiff could reach money damages incurred more than three years before the date of suit so long as the entire claim was timely under the discovery rule.

The Supreme Court and Nealy

As explained above, Nealy discovered that a record company had been profiting from his songs when he got out of prison on completion of his ten-year criminal sentence. The district court found that Nealy's claim was timely under the discovery rule and that he was entitled to recover damages for all infringing acts. The defendant appealed, urging the Eleventh Circuit to adopt the Second Circuit's holding in *Sohm* and limit Nealy's recovery to the three years before suit. *Nealy v. Warner Chappell Music, Inc.*, 60 F.4th 1325 (11th Cir. 2023). The Eleventh Circuit instead adopted the Ninth Circuit's holding in *Starz*, and defendant appealed to the Supreme Court to resolve the split.

In a short opinion by Justice Elena Kagan, the Court assumed, without deciding, that the discovery rule applied in copyright infringement cases. The Court went on to find that nothing in the plain text of the Copyright Act imposed a time limit on monetary damages, and that the Second Circuit's application of a three-year damages bar "makes the discovery rule functionally equivalent" to the accrual rule. The Court also clarified that *Petrella* dealt with the Act's limitations provision "when a plaintiff has *no* timely claims for infringing acts more than three years old." Because the plaintiff in *Petrella* "had long known of the defendant ' s infringing conduct, she could not avail herself of the discovery rule," and was limited to damages for claims that accrued within the three-year lookback period. And so, the Supreme Court in *Nealy* held that the "Copyright Act entitles a copyright owner to recover damages for any timely claim."

The Dissent and the Future of Nealy

Justice Neil Gorsuch dissented from the majority's opinion, joined by Justices Thomas and Alito. The dissenters took aim at the majority's assumption that the discovery rule had any application in federal civil claims. Citing *Rotkiske v. Klemm*, 589 U.S. 8 (2019) (not a copyright case), the dissenters claimed the Court interprets statutes with the injury rule as the standard, and that the discovery rule should only apply in cases of fraud or concealment. They would have dismissed the case as improvidently granted and awaited a case that squarely addresses the question whether the Copyright Act authorizes the discovery rule.

Hearst Newspapers, L.L.C., et al. v. Martinelli, 65 F.4th 231 (5th Cir. 2023), *cert. denied* --- S.Ct. ---- (2024), posed that very question to the Court on a recent petition for certiorari, which the Court denied without opinion on May 20, 2024.

What Does the Nealy *Decision Mean for Your Clients?*

The *Nealy* decision was undoubtedly a win for copyright plaintiffs. In a digital world where unauthorized reproductions, displays and performances of copyrighted works are both easier to commit and harder to detect, *Nealy* allows plaintiffs to recover money damages for infringements whenever they occur, so long as the claims are brought within three years of the plaintiffs' discovery (or constructive discovery) of their injury. It is always prudent to advise copyright owners, content creators and licensors to diligently police their copyrights for potential infringements, but after *Nealy* there is at least some certainty that they may obtain full monetary recovery for timely claims.

For defendants, especially large institutions or organizations that use lots of creative content, *Nealy* means exercising additional diligence to root out and mitigate potential infringements. An accused copyright infringer can no longer rely on *Sohm* to limit a plaintiff's damages for old infringements. This is especially important where a defendant's licensed uses may be difficult to substantiate due to loss or destruction of old records.

Jason Hart Raff is a law clerk and incoming associate attorney at the firm Gray Ice Higdon, PLLC, in Louisville. In May, Jason graduated summa cum laude *from the Louis D. Brandeis School of Law at the University of Louisville. Prior to attending law school, Jason was a staff Spanish interpreter for the Kentucky Court of Justice in Jefferson County, managed a translation and interpreting department for the Presbyterian Church, U.S.A., and was a performing classical cellist and orchestral conductor. He is especially excited by all aspects of intellectual property law.* ■

Pre-Death Power of Attorney Service Fees Require Claim Filing Against Estate

By John R. Cummins and Thomas H. Monarch

> *The safe course legally is to file a claim asserting the right to payment for goods and services provided to a decedent before his or her death.*

In Estate of Reeder, 217 N.E. 3d 1071 (Ill. App. 2023), the decedent's attorney had served his client under a power of attorney during the decedent's lifetime. After the client died, the attorney then charged the estate for his pre-death power of attorney services. This same attorney was also named and serving as the personal representative of the client's estate. So, on behalf of the estate, he was paying himself for his power of attorney services which had been rendered during the client's lifetime.

The attorney's payment of his own bill for lifetime services under the power of attorney was challenged by one of the charities which was a beneficiary under the decedent's will, and the Illinois Attorney General's Office intervened on behalf of all the charitable beneficiaries. They asserted that the bill for power of attorney services was a claim against the estate that had to be filed following the statutory claim process. The attorney had not filed a claim against the estate for his pre-death power of attorney services fees before the statutory time deadline, so the Attorney General contended that the claim was now barred. The Attorney General noted that the statutory claims process included the power of the court to appoint a special representative to handle claims filed by the personal representative personally, in order to avoid potential conflicts such as the one here.

The attorney argued that the express language of the will allowed the personal representative of the estate to settle claims without a court order. The appellate court felt that this boilerplate provision in the will, which the attorney himself had drafted, did not specifically address the attorney's own claims for pre-death services rendered under the power of attorney. As a result, the will language did not address or waive the conflicts of interest the attorney had in paying his own bill for his pre-death services as personal representative of the estate. Further, the will language did not waive the filing of claims against the estate as required by the claims statute; it merely allowed the personal representative to resolve such filed claims without court approval. Here, given the attorney's conflict of interest, the court likely would have required court approval if the attorney had timely filed a proper claim.

The safe course legally is to file a claim asserting the right to payment for goods and services provided to a decedent before his or her death. The claim should be filed in the form and at the time required by your state's estate claims statute. This filing process is particularly important where the personal representative of the estate is the one asserting the claim. Further, with such a conflict of interest, a personal representative probably should first obtain either court approval or beneficiary waiver before paying their own properly filed claim from an estate.

Partner John R. Cummins and Managing Associate Thomas H. Monarch are based in Dentons' Louisville office and are members of the firm's Trusts, Estates, and Wealth Preservation group. ■

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Earl May Have Had to Die, But He Also Had the Right to Counsel

Procedural Due Process in the Context of Domestic Violence Actions

Ethan Chase

Though I, personally, have no interest in the defense of the abusers of children and their family, I do—as all lawyers should—have an interest in ensuring that our system of justice provides adequately fair processes for adjudicating those cases to finality. Kentucky's children deserve as much. Considering the nature of the rights at stake in family court, those rights are among those afforded the highest constitutional protections. In domestic violence actions in particular, our family courts are confronted with intimate and complex problems affecting families. Mindful of rights so fundamental, Courts—and lawyers—must be vigilant of the sufficiency of due process afforded in these cases. The procedures currently afforded to respondents in domestic violence actions, and respondent parents, especially, are insufficient considering the seriousness of the rights at stake.

A. The Rule and its Exceptions.

It is well-settled law in Kentucky that even an indigent civil litigant is not constitutionally entitled to appointment of counsel, except in extremely limited circumstances. For example, if imprisonment is a potential consequence of civil contempt, then counsel may be appointed. *Lewis v. Lewis*, 875 S.W.2d 862 (Ky. 1993). Or, if a prisoner fails to defend a civil action brought against them, a guardian *ad litem* **must** be appointed for them before a judgment can be entered. Kentucky Rule of Civil Procedure (CR) 17.04; *Davidson v. Boggs*, 859 S.W.2d 662 (Ky. App. 1993). In 2021, our Supreme Court recognized another exception to this rule in holding that minor children also have the right to counsel when named as a party to domestic violence and interpersonal protection actions. *Smith v. Doe*, 627 S.W.3d 903, 904 (Ky. 2021); CR 17.03. Nevertheless, our Supreme Court has accepted that, "the right to counsel is not afforded in a civil case such as a DVO hearing." *Gutierrez v. Com.*, 163 S.W.3d 439, 442 (Ky. 2005). Practitioners should realize that more recent caselaw concerning the various rights implicated in domestic violence cases—including the constitutional right to bear arms and the fundamental right to the care, custody and control of one's children—inform a constitutional mandate that requires one more exception to this rule. Additional procedural protections, such as court-appointed counsel, are constitutionally necessary to ensure these fundamental rights in domestic violence proceedings.

B. The Rights Implicated in Domestic Violence Actions Involving Children.

The Supreme Court of the United States, in the case of *District of Columbia v. Heller,* held that the Second Amendment protects an individual's right to possess firearms for certain purposes, including self-defense in the home. 554 U.S. 570 (2008). In *McDonald v. City of Chicago,* the Supreme Court expounded on *Heller*, holding the right to bear arms was a "fundamental" right. 561 U.S. 742 (2010). The Court reasoned that the Second Amendment applies both to laws imposed by the federal government and laws enacted at the state and local level by way of the due process clause of the Fourteenth Amendment. In *New York State Rifle & Pistol Association v. Bruen*, the Court resolved two of the questions left open following *Heller* and *McDonald:* (1) does the right to bear arms extend beyond the home, and (2) how are courts meant to assess a claimed infringement of the right? 597 U.S. 1 (2022). Ultimately, the Court held that the protections of the Second Amendment extend beyond the home, and announced the standard to assess Second Amendment challenges to firearm laws: when the plain text of the Second Amendment covers the regulated conduct, the Constitution presumptively protects it. To justify a regulation of that conduct, the government must demonstrate that a challenged law is consistent with the "historical tradition" of firearm regulation in this country. *Id.* The Court, of course, did not articulate which historical tradition or traditions lower courts were to look to when measuring whether a firearm restriction was violative of the Second Amendment.

Most recently, in the matter of *United States of America v. Rahimi*, the Supreme Court

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addressed the question of whether 18 U.S.C. 922(g)(8), which prohibits the possession of firearms by persons subject to domestic violence orders, is violative of the Second Amendment. 602 U. S. ____ (2024). This case, out of the Fifth Circuit, involves the appellate court's holding that, on their face, prohibitions against firearm possession by perpetrators of domestic violence are unconstitutional. 61 F.4th 443, 448 (5th Cir.), cert. granted, 143 S. Ct. 2688, 216 L. Ed. 2d 1255 (2023). Domestic violence advocates, along with the United States government, have argued that the United States has a deeply rooted tradition of disarming individuals who pose a danger to others or to the community at large. Ultimately, on June 21, 2024, the Supreme Court held that, when a person is determined by a court to pose a credible threat to the physical safety of an intimate partner, that individual can be temporarily disarmed consistent with the Second Amendment as part of a protective order. *Id.* Nevertheless, the majority opinion by Chief Justice John Roberts reiterated the Court's continued application of the framework established in *Bruen*, and the constitutional import and application of the Court's Second Amendment jurisprudence.

The Court in the last decade has undoubtedly elevated the Second Amendment as a fundamentally protected right. In March of this year, two seemingly irreconcilable opinions from our Court of Appeals and Supreme Court broached—but did not directly confront—the interplay of the Second Amendment guarantees, the deeply important protections afforded to victims of domestic violence, and the right of parents to the care, custody, and control of their children. *See Aldava v. Johnson*, 686 S.W.3d 205, 207 (Ky. 2024); *and cf. Aldava v. Baum*, ---- S.W.3d ----, No. 2023-CA-1038-ME, 2024 WL 1335252 (Ky. App. Mar. 29, 2024). As a result, the questions of whether removing firearms from the hands of domestic violence abusers in Kentucky is constitutionally permissible as a question of state law, or what procedural safeguards are required before doing so, are still very much open.

While not an enumerated right under the United States or Kentucky Constitution, the right of parents to the care, custody, and control of their children has been recognized as one inherent to our understanding of life and liberty in American society. It is also a right often implicated in domestic violence actions. Section 1 of the Kentucky Constitution provides that all citizens "are, by nature, free and equal, and have certain inherent and inalienable rights," including "the right of enjoying and defending their lives and liberties." Section 2 of the Kentucky Constitution, in turn, helps ensure that guarantee of individual liberty by forbidding the Commonwealth from exercising "absolute and arbitrary power over the lives, liberty and property" of its citizens. *See e.g., Troxel v. Granville*, 530 U.S. 57, 65 (2000) ("The liberty interest ... of parents in the care, custody, and control of their children—is perhaps the oldest of the fundamental liberty interests recognized by this Court."); *Morgan v. Getter*, 441 S.W.3d 94, 111-12 (Ky. 2014).

In Kentucky, the Courts of Appeals have been historically considerate—if not outright protective—of the fundamental rights of litigants in cases affecting the parent/child relationship. In 2020, our Supreme Court held that it was well within a trial court's discretion to determine if the due process clause afforded indigent parents with the right to expert funding in termination of parental right cases. *Cabinet for Health & Fam. Svcs. v. K.S.*, 610 S.W.3d 205 (Ky. 2020). In K.S., the Court recognized that "[t]wo strands of case law—one federal and one unique to Kentucky—define the scope of procedural protections afforded to parents in child welfare proceedings." *Id.* at 214. Kentucky's caselaw, when considering those protections in this context, and "in certain circumstances," goes beyond federal protections, because "a parent's right to custody and care of his or her children is a uniquely important liberty interest," whether the impediment of the right is "[t]emporary or not." *Id.*

Domestic violence actions involving children are unique, even among the already singular nature of proceedings in family court. Regardless of whether a Domestic Violence Order (DVO) issues, a reviewing court must, immediately upon its filing, consider the petition *ex parte*, and determine whether an Emergency Protective Order (EPO) should issue pending a hearing. Kentucky Revised Statutes (KRS) 403.730. EPOs prohibit contact between the respondent and the protected parties—often, their children—until the time of the hearing or in six months after its issuance if no hearing is held. KRS 403.735. Relatedly, KRS 403.270 creates a rebuttable presumption that parents are entitled equally to the care, custody and control of their children. When one parent has committed an act of domestic violence and an order has been entered to that effect, this presumption is automatically rebutted. KRS 403.315. The custody and domestic violence statutes further empower a court to make temporary custody determinations for up to three years, allowing Courts to prohibit a respondent parent from contacting their child. KRS 403.822; KRS 403.320; KRS 403.735; KRS 456.050. Additionally, when an EPO and/or DVO are entered, the right to possess and purchase firearms is immediately and effectively suspended under both federal and state law. Considering the foregoing, the potential for an unsavvy *pro se* parent litigant to have their fundamental rights—both to bear arms and raise their children—negatively affected is astronomically high.

C. An Experiment with Constitutional Guardrails.

The adjudication of matters concerning the family has provided a constitutional prerogative in Kentucky since the 2002 amendment to section 112 of the Kentucky Constitution, which allowed for the designation of family court divisions. Kentucky has moved toward a unified family court: a court specializing in, and with jurisdiction to address, a broad array of legal problems confronting families. See KRS 23A.100. This experiment in therapeutic justice is constantly a work in progress.

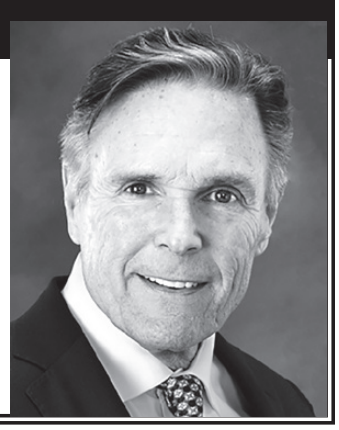
As regular practice in the context of termination and dependency cases, courts across the Commonwealth appoint counsel for indigent parents. *See e.g.*, KRS 620.100(1)(b) (dependency, neglect, and abuse proceedings); KRS 625.080(3) (involuntary termination of parental rights proceedings); KRS 199.502 (non-consensual adoption proceedings). In domestic violence cases involving children, courts are required to appoint counsel for minor children. *Smith v. Doe*, 627 S.W.3d 903, 904 (Ky. 2021); CR 17.03. Our Supreme Court has specifically instructed Kentucky's courts to employ "the analytical framework set out in *Matthews v. Eldridge*" to determine whether fairness necessitates additional procedural protections beyond those already afforded. *K.S.*, 610 S.W.3d at 215. Those factors are "(1) the private interest at stake; (2) the government's interest in administrative efficiency; and (3) whether the additional procedures sought will increase the accuracy of fact-finding and reduce the risk of erroneous deprivation." *Id.*

As our Supreme Court in *K.S.* opined, "[t]he question of what procedures are necessary to protect a right is a question of constitutional law for a judge, not a question to be determined by state legislatures." 610 S.W.3d at 213. Currently, in domestic violence cases—which often affect both the right to parent and the right to bear arms—there are no procedural protections beyond those afforded in every other civil case. Considering the recent development in federal law, and our high Courts' protective approach to parental rights, the sufficiency of procedural protections of parents in these actions is worth careful examination.

D. Appointing Counsel Would Ensure Constitutional Guarantees and Inspire Public Confidence.

In my view, when squarely faced with the question of whether an indigent parent is entitled to counsel in a domestic violence action, a court in Kentucky should closely consider and carefully examine the factors in *Eldridge* to determine if the rights at risk warrant more protection than what is currently afforded. Employing those factors in an appropriate case, and with the import of the rights at stake top of mind, Kentucky courts must reach the conclusion that the appointment of counsel is constitutionally required. In acknowledging as much, courts can ensure constitutional guarantees of fundamental fairness, and bolster public confidence in the integrity of Kentucky's Family Court experiment in therapeutic justice.

Ethan Chase is a partner at Reczek Chase Law, a family law practice in Louisville. Before joining the firm in 2022, Ethan was staff attorney to Deputy Chief Justice Debra Hembree Lambert of the Kentucky Supreme Court. Currently, he serves as a court-appointed guardian ad litem on the domestic violence docket of the Jefferson County Circuit Court, Family Court Division One. He practices divorce, custody, adoption and domestic violence cases in Jefferson, Oldham and Bullitt Counties. He's an alumnus of the University of Louisville Brandeis School of Law. ■



Kentucky Inheritance Tax: Pitfalls & Planning Opportunities

Matthew H. Burnett and Monica B. Davidson

Kentucky is one of six states—soon to be five—which imposes an inheritance tax. An inheritance tax is a tax on a beneficiary's *right to receive property* from a deceased person. The more distant the relationship between the deceased person and the beneficiary, the higher the tax rate. Contrast this with the better known estate tax, which is a tax based on the value of the property owned by a deceased person at their death.

Some, particularly non-exempt beneficiaries, may argue that Kentucky's imposition of an inheritance tax makes us unusual in a bad way (hence the proposed House Bill 308 which, if passed in its current state, would repeal the inheritance tax for those dying after August 1, 2024). Regardless of one's thoughts on the virtues of the tax, attorneys, executors and beneficiaries should all make sure they have a cursory understanding of the tax in order to avoid cumbersome estate administrations, unnecessary penalties and interest payments, and disgruntled clients.

Kentucky Inheritance Tax: Brackets and Beneficiaries

Kentucky Revised Statutes Chapter 140 creates the Kentucky inheritance tax. As with many tax statutes, KRS 140 is clunky and difficult to comprehend on first read (and on second read, and third read for this author). Fortunately, the Kentucky Department of Revenue has a plethora of helpful materials available online at *www.revenue.ky.gov*.

The amount of inheritance tax owed is dependent on the relationship between the beneficiary inheriting the property and the deceased person who owned the property at their death. The more distant the relationship, the higher the tax bracket. Kentucky divides beneficiaries into three classes: Class A (fully exempt), Class B (less exempt) and Class C (least exempt). **Class A** beneficiaries consist of spouse, parent, children (biological, step and adopted), grandchildren (can be issue of biological child, adopted child or stepchild), siblings (whole or half), and educational, religious and charitable institutions. **Class B** beneficiaries consist of nieces and nephews (half or whole), children-in-law, aunts, uncles and great-grandchildren (issue of biological, step or adopted child). **Class C** beneficiaries – the highest bracket – consists of everyone else not listed in Class A or Class B.

Class B beneficiaries hit a top marginal tax rate of 16% on inheritances of $200,000 or more, and Class C beneficiaries hit the top marginal tax rate of 16% on inheritances of $60,000 or more. For example, a $200,000 inheritance left to a nephew would incur a $22,960 inheritance tax liability, and a $200,000 inheritance left to a cousin would incur a $28,670 inheritance tax liability. These are significant tax liabilities which should be discussed with i) clients during the estate planning process, and ii) executors/administrators and beneficiaries during the estate administration process.

Pitfalls and Planning

Attorneys should make sure they are having detailed conversations with their clients regarding potential Kentucky inheritance tax liability. First, many clients may be surprised to learn that Kentucky imposes an inheritance tax, and some may alter how their estates are to be distributed once they are informed of the tax. Clients could be rightfully upset to learn that a significant portion of their estates could wind up in the hands of the Kentucky Department of Revenue simply due to the nature of the relationship between the client and the intended beneficiary. Many have closer relationships to nieces, nephews, cousins or more distant relatives than they do to their parents or siblings, and they would be justified in feeling that they are being arbitrarily penalized for these relationships. Better that the client have this conversation with their counsel prior to executing their Wills than for the client to learn of this information after the fact from a third party.

Second, the attorney and client should discuss how the client would like to handle payment of any inheritance tax liability. Generally, inheritance tax is paid *out of the share* received by a beneficiary. For example, if a cash bequest of $25,000 were left to a nephew (Class B beneficiary) a tax of $1,160 would be owed, so the nephew would ultimately receive $23,840 from the estate. However, some clients may want any inheritance tax liabilities to be paid as a *general debt* of the estate. Continuing with the example above, if the client included a provision in their Will for any inheritance taxes to be paid as a general debt of the estate, the nephew would receive the full $25,000 bequest, and the inheritance tax liability would be paid by the executor as a debt of the estate. How the client decides to allocate payment of inheritance tax has implications for how simple the administration of the estate will

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be, as well as whether or not exempt residuary beneficiaries ultimately receive a smaller share of the estate in order to cover the taxes owed by a non-exempt beneficiary.

Additionally, clients should be informed of the three year look back rule. Any gifts made by a client to an otherwise non-exempt beneficiary within three years prior to the client's death – regardless of whether the client was making the gift for estate planning purposes or simply to be charitable to a friend – will be presumed to be made "in contemplation of death" and will incur inheritance tax liability. Transfers made more than three years prior to death can also be subject to inheritance tax if it is determined that such transfer was made "in contemplation of death."

Payment of Inheritance Tax

All property belonging to a resident of Kentucky is subject to the tax except for real estate located in another state. Also, real estate and personal property located in Kentucky and owned by a nonresident is subject to being taxed. If tax is owed, it must be paid within 18 months of the individual's death. However, if the tax is paid within nine months of death, a five percent discount is allowed, which can be significant, particularly if a majority of the estate passes to non-exempt beneficiaries. If payment is not made within 18 months, interest and penalties begin to accrue.

Absent language to the contrary, all executors and administrators (hereafter "personal representatives"), trustees, beneficiaries and heirs shall be personally responsible for the taxes until they are paid, but only to the extent that property from the estate come into their hands, and in no case shall the personal representative or trustee be liable for a greater amount than passes through their hands. KRS 140.190. Courts have held that this joint responsibility to pay the tax generally precludes personal representatives from liability to the beneficiaries for failing to timely pay the tax because, within certain limitations, the obligation to pay the tax is placed as much on the beneficiaries/heirs receiving the property as it is on the personal representative. *Motch's Ex'x v. Motch's Ex'rs*, 306 Ky. 334 (1948).

This joint obligation is particularly useful in situations where an individual with a minimal probate estate named a non-exempt individual as a transfer-on-death (TOD) beneficiary of a non-probate asset. For example, say an individual owned a $100,000 savings account at death, along with a $3,000 checking account. The individual, who never married or had children, named a friend as a transfer-on-death beneficiary of the savings account, while the checking account passed through the individual's probate estate. An inheritance tax of $12,670 will be owed on the transfer to the friend, though the probate estate only consists of $3,000. If the friend refuses to cooperate with the personal representative of the probate estate, the personal representative cannot be held responsible by the friend for either i) failure to obtain the nine month discount, or ii) failure to pay the tax at all.

Should a personal representative find themselves in a situation like the one above, the Kentucky Department of Revenue recommends the personal representative make a reasonable effort to collect the tax owed from the non-exempt beneficiary. If the non-exempt beneficiary refuses to cooperate, the Department advises that the personal representative should i) file the inheritance tax return, ii) pay any tax owed on any probate assets in the personal representative's hands passing to non-exempt beneficiaries, iii) list the non-probate asset passing to the friend on the return, and iv) make a note that the friend has not paid their share of the inheritance tax liability. The Department will then reach out to the friend to bill them individually for the tax owed. This prevents an uncooperative beneficiary from holding up the administration of the probate estate.

Last, inheritance tax owed as a result of certain qualified retirement plans, such as IRAs, can be avoided if certain requirements are met. Under KRS 140.063, an otherwise taxable IRA can avoid triggering inheritance tax if the receiving non-exempt beneficiary enters into an agreement with the custodian of the IRA to make "substantially equal periodic payments from the account over a period exceeding 36 months." Kentucky law states that this arrangement converts the IRA into an annuity, and annuities are exempt from Kentucky inheritance tax. To prove the above requirements are met, the Kentucky Department of Revenue requires written documentation from the beneficiary and the financial institution managing the IRA evidencing the agreement. Depending on the financial institution, obtaining these written materials can be effortless, impossible and anything in-between.

The Kentucky inheritance tax can serve as an unwelcome surprise to personal representatives, beneficiaries and attorneys who do not frequently practice in probate. To avoid unnecessary taxes and headaches, attorneys and clients should take a moment to familiarize themselves with our unusual tax regime.

Matthew Burnett, Dinsmore & Shohl, practices in the areas of estate, gift and income tax planning, asset protection planning, and estate (probate), trust, and guardianship administration. Burnett also advises individual and corporate fiduciaries regarding their responsibilities and liabilities, and beneficiaries regarding protecting and securing their interests in wills, trusts and powers of attorney.

Monica Davidson is a Wealth Advisor and Estate Administrator with Stock Yards Bank & Trust Co. Prior to joining Stock Yards Bank & Trust, Davidson practiced law as a sole practitioner for 13 years with an emphasis on estate planning and administration. Most recently, she worked at Frost Brown Todd as an attorney with the firm's Electronic Data Discovery Group. ■

MEETING ANNOUNCEMENTS

LBA Committee Meetings

LBA Diversity and Inclusion Committee Meeting
Wednesday, July 10 | 4 p.m. | Zoom
Please RSVP to Lisa Anspach, *lanspach@loubar.org*. ■

Association of Legal Administrators

The monthly chapter meeting of the Kentucky Association of Legal Administrators will be held in person on Thursday, July 11th beginning at 11:45 am 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 Mary M. Hackworth, *mmhackworth@kopkalaw.com.* ■

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Help Wanted

Through the LBA Placement Service

Business & Civil Litigation Attorney:
The LBA's Placement Service is currently working with a well-established boutique law office located on the east side of Louisville. This firm has a varied practice and is seeking an experienced litigaiton attorney to support a mix of civil and business litigation disputes. These disputes can arise from employment, contract and business matters. Candidate must have at least five years' of experience with such matters in Kentucky. An Indiana or Tennessee license is a plus. Must be in good standing and have excellent references. Salary is based on experience, plus full benefits, including 100% paid health and dental insurance, retirement plan with a 3% match, PTO and a 10% origination credit if you bring any business. There is a 1600/hour billable goal for the year and a 25% bonus if billings are over 1600 hours. The firm feels a competent team player will find they offer an excellent work-life balance. Send resumes in MS Word format to the LBA Placement Service Director, David Mohr, dmohr@loubar.org.

Associate Attorney:
The LBA's Placement Service is currently working with a well-established boutique law office located on the east side of Louisville that concentrates exclusively on business litigation matters. They are seeking to hire an associate attorney with at least three+ years of experience practicing as an attorney in Kentucky. Business litigation experience would be a plus, but they would consider any civil litigation experience. A small book of transferable business or the ability to drum up a little bit of business would be a plus as well, but not a deal breaker, as the firm has a steady amount of work to keep you busy 90% of the time. Salary is commensurate with experience and benefits are offered, as well. Send resumes in MS Word format to the LBA Placement Service Director, David Mohr, dmohr@loubar.org.

Medical Defense Attorney:
The LBA is currently working with a growing medical defense law office located on the east side of Louisville that is seeking to add an attorney to their practice. They would like a two+ year lawyer with experience in medical malpractice, long-term care or injury law. The ability to work with medical records or learn how to work with medical records is a must. Excellent writing and communication skills are required. Prior litigation/court experience (of any kind) is required. Court appearances (some requiring travel to all parts of the state) are necessary. If there are no candidates fitting this role, they are willing to train the right person. The practice is highly litigious with a lot of motion practice, brief writing and arguments. The non-experienced candidate needs to have a strong background in those areas (or just a strong backbone) and be willing to learn the medical side. The job is full-time. Salary is competitive and based on experience. 1800/yr billable goal. Excellent benefits package, plus discretionary bonuses twice a year. Send resumes in MS Word format to the LBA Placement Service Director, David Mohr, dmohr@loubar.org.

Defense Attorney:
The LBA's Placement Service is currently working with a medium-size law office in downtown Louisville that is seeking to hire both a seasoned attorney that can handle cases with minimal supervision, as well as a newer attorney. The firm primarily has a civil defense practice consisting of insurance defense-type cases. The seasoned attorney candidate must have at least four+ years experience with civil litigation in Kentucky. The newer attorney can be a recent graduate to two+ years of any experience. Excellent salary based on experience, plus bonus opportunities. Send resumes in MS Word format to the LBA Placement Service Director, David Mohr, dmohr@loubar.org.

Diversity & Inclusion Committee Corner

July Monthly Focus: Disability Pride Month

READING RECOMMENDATION

Intersectionality in Disability Inclusion: Breaking Barriers and Embracing Diversity

VIDEO RECOMMENDATION

Three Things Not to Say to Someone in a Wheelchair... and What to Say Instead

PODCAST RECOMMENDATION

Attention Talk Radio
A podcast focused on ADHD and ADD, including managing symptoms of attention deficit disorder.

LOUISVILLE BAR ASSOCIATION
DIVERSITY & INCLUSION COMMITTEE

Would you like to submit a resource to share? Email Lisa at lanspach@loubar.org.

The 2024-25 school year starts on August 9! Help us support local children in need through our Back to School project. We are collecting new school supplies and donations for local elementary school students.

$25 Provides a year's worth of supplies.

$35 Provides a backpack stocked with a year's worth of supplies.

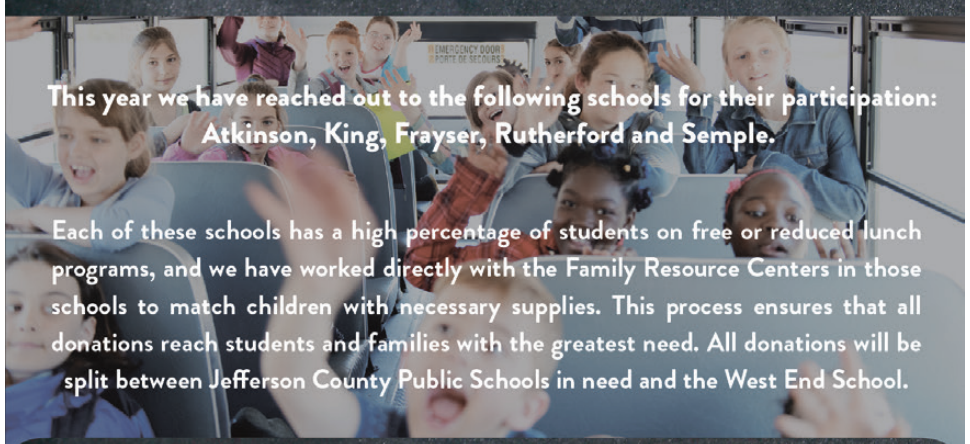
Donations are tax deductible. Checks should be made payable to the Louisville Bar Center and mailed to: 600 W. Main St., Ste. 110, Louisville, KY 40202

Keep your eye out for a link to an Amazon wish list and have donations delivered straight to our office.

Last year we supplied our schools with individually packaged snacks, and the appreciation was resounding.

"The individual snacks have been used for students in the afternoons who possibly didn't eat enough lunch or are just hungry and need an afternoon pick-me-up. We have also made good use of them with students who are at school late. We have several buses that don't get to us until well after dismissal... I honestly can't thank you enough for being willing to steer away from traditional supplies and address our real needs."

- Family Resource Center Coordinator at Frayser Elementary



This year we have reached out to the following schools for their participation: Atkinson, King, Frayser, Rutherford and Semple.

Each of these schools has a high percentage of students on free or reduced lunch programs, and we have worked directly with the Family Resource Centers in those schools to match children with necessary supplies. This process ensures that all donations reach students and families with the greatest need. All donations will be split between Jefferson County Public Schools in need and the West End School.

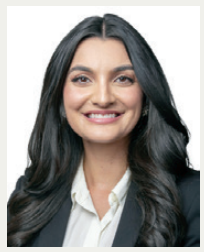
WEDNESDAY, AUGUST 14
IS THE DEADLINE FOR DONATIONS.

Questions??
Contact Marisa Motley at
(502) 583-5314 or
mmotley@loubar.org.

LBA

MEMBERS *on the move*

Abaray



Khan Per

Thomas Law Offices is excited to announce the addition of attorney **Ashley Abaray** to its team and is proud to offer Worker's Compensation as a new area of practice. Abaray brings a wealth of experience and dedication to advocating for workers' rights. Her commitment to excellence and client-centered approach makes her an invaluable asset to our firm.

McBrayer is pleased to announce that **Ameena Khan Per** has joined the firm's Louisville office as an Associate. She is part of the firm's Intellectual Property Practice Group. Khan Per is a 2020 graduate of the University of Kentucky J. David Rosenberg College of Law. She is licensed to practice in Ohio and Kentucky. ■

What have you been up to lately?

Did you know that Members on the Move announcements are a member perk and FREE of charge?! Let us know what you've been up to!
Send announcements to Kim Kasey, kkasey@loubar.org.

LOUISVILLE BAR ASSOCIATION

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MEMBERS
Spotlight

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Hendy | Johnson | Vaughn

LBA TORT & INSURANCE LAW PRACTICE SECTION

	BRIAN	RONALD
AREA OF PRACTICE?	Personal Injury and Car Crash	Personal injury, mass torts, multi-district litigation
FAVORITE SONG, TV SHOW, PODCAST OR BOOK?	Song: Anything by Less than Jake. TV: Wife controls the TV and repeats Vanderpump and Dawsons Creek. Podcast: The Bible In A Year by Mike Schmitz. Book: The Fish that Ate the Whale by Rich Cohen	Scarlet Begonias by The Grateful Dead.
WHY DID YOU FIRST JOIN THE LBA?	I joined because I'm a local lawyer and its important to be a part of my community.	I believe it is important to be a member of legal association comprised of all types of attorneys: plaintiff lawyers, defense lawyers, criminal defense, family law, commercial litigation, etc. I believe that the collegiality of the profession is improved by lawyers and judges spending time together outside the litigation of cases.
FAVORITE SPOT IN LOUISVILLE?	Any court or field where someone in my family is playing a sport.	Early morning on the backside of Churchill Downs.
FAVORITE CRAYON COLOR	Teal and orange mixed.	Cerulean
TIPS OR ADVICE FOR NEW MEMBERS?	Be a nice person. Work hard.	Get involved. Join a committee, a section, or attend one of the many social events. It's the best way to meet other members. Also, go check out the amazing new downtown space.

To see the completed interview check out the LBA's Facebook, Instagram or LinkedIn pages!

Welcome

The Louisville Bar Association would like to welcome our new and returning members!

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