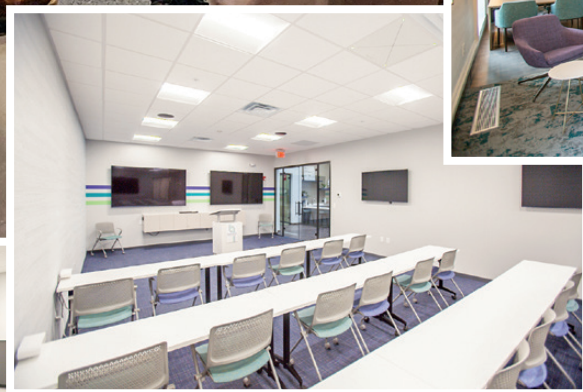


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The mission of the Louisville Bar Association is to promote justice, professional excellence and respect for the law, improve public understanding of the legal system, facilitate access to legal services and serve the members of the association.

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2021 Bench & Bar Social

Food, fellowship and fun ruled the night at the annual Bench & Bar Social on April 25.
See photos from this premier networking event on pages 8-9.

The cut off for Pictorial Roster updates and/or additions is June 14th!

Don't miss your chance to be featured in the Louisville legal community's only directory of legal professionals!

For decades, the LBA Pictorial Roster has been THE place for attorneys and legal professionals to be seen. The 2024-2025 version will soon be going to press, and you don't want to be left out. Submit any updated work information, changes of address or new photos to mmotley@loubar.org no later than Friday, June 14th. And don't forget to let us know about any new associates who've joined your office since last year.

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The Shine that Comes from Struggle

Recently, I received personally devastating news. It was wholly unexpected. I had trouble concentrating. So, I took some time to sit with it. Pouted, blamed... Tried it all: No solace in the bottle... I looked. I took a few nights to get some good sleep. Exercised. Took mindfulness walks, being present with my park surroundings. Just being in now. Biked my kids to the park. Signed up for a round of intensive squash lessons. I reached out: talked with friends I haven't heard from in years. With a clear head and surrounded by family and friends—a kitchen cabinet—I begin to heal. Move on. Tragedy happens in life. No avoiding it. It's how we respond to tragedy that defines us.

If devastating things didn't happen, I wouldn't have an income. As a personal injury lawyer, my career revolves around tragedy. I often hear lawyers greedily and gleefully discuss permanent disfigurement, severe medical injuries, and an inability to walk, work and not have children as “good damages.” Rarely do we focus on the injured. We're removed and look at the case and the numbers. These things happen to real people with real lives, interests, work, children and parents. What looks like a “good damages case” comes real when you have clients crying in your office and in depositions. When you see a woman who can no longer care for her chickens, cook, care for her large garden, shower alone, had to give up all her pets and move in with her daughter, that hits home. (Recent case.) Those are not good damages. That's someone you go to bat for.

I lost my first solo trial. I lost all the money I invested. At the time it was a nearly unfathomable sum to me. I needed that money for my apartment, office rent and to keep the practice afloat. I was not committed. Classic sunk cost fallacy: I continued this trial endeavor, though it would have been more beneficial to abandon ship.

Despite working with that client for a couple of years and regularly meeting with him, he left the courthouse as soon as his negative verdict was read. That guy will never be a referral source for me. I should have encouraged settlement; liability just wasn't there. It took the jury about two seconds to say “defense verdict.” I was defeated. The case was against Campbell Ewen, a very experienced lawyer. He was gracious in his win; shook my hand, did the “good game” thing. But, shortly thereafter, I attended the Kentucky Justice Association conference, surrounded by lawyers I wanted to be like and who I respected. There I found Campbell giving a CLE on what not to do at trial. He featured my case and, trying to be good natured, he introduced me as the guy you don't want to be. I sank low in my chair.

It is one of those moments that no one other than me likely remembers. We all think the world focuses on us. That our mistakes and foibles stand out stronger than others. They don't. The attendees went to the next CLE and socialized that evening, without a second thought. But I spun it to a win. Since then, I had a number of cases with Campbell. Even though I lost that trial, I could look him square in the eye and remind him: I may lose, but I'll take crazy to trial. It helped a number of settlements. I also got to know him socially. And before he retired, he even referred a case to me.

In the midst of the 2008 crash, I quit my dream job in medical malpractice defense working for giants Don Darby and David Gazak, to chase a girl I met on the South-Wing Veranda of the Orienta Beach Club in Mamaroneck, New York. Everyone told me I was a moron and should hold on tight to my job. I had friends at large local firms billing an hour a week, before losing their jobs. No way that could happen to me: the world didn't need another lawyer, but it needed one great one! I quit, with a minor pending Plaintiff's trucking case to coast me till I got a job. Being overly self-confident and studying for less than a week, I took and passed the Connecticut Bar. There was my proof I was amazing, and the crushing economic forces of dubious mortgage-backed securities and the fall of Bear Sterns and Lehman Brothers had nothing on Bryan Armstrong. Short-cut a year: sold my car to live, ate a lot of ramen and came home driving on fumes in a rented U-Haul, to live with my mom. Not having any money and crashing in your mother's basement forces you to get creative. I started my own practice. It worked.

At the end of the day, pressure makes diamonds. Being a lawyer can be hard and we all face setbacks. But ultimately, our struggles and tough times define us.



*Being a lawyer can
be hard and we all
face setbacks.
But ultimately,
our struggles
and tough times
define us.*

Bryan R. Armstrong
LBA President

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UofL Brandeis School of Law
to present Brandeis Medal to
U.S. Supreme Court Justice
Sonia Sotomayor

February 5, 2025



The Louis D. Brandeis School of Law at the University of Louisville will present its highest honor to U.S. Supreme Court Associate Justice Sonia Sotomayor on February 5, 2025.

The Brandeis Medal and Lecture Series honors a recipient chosen for their devotion to economic, social or political justice and for advancing the cause of public service in the legal profession.

Sotomayor will be the seventh Supreme Court justice honored with the medal, following Harry Blackmun, Stephen Breyer, Ruth Bader Ginsberg, Elena Kagan, Sandra Day O'Connor and John Paul Stevens. Sotomayor's commitment to public service reflects many of the values for which Louis D. Brandeis is most known and serves as a wonderful model for Brandeis Law students and its community.

Details about the 2025 Brandeis Medal Program will be released at a future date. For now, questions can be directed to the law school at lawcomm@louisville.edu.

Sonia Sotomayor was born in Bronx, New York, on June 25, 1954. She earned a B.A. in 1976 from Princeton University, graduating summa cum laude, was a member of Phi Beta Kappa and received the Pyne Prize, the highest academic honor Princeton awards to an undergraduate. In 1979, she earned a J.D. from Yale Law School where she served as an editor of the Yale Law Journal.

Sotomayor served as assistant district attorney in the New York County District Attorney's Office from 1979-1984. She then litigated international commercial matters in New York City at Pavia & Harcourt, where she served as an associate and then partner from 1984-1992.

In 1991, President George H.W. Bush nominated her to the U.S. District Court, Southern District of New York and she served in that role from 1992-1998. In 1997, she was nominated by President Bill Clinton to the U.S. Court of Appeals for the Second Circuit where she served from 1998-2009. President Barack Obama nominated her as an Associate Justice of the Supreme Court on May 26, 2009, and she assumed this role August 8, 2009. ■

The Lesser-Known Life of a Circuit Court Judge

Chief Judge Ann Bailey Smith

“Jem became vaguely articulate: ‘d you see him, Scout? ‘d you see him just standin’ there? ...’n’ all of a sudden he just relaxed all over, an’ it looked like that gun was a part of him...an’ he did it so quick, like...’ Miss Maudie grinned wickedly, ‘Well now, Miss Jean Louise,’ she said, ‘still think your father can’t do anything? Still ashamed of him?’ ‘Nome,’ I said meekly. ‘Forgot to tell you the other day that besides playing the Jew’s Harp, Atticus Finch was the deadeest shot in Maycomb County in his time.’ ‘Dead shot...’ echoed Jem. ‘That’s what I said, Jem Finch. Guess you’ll change your tune now. The very idea, didn’t you know his nickname was Ol’ One-Shot when he was a boy?’”

From “To Kill a Mockingbird” by Harper Lee

As attorneys, you may think you know what circuit judges do. If you are a litigator, then you have witnessed circuit judges presiding over motion hour where we arraign people on charges in an indictment, set bonds, schedule hearings on motions to revoke probation and rule on motions for releases from the Home Incarceration Program. You see us on the civil side of motion hour scheduling pretrial conferences and trial dates, rule on motions to compel discovery and approve settlements for minors. And if you’re in court at any other given time waiting for your case to be called, then you will observe guilty pleas being taken, sentencing, revocation hearings, pretrial conferences in both civil and criminal cases and arguments regarding summary judgment or motions to dismiss. Or you may see a bench trial or a jury trial. These court proceedings constitute the daily agenda of a circuit court judge.

However, like Jem and Scout in “To Kill a Mockingbird” who thought they knew everything there was to know about their dad but had no idea that he could shoot a gun, there may be some duties of a circuit court judge of which you are not aware (to be perfectly candid, I wasn’t aware of some of these myself until I sat as a circuit judge).

One of the behind-the-scenes duties of a circuit court judge is to be present at the Board of Elections on election days including primaries, general and special elections. The Board of Elections is located at 1000 E. Liberty Street. Typically, a circuit judge is assigned to a two-hour time slot beginning at 6 a.m. and continuing until the polls close at 6 p.m. The judge tries to be there in person but occasionally, based on docket demands, covers telephonically from the courthouse.

Also present are representatives from the county clerk’s office and the sheriff’s office, as well as a representative from the Democratic and Republican parties. An attorney from the County Attorney’s Office is present to provide legal advice. The purpose of this assembled group is to determine whether a person should be permitted to vote who has been turned away at his polling place and who

has come to the Board of Elections seeking relief. The judge will place the individual under oath and then the individual will explain what occurred at the polling place and give their explanation as to why they should be permitted to vote. Sometimes, it’s because of the person’s status as a convicted felon whose rights have not been restored that prevents them from being allowed to vote. Sometimes it’s because the person has moved but is attempting to vote at the polling place attached to their previous address. Occasionally it’s because a person has changed their party registration too close in time to the primary election to be allowed to participate. The committee takes a vote and then lets the person know if they have prevailed or not. If the vote goes against them, they can immediately orally appeal to the circuit court judge who will render a decision on the spot. This appeal is the final say on the matter. Having done this for a number of years now, it is encouraging to see people who truly want to exercise their right to vote and will take the time to drive to the Board of Elections to press the issue and be heard.

Some of the circuit judges preside over specialty courts in addition to their regular dockets. We have two drug courts that meet on a weekly basis. The participants are defendants who have pleaded guilty to or been found guilty of a felony and are now on diversion, probation or shock probation. They have a significant substance use disorder and, typically, are on the precipice of going to prison. Drug court is a heightened probation-like docket with an emphasis on treatment for alcohol and/or drug abuse. Veterans treatment court is another one of the specialty courts and is similar to drug court, but is for military veterans. That docket meets weekly as well. Mental health court meets once every other week, and its purpose is to provide extra support for those criminal defendants who are on diversion or probation and are struggling with mental health issues. This court works with Seven Counties Services to provide mental health treatment to these defendants who need more support than traditional probation can provide. Two of the circuit judges preside over business courts, which is a pilot project in Jefferson County. These dockets are designed

to address business issues expeditiously and, as such, have their own set of rules and motion hours.

Most attorneys have some familiarity with restraining orders as well as temporary and permanent injunctions. As practitioners, you may be most familiar with them in contract and business disputes. A not uncommon occurrence is when a pro se plaintiff files a complaint and seeks injunctive relief because they have received notice of demolition of their property. What I have seen in Circuit 13 is an individual who has purchased a home for very little money because the property is in such disrepair – two of the recent cases involved structures that had sustained severe fire damage – and the city issued a notice of demolition based on safety concerns for the neighbors and those who might wander onto the property unaware of the potential hazard. A hearing is held where the property owner and the inspector for the city testifies and the court then decides whether the plaintiff is entitled to injunctive relief, which spares the building from immediate demolition.

Another fairly common issue which is brought

before the circuit court is a parent asking for a child’s birth certificate to be corrected. Sometimes the child’s name or one of the parents’ names is misspelled. Sometimes there is an incorrect date of birth for one of the parents or the birthplace of one of the parents is incorrect. Typically, the circuit judge places the petitioner under oath and takes testimony regarding the requested amendment and, preferably, documentation is shown to the court in the form of a driver’s license or the parent’s birth certificate to establish the information needed to issue an order correcting a birth certificate.

These examples are not an exhaustive list of the duties of a circuit court judge which are often times not as visible as some of our more typical responsibilities. But these additional functions as a circuit court judge make an already interesting and gratifying career even more so.

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



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Mediation as a Tool for Empowerment and Healing

Supporting Domestic Violence Survivors in Divorce Litigation

Emily A. Logan

Domestic violence is a pervasive issue that affects millions of individuals worldwide, with long-lasting effects on survivors and their families. Kentucky is no different, with Jefferson County alone seeing thousands of petitions for protective orders filed yearly. When survivors of domestic violence decide to pursue divorce litigation, they often face complex legal and emotional challenges. Mediation has emerged as a valuable tool in this context, offering numerous benefits for survivors navigating the tumultuous experience that is leaving an abusive marriage.

Before delving into the benefits of mediation for domestic violence survivors, it's crucial to understand the legal and practical dynamics of domestic violence. Kentucky law defines "domestic violence and abuse" as: "[p]hysical injury, serious physical injury, stalking, sexual assault, strangulation, assault, or the infliction of fear of imminent physical injury, serious physical injury, sexual assault, strangulation, or assault between family members or members of an unmarried couple." Domestic violence and intimate partner violence encompasses various additional forms of abuse, including emotional, psychological and financial abuse.



Mediation can wrest power from the abuser to the victim and put the victim in control over major decisions about their life and future.

Survivors often experience fear, trauma and a sense of powerlessness as a result of the abuse they endure. These lasting effects, dynamics of power and control often have a chilling effect on survivors and their ability to successfully navigate divorce litigation. In divorce proceedings, survivors may encounter challenges such as custody disputes; navigating co-parenting in a safe and trauma-averse manner; equitable division of assets when there has been significant financial control by their abuser; and other ongoing safety concerns.

The traditional litigation process can be extremely personal and contentious, exacerbating the trauma experienced by survivors and leading to prolonged and demanding legal battles. Mediation offers an alternative approach to resolving divorce-related issues outside of the courtroom. Advocating for mediation in these cases may seem to be a unique approach. Kentucky law, specifically KRS 403.036, prohibits mediation from being required in cases where a domestic violence protective order (DVO) has been entered unless specific conditions have been met. It has been my experience in practicing these cases that mediation more often than not leads to clients feeling satisfied with the legal outcomes we have been able to achieve and also experiencing a sense of empowerment due to the ability to have control over the outcome of their case. Unlike traditional litigation, which is often characterized by winner-takes-all outcomes – a dynamic which can be especially difficult for survivors due to past struggles with power and control – mediation in family law focuses on collaboration, problem-solving and mutual agreement.

Mediation in family law cases versus general civil litigation is vastly different. To start, general civil cases are, more often than not, all about a number. For plaintiff's attorneys, it's negotiating up to the number that is acceptable for your client. For defense attorneys, it's the opposite; it's working to keep the settlement low enough for your client. At the end of general civil negotiations, the parties go their separate ways and will likely never have to interact again. The end of the case and the parties' relationship are simultaneous.

In family law mediation, the circumstances are much different. You are negotiating how to undo and restructure two peoples' entire lives. They often have children together and will remain a part of each other's lives long after their marriage is over. Mediation allows for the parties to give input based on their personal experiences and day-to-day practicalities to find solutions

that will lead to the greatest chance of success long after the decree is finalized.

For domestic violence survivors, mediation can be particularly beneficial due to its emphasis on empowerment, safety and the preservation of relationships where appropriate. Mediation can empower survivors of domestic violence by giving them a voice and active participation in the decision-making process. Unlike traditional litigation, where decisions are solely made by judges based on legal arguments and evidence, mediation allows parties to express their needs, concerns and preferences directly. For survivors, mediation can be empowering as it acknowledges their agency and autonomy in shaping the terms of their divorce settlement.

One of the strengths of mediation is its flexibility in crafting personalized solutions that meet the specific needs and priorities of the parties involved. In the context of domestic violence survivors, this means that agreements can be tailored to address safety concerns, financial support, child custody arrangements and other issues in a manner that reflects the survivor's preferences and safety considerations. This customization can lead to more sustainable and mutually acceptable outcomes.

Another benefit of mediation is the proceedings are strictly confidential, meaning that discussions and agreements reached during mediation are not disclosed to the public or entered into court records unless the parties agree otherwise. This confidentiality can be beneficial for survivors of domestic violence who understandably wish to keep information related to their abuse and personal affairs private. By avoiding public courtroom proceedings, survivors can maintain a greater sense of privacy and control over their personal information.

Mediation aims to promote constructive dialogue and collaboration between parties, which can lead to reduced conflict compared to continued, adversarial litigation. For survivors of domestic violence, this can be particularly advantageous as it provides a safer and less confrontational environment for addressing issues related to divorce. Mediators are trained to facilitate respectful communication, focus parties on practical solutions and avoid hostile or combative behavior. Mediation provides a safe and structured space for survivors to express their concerns, articulate their needs and participate in decision-making without fear of public judgment or retaliation. This concept, coupled with the confidentiality requirements, sets up physical and psychological guardrails that testifying in open court during a divorce trial simply cannot provide.

One of the biggest advantages of mediation for survivors is the flexibility to craft personalized solutions that meet the specific needs and priorities of the parties involved. In the context of domestic violence survivors, this means that agreements can be tailored to address safety concerns, financial support, child custody arrangements and other issues in a manner that reflects the survivor's preferences and safety considerations. This customization can lead to more sustainable and mutually acceptable outcomes. Survivors have the opportunity to explore various options and solutions in mediation, giving them a sense of control and ownership over the outcomes of their divorce. This can be especially empowering for survivors. Domestic violence is a cycle; a cycle in which the victim is under the power and control of their abuser. Mediation can wrest power from the abuser to the victim and put the victim in control over major decisions about their life and future.

Many litigants going through a divorce, survivors of violence or not, come to the divorce process feeling they are owed or entitled to something based upon bad acts committed by their partner. I've had many clients ask if there is a way they can somehow be compensated through division of assets based on the fact they were subjected to years of violence. Kentucky law does not allow for the consideration of marital misconduct when dividing assets (see KRS 403.190). However, mediation offers a place for clients to have space to express those feelings while crafting a realistic and equitable division of their assets.

In this same vein, family law mediations also allow for attorneys to be more creative in the remedies sought. Instead of simply money, family law mediations are much more give and take. Clients, with advice from their attorney, can relent on terms that are not as important to them. For example, it may be very important to your client to maintain more time with their children and to achieve this they could take less in spousal maintenance payments than what they would get otherwise. For family law mediations, it is vital to understand what your client hopes to achieve and what terms they are willing to bend on to achieve the ultimate goal.

Mediation is often faster and more cost-effective than traditional litigation, which can be beneficial for survivors who may want to expedite the painful divorce process and minimize legal expenses. This is especially beneficial to indigent clients and removes certain barriers to justice. By avoiding lengthy court proceedings and protracted negotiations, mediation can help survivors reach a resolution more efficiently. Resolving their case prior to a hearing allows survivors to move forward with their lives by reducing ongoing stress and uncertainty associated with prolonged legal battles and prolonged exposure to their abuser.

(continued on next page)

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For couples with children, mediation offers opportunities to focus on the best interests of the children and develop parenting plans that prioritize their well-being. Mediators can facilitate discussions on co-parenting responsibilities, visitation schedules and communication strategies that promote healthy parent-child relationships and healthy co-parenting dynamics. This can be especially important for survivors of domestic violence who are concerned about protecting their children and maintaining safe and stable environments post-divorce.

In cases where ongoing communication and cooperation between ex-spouses are necessary, such as co-parenting arrangements, mediation can help preserve or improve relationships by fostering constructive dialogue and problem-solving skills. While domestic violence survivors may understandably have concerns about continued contact with their abusive ex-partners, mediation can provide a structured and supervised setting for addressing parenting issues while maintaining boundaries and safety protocols.

As a practitioner, it's important to note that the benefits of mediation for domestic violence survivors are contingent upon the implementation of appropriate legal considerations and safeguards to ensure safety, fairness and informed decision-making. Some key considerations are:

Safety Planning: Mediators should conduct thorough screening and risk assessment processes to identify cases involving domestic violence or power imbalances. This includes assessing safety concerns, determining the need for separate sessions or shuttle mediation (where parties are in separate rooms) and considering the appropriateness of mediation based on the level of coercion or control exerted by the abusive partner.

Mediation practices post-pandemic have been especially helpful in ensuring survivor safety as now it is an option to successfully mediate a case without the parties even having to be in the same building. Prior to and during mediation, safety planning should be a priority. This may involve developing strategies to ensure the survivor's physical and emotional safety during sessions, such as establishing a code word to signal distress, providing breaks as needed and arranging for support persons or advocates to be present if requested. It can be extremely helpful as counsel for a survivor to include any safety concerns your client may have in any pre-mediation memorandum you provide.

Informed Consent: Informed consent is crucial in mediation, especially for survivors of domestic violence. Parties should fully understand their rights, the mediation process, confidentiality provisions and the potential benefits and risks of mediation versus litigation. Survivors should have the opportunity to consult with legal counsel and support professionals to make informed decisions about participating in mediation.

Support Services: Access to support services such as counseling, domestic violence shelters and financial planning resources should be readily available to survivors throughout the mediation process. Mediators can and should facilitate referrals to these services when necessary. Some local resources to consider are The Center for Women and Families, Kentucky Refugee Ministries and Spring-Haven Domestic Violence Shelter.

Empowerment-Based Approach: The most successful mediations I have advised clients through have been with mediators who adopt an empowerment-based approach that prioritizes the survivor's safety, autonomy and well-being. This includes validating the survivor's experiences, providing opportunities for self-expression and self-determination, and avoiding actions or statements that may retraumatize or undermine the survivor's agency.

No Coercion or Intimidation: While it is often the role of the mediator to encourage settlement and push the parties towards compromise, mediators must be vigilant in preventing any form of coercion, intimidation or undue influence during mediation sessions. Abusive behaviors or attempts to control the survivor's decisions should not be tolerated, and mediators should intervene and take appropriate measures to ensure a fair and safe process.

Mediation can empower survivors of domestic violence by giving them a voice and inviting them into the decision-making process. Unlike traditional litigation, where decisions are often made by judges based on legal arguments and evidence, mediation allows parties to express their needs, concerns and preferences directly. For survivors, this can be empowering as it acknowledges their agency and autonomy in shaping the terms of their divorce settlement. As a practitioner, it is important to address the needs and wants of your client. While mediation is not required and may not be the best resolution for your client, it is a valuable tool in a practitioner's toolbox and the benefits should be conveyed to all survivors.

Emily Logan graduated from the University of Louisville Brandeis School of Law in 2019 and began working at Legal Aid Society in February 2021. Logan has spent her time at Legal Aid exclusively practicing family law in the Domestic Relation Advocacy Program, of which she is currently serving as Senior Attorney. She serves a client base almost exclusively consisting of survivors of domestic violence residing in Jefferson, Meade, Grayson and Breckinridge Counties. Logan received the LBA's 2023 Judge Richard A. Revell Family Law Award. She serves as a board member of the Jefferson County Women Lawyers Association and is a member of Louisville Metro Domestic Violence Prevention Coordinating Council Courts Committee. ■



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Bench & Bar Social



The Louisville legal community came out in force for the Bench & Bar Social on April 25. The newly renovated Louisville Bar Center was the perfect venue for an evening of food, fellowship and fun. Drawing for raffle prizes added to the festivities and helped raise funds for the Louisville Bar Foundation.

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Raffle Prize Winners

Congratulations to the winners of this year's raffle prizes

GRAND PRIZE

"Getaway to Greenbrier Resort"
Theresa Canaday

2nd Prize: "Staycation in Nulu"
Ronnie Gilbert

3rd Prize: "A Barrellful of Brew"
Alex White



Federal Trade Commission Announces New Rule Banning Non-Competes

Libby Gray and Katherine Ison

The Federal Trade Commission (FTC) has announced its rule banning nearly all non-compete agreements, an act that, if not successfully challenged, will have significant ramifications on employment and corporate law. This ban will become effective on September 4, 2024, which is 120 days after the rule was published in the Federal Register on May 7, 2024. Litigation challenging the rule has already been filed which could lead to a delay in its implementation.

The Purpose and Current Utilization of Non-Competes for Employees

Prior to this ban, employers used non-competes to prevent former employees from taking new positions that would put them in competition with their former employer. This was thought to protect the trade secrets of businesses and to prevent an employee from taking the training and knowledge they had learned from an employer and starting a competing business or using the information to unfairly compete with their former employer.

What was the FTC's Motivation to Ban Non-Competes?

The purpose of the new rule, according to the FTC, is to protect "the fundamental freedom of workers to change jobs, increase motivation, and foster new business formation." Lina M. Khan, the Chair of the FTC, explained that non-compete clauses "keep wages low, suppress new ideas, and rob the American economy of dynamism." By FTC calculations, approximately 18% of the U.S. workforce, or 30 million people, are bound by non-competes. The FTC, therefore, believes that releasing people from these agreements and prohibiting use of non-competes in the future will have positive implications for the workforce and economy. Specifically, the FTC estimates that the ban will lead to the creation of more than 8,500 new startups per year, an increase of new business formation of 2.7%. Additionally, the FTC believes the ban will increase worker earnings by \$524 per year and lower health care costs by up to \$194 billion over the next decade due to the employer incentive to keep their workers.

The FTC received and considered public comments. During the required 90-day public comment period after the proposed rule was initially released, the FTC received more than 26,000 comments. The FTC claims that more than 25,000 of these comments supported the proposed ban. Khan shared that many of the stories submitted through comments explained that employees feel restrained by their non-compete agreements. Khan emphasized that this demonstrates the impact of non-competes on basic economic freedom.

Effect on Non-Competes Already in Existence and Exceptions to the Ban

The ban will invalidate all existing non-compete agreements for employees with only one limited exception: existing non-competes for senior executives meeting threshold requirements can remain in effect. However, employers will be banned from entering into any new non-competes, including with senior executives. Per the rule, "senior executives" are defined as those employees earning more than \$151,164 annually and who are in policy-making positions. Given that the FTC only has authority over "for profit" entities, non-profits are not subject to the FTC ban. Moreover, the FTC does not have any authority over banks, credit unions, common carriers, air carriers and persons and businesses subject to the Packers and Stockyards Act. The FTC ban does not apply to non-competes entered into by a person pursuant to certain bona fide sales of a business entity.

Effects Moving Forward and Dissenting Opinions

The FTC rule requires employers affirmatively to provide notice to their workers (both former and current employees and contractors) who are currently bound by non-competes that they are no longer valid as long as they have either a mailing address, e-mail address or cell phone number for the affected worker. The notice must identify the person who entered into the non-compete clause with the worker and be provided to the worker through mail, e-mail or phone.

The U.S. Chamber of Commerce (U.S. Chamber) has opposed this ban since it was proposed in early 2023, even threatening to sue the FTC to block the rule stating that it is "unnecessary, unlawful and a blatant power grab." Similarly, the FTC vote had two dissenting commissioners who also believed the FTC was overstepping its power and predicting that the ban would be challenged in court. The U.S. Chamber's threat has become a reality as the U.S. Chamber filed a lawsuit on April 24, 2024, seeking declaratory and injunctive relief. The U.S. Chamber argues that non-competes are essential to companies being able to protect their trade secrets and in giving incentive to employees to invest in their training and development at a company. Based on recent United States Supreme Court decisions regarding the major questions and non-delegation doctrines, there is a significant chance that the rule will be enjoined before it goes into effect.

In an attempt to address these concerns, the majority of the FTC members argue that there are alternatives to non-competes that help protect an employer's interests without harming the employee. These include non-disclosure agreements to prevent the release of confidential information and general trade secret laws. In addition, the new rule does not invalidate all non-solicitation agreements. However, even these alternative restrictive covenants could be unenforceable. These agreements could be deemed to be a restraint of trade or even a "de facto" non-compete, particularly if they are so broad or onerous that it has the same functional effect as a term or condition prohibiting or penalizing a worker from seeking or accepting other work or starting a business after their employment ends.

It can be expected that more lawsuits similar to that of the U.S. Chamber will be filed as the rule's effective date approaches and goes into effect.

Our Recommendations

Although the FTC ban may be stayed or even legally challenged and enjoined, if you have non-compete agreements with your workforce, you should consider taking the following actions now to be prepared in case the FTC ban goes into effect:

- (1) Monitor the status of the FTC ban.** There have already been lawsuits asking to stop enforcement of the FTC ban, and we expect more to be filed. The lawsuits seek to enjoin enforcement of the FTC ban, which may happen pending a judicial decision of enforcement of the FTC ban. Pay close attention to the legal developments!
- (2) Make an inventory of all pending non-competes you have.** If the rule goes into effect, you will have to notify employees under existing non-competes that their non-competes will be released. Include in your inventory whether they are "senior executives" (meaning they earn at least \$151,164 annually and meet other conditions), as

well as a mailing or e-mail address for communicating with the employee.

- (3) Require employees to sign non-solicitation and non-disclosure agreements in place of their non-compete agreements.** Even if the FTC ban goes into effect, courts should enforce limited and narrow restrictive covenants that do not prohibit employment. You should ensure that new employees, and potentially existing employees, execute these more narrow restrictive covenants to increase their ability to survive the FTC ban. You will need to ensure that any new restrictive covenants are supported by consideration, like a bonus or new compensation.
- (4) Carefully draft any new non-competes until the effective date.** If you are going to continue to use non-competes with "senior executives" until the effective date, include in your non-compete language that the senior employee is involved in making policy decisions (a requirement of this exception).
- (5) Protect your company's trade secrets.** You should ensure that any of your company's confidential "trade secrets" are protected so you can continue to enforce any applicable trade secret laws. Be sure to restrict disclosure of your trade secrets only to those employees with a "need to know."

If upheld, the FTC ban will undoubtedly change the complexion of the employer / employee relationship and drastically alter the power of employers to prevent their employees from competing against them. Due to the pending legal challenges to the FTC ban, the next several months of 2024 will prove to be a time where employers must monitor the current state of non-competes to be prepared for all possible outcomes.

Elisabeth (Libby) Gray is a Principal Partner at Gray Ice Higdon. Gray assists clients in prosecuting and defending unfair competition lawsuits, including misappropriation of trade secrets and breaches of restrictive covenant agreements, such as non-competes and non-solicitation agreements. Gray also has an active commercial litigation practice. She recently served as the Chair of the LBA Litigation Section.



Katherine Ison is an Associate at Gray Ice Higdon and focuses on business litigation. Ison attended Wake Forest Law School where she was involved in the Expungements Clinic, the Black Law Student Association and the Journal of Law and Policy. In her practice, Ison assists clients with all business-related disputes and dedicates herself to protecting and advocating for her clients. ■





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LBA ONE-HOUR ETHICS

Ethical Duties & Electronically Stored Information

Monday, June 3

This presentation covers electronic discovery and the related ethical duty of competence. Drawing on guidance from the State Bar, recent e-discovery cases, and our own experience assisting attorneys, the presentation outlines the main risks to counsel and client of failing to properly understand e-discovery obligations in litigation.

Speaker: **Thomas Plunkett**, ArcherHall

Time: Noon – 1 p.m. — Program
Place: Zoom – a link will be sent prior to the seminar
Price: \$40 LBA Members | \$36 Sustaining Members | \$15 Paralegal Members | \$15 for qualifying YLS Members | \$25 Solo/Small Practice Section Members, Government or Non-Profit Members | \$80 Non-members
Credits: 1.0 CLE Ethics Hour — Pending

LBA ONE-HOUR

Cell Phone Forensics: Applications in Discovery and Investigations

Tuesday, June 4

Cell phones represent one of the fastest-changing areas of legal practice. Mobile device evidence is more important than ever, thanks to the rapid evolution of technology and the way this evidence is treated by the courts. Touching on important recent cases, technology developments, and ArcherHall's direct experience advising attorneys, this presentation provides up-to-date guidance on the application of cellphone forensics in litigation, investigations, and other legal matters.

Speaker: **Thomas Plunkett**, ArcherHall

Time: Noon – 1 p.m. — Program
Place: Zoom – a link will be sent prior to the seminar
Price: \$40 LBA Members | \$36 Sustaining Members | \$15 Paralegal Members | \$15 for qualifying YLS Members | \$25 Solo/Small Practice Section Members, Government or Non-Profit Members | \$80 Non-members
Credits: 1.0 CLE Ethics Hour — Pending

LBA DAY-LONG

Trials of the Centuries: Notorious Stories and Famous Figures

Friday, June 7

This class will remind the lawyer about the true essence of being an attorney. We go back in time to review the most significant, precedent-setting, culture-impacting cases over the last several millennia. We look at the trial strategies, the issues involved, the outcomes and how those cases can make you a better lawyer today.

For more information and a detailed agenda visit www.loubar.org.

Speaker: **Joel Oster**, Comedian of Law

Time: 8:50 a.m. – 3:40 p.m. — Program
Place: Zoom – a link will be sent prior to the seminar
Price: \$240 LBA Members | \$216 Sustaining Members | \$480 Non-members
Credits: 7.0 (including 1.5 Ethics) CLE Hours — Pending



LBA TAXATION LAW SECTION ONE-HOUR

Offers in Compromise: Best Practices and Procedures for Negotiating the IRS Collection Process

Monday, June 10

This program will provide an overview of how Offers in Compromise can be used to negotiate favorable settlements for clients with tax liability balances that are with IRS Collections. The course is designed to be introductory and will give a general guide to eligibility requirements, best practices and procedures. After the course, practitioners should understand when an Offer in Compromise is beneficial, how to apply and whether the process will be beneficial to their client.

Speakers: **H. Collier Clay**, Dentons Bingham Greenbaum, **Helen Cooper**, Dentons Bingham Greenbaum and **Arthur E. White III**, Elverson White

Time: Noon – 1 p.m. — Program
Place: Zoom – a link will be sent prior to the seminar
Price: \$40 LBA Members | \$36 Sustaining Members | \$15 Paralegal Members | \$15 for qualifying YLS Members | \$25 Solo/Small Practice Section Members, Government or Non-Profit Members | \$80 Non-members
Credits: 1.0 CLE Hour — Pending

2024 Taxation Law Section Leadership: H. Collier Clay, Dentons Bingham Greenbaum, Helen Cooper, Dentons Bingham Greenbaum and Arthur E. White III, Elverson White

ANNUAL LBA PROBATE & ESTATE PLANNING SECTION + KY CPA SOCIETY

6th Annual Estate Planning Conference

Wednesday, June 12

Join the LBA Probate & Estate Law Section and The KY Society of CPAs for their annual Estate Planning Conference. This informative program offers valuable insights for both legal and financial professionals, such as:

- Stay ahead of the curve: Learn about the tax plans of the 2024 Presidential Candidates and the latest legislative updates.
- Master the essentials: Gain in-depth knowledge on recent developments, gift planning, KY inheritance tax and more.
- Navigate complex issues: Explore strategies for post-mortem tax planning and estate administration, and succession planning.
- Prioritize well-being: Attend a session on navigating emotional terrain “Mental Wellness for Professionals.”

Sharpen your skills, network with colleagues and ensure you're providing the best possible service to your clients.

For the full agenda and list of speakers, visit www.loubar.org.

Time: 8 a.m. – 5 p.m. — Program
Place: Hybrid (at the Ky CPA Society and via Zoom)
Credits: Pending

2024 LBA Probate & Estate Law Section Leadership: Matthew H. Burnett, Dinsmore & Shohl and Monica B. Davidson, Stock Yards Bank & Trust

MESA ONE-HOUR ETHICS

The Ties That Bind: Avoiding Inappropriate Entanglements in the Practice of Law

Thursday, June 13

To be an effective advocate, a lawyer must maintain a fair degree of dispassionate objectivity. The lawyer who becomes personally involved in the representation does the client a disservice. This is even more true for the lawyer who becomes personally involved with the client. In this webinar, legal humorist Sean Carter will explain the importance of avoiding this most basic conflict of interest and will relate the tragic (but sometimes fascinating) tales of lawyers who learned this lesson too late.

Speaker: **Sean Carter**, MESA CLE

Time: 1 – 2 p.m. — Program
Place: Zoom – a link will be sent prior to the seminar
Price per hour: \$55 LBA Members | \$50 Sustaining Members | \$25 Paralegal Members | \$125 Non-members
Credits: 1.0 CLE Ethics Hour — Pending

Please note this is a partnered CLE program. Attendees must register through MESA CLE and follow MESA CLE's cancellation policy.

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MESA TWO-HOUR ETHICS

The 2024 Ethy Awards

Saturday, June 15

Each year, Hollywood celebrates the best performances in motion pictures at the Oscars. In this program, we note the worst ethics violations in the legal profession at the Ethys. Humorist Sean Carter will host the festivities and announce the award winners in such categories as: Worst Original Excuse, Best Courtroom Outburst, Most Creative Billing, Least Competent and much more. In the process of recapping some of the most egregious instances of unethical behavior, Carter will demonstrate how the rest of us can avoid more common ethical violations.

Speaker: **Sean Carter**, MESA CLE

Time: 10 a.m. – Noon — Program

Place: Zoom – a link will be sent prior to the seminar

Price per hour: \$55 LBA Members | \$50 Sustaining Members | \$25 Paralegal Members | \$125 Non-members

Credits: 2.0 CLE Ethics Hours — *Pending*

Please note this is a partnered CLE program. Attendees must register through MESA CLE and follow MESA CLE's cancellation policy.

LBA ONE-HOUR ETHICS WITH LMICK

"Am I in Trouble?" ...Naw, You're in Big Trouble!

Monday, June 17

Our annual compilation of entertaining lawyer misbehavior features new, real-life fact patterns and the opportunity to discuss which ethical obligations are potentially implicated. The fact patterns—while extreme at times—provide attendees an opportunity to see how various rules can overlap and interact in the real world. Attendees will then be asked to determine what discipline, if any, should apply in each scenario. Being mindful of these potential ethical quagmires will hopefully help you avoid becoming the unwitting subject of a future ethics CLE!

Speaker: **Courtney Risk**, LMICK

Time: 11 a.m. – Noon — Program

Place: Zoom – a link will be sent prior to the seminar

Price: \$40 LBA Members | \$36 Sustaining Members | \$15 Paralegal Members | \$15 for qualifying YLS Members | \$25 Solo/Small Practice Section Members, Government or Non-Profit Members | \$80 Non-members

Credits: 1.0 CLE Ethics Hour — *Approved*

LBA PROBATE & ESTATE LAW SECTION + UNIVERSITY OF LOUISVILLE BRANDEIS SCHOOL OF LAW

Annual Estate Planning Institute

Tuesday, June 18

Designed for estate professionals, the Estate Planning Institute provides top-notch instruction on current issues in the field, catering to a diverse audience. Our relevant topics ensure a comprehensive learning experience for all, helping you stay ahead in the evolving landscape of estate planning.

More information to be announced.

2024 LBA Probate & Estate Law Section Leadership: Matthew H. Burnett, Dinsmore & Shohl and Monica B. Davidson, Stock Yards Bank & Trust

LBA TWO-HOUR

Johnny Depp v. Amber Heard – Tips for Representing Crazy Clients

Tuesday, June 18

Johnny Depp's defamation lawsuit against Amber Heard was probably the biggest celebrity trial since OJ Simpson. This trial highlights the importance of litigating in the court of public opinion as well as the court of law. In addition, the battle inside the courtroom provided great insights in making your client seem real to the jury. Along the way, we will learn great ways to handle hearsay evidence and ways to object to your own question. Finally, will this case be a harbinger of things to come with defamation lawsuits?

For more information and a detailed agenda visit www.loubar.org.

Speaker: **Joel Oster**, Comedian of Law

Time: 11 a.m. – 1 p.m. — Program

Place: Zoom – a link will be sent prior to the seminar

Price: \$80 LBA Members | \$72 Sustaining Members | \$160 Non-members

Credits: 2.0 (including 1.0 Ethics) CLE Hours — *Pending*

MESA ONE-HOUR

If You Can't Say Something Nice, Shut Up!: The Ethical Imperative for Civility

Tuesday, June 18

As children, we were all taught, "If you can't say something nice, then don't say anything at all." Well, that advice holds especially true for lawyers. Whether in open court, a deposition or contract negotiation, lawyers who choose to "go low," run a high risk of bar discipline. Increasingly, disciplinary authorities are treating the once aspirational goal of civility as a mandate. Therefore, it's important for all lawyers to be reminded of their obligation to "play nice."

Speaker: **Sean Carter**, MESA CLE

Time: 1 – 2 p.m. — Program

Place: Zoom – a link will be sent prior to the seminar

Price per hour: \$55 LBA Members | \$50 Sustaining Members | \$25 Paralegal Members | \$125 Non-members

Credits: 1.0 CLE Ethics Hour — *Pending*

Please note this is a partnered CLE program. Attendees must register through MESA CLE and follow MESA CLE's cancellation policy.

MESA ONE-HOUR

I Think, Therefore I Am ... Biased: How Implicit Biases Manifest in the Legal Profession

Wednesday, June 19

The human brain is wired to recognize patterns and make generalizations, even those based on faulty or incomplete information. And contrary to popular opinion, lawyers are human as well and therefore, we are just as susceptible to forming biases and acting upon them. And it does not require that we harbor ill will or animus towards other people. In fact, most often, our biases are not even our own, but rather those that have been taught to us.

In this eye-opening presentation, the presenter will use videos to show lawyers just how easy it is to form these biases, how they manifest themselves in the way we treat clients, colleagues and opposing parties, and most importantly, how we can reduce the effect of these biases by recognizing and compensating for them.

Speaker: **Sean Carter**, MESA CLE

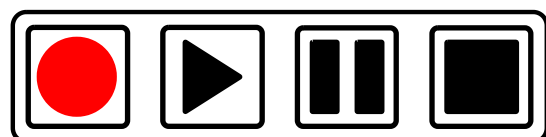
Time: 1 – 2 p.m. — Program

Place: Zoom – a link will be sent prior to the seminar

Price per hour: \$55 LBA Members | \$50 Sustaining Members | \$25 Paralegal Members | \$125 Non-members

Credits: 1.0 CLE Hours — *Pending*

Please note this is a partnered CLE program. Attendees must register through MESA CLE and follow MESA CLE's cancellation policy.



Learn Your Way. CLE Anytime. Anywhere.

LBA LABOR & EMPLOYMENT LAW SECTION + UoFL BRANDEIS SCHOOL OF LAW

The Carl A. Warns, Jr. & Edwin R. Render Labor & Employment Law Institute

Thursday, June 20 and Friday, June 21

The Institute provides high-quality continuing legal education to local and regional labor or employment law attorneys, human resource professionals, union representatives and other workplace experts. The Institute creates a dialogue between academics, government officials and practitioners. It is an inclusive forum where employees, union and management-side representatives all feel welcome and benefit from the education provided. We are excited to announce guest speaker Mark Gaston Pearce, Workers' Rights Institute/Georgetown Law.

More information to be announced.

Labor & Employment Law Section Leadership: Rudy J. Ellis III, Dinsmore & Shohl and Marianna Melendez, Jefferson County Public Schools

LBA DAY-LONG

True Crimes: From Murder to Verdict

Friday, June 21

Murder trials capture Americans' attention like no other. They are the original reality TV. From gruesome murder scenes to the search for who is responsible, society is consumed with the process. For lawyers, it is a crowning achievement of the profession. It provides an orderly way to process and hold responsible people who commit these heinous acts. But does the process always work? Do the innocent get convicted? Do the guilty go free?

This seminar examines five true crimes, from the grisly details of the murder scene to the decision to indict, to the trial, and finally, to the verdict. And in the process, this session puts the legal system on trial.

For more information and a detailed agenda visit www.loubar.org.

Speaker: **Joel Oster**, Comedian of Law

Time: 9:50 a.m. – 4:40 p.m. — Program
Place: Zoom – a link will be sent prior to the seminar
Price: \$240 LBA Members | \$216 Sustaining Members | \$480 Non-members
Credits: 6.0 CLE Hours — Pending

LBA ONE-HOUR

Paralegals: The Hidden Gems of the Legal Team

Monday, June 24

This webinar seeks to address the underlying role of the paralegal including the importance of paralegal education and experience as it pertains to assisting the legal team with complex legal matters. As such, discussion of the role of the paralegal will include specific tasks which may be assigned to the paralegal, and identifying what makes the paralegal the hidden gem of the legal team. We will also address the importance of paralegal inclusion and collaboration within the legal team, and the cost-benefit analysis of utilizing a paralegal to decrease costs and maximize overall return. At the conclusion of this webinar, attendees will be able to create an actionable plan of utilizing their paralegal in a manner that will increase firm profitability, maximize the return on investment and decrease the attorney workload.

Speaker: **Deana Lively**, DBL Law

Time: 1:15 – 2:15 p.m. — Program
Place: Zoom – a link will be sent prior to the seminar
Price: \$40 LBA Members | \$36 Sustaining Members | \$15 Paralegal Members | \$15 for qualifying YLS Members | \$25 Solo/Small Practice Section Members, Government or Non-Profit Members | \$80 Non-members
Credits: 1.0 CLE Hour — Pending

LBA DAY-LONG

Trials of the Centuries: Landmark Cases

Monday, June 24

This class will remind the lawyer about the true essence of being an attorney. We go back in time and review the most significant, precedent-setting, culture-impacting cases over the last several millennia. We look at the trial strategies, the issues involved, the outcomes and how those cases can make you a better lawyer today.

For more information and a detailed agenda visit www.loubar.org.

Speaker: **Joel Oster**, Comedian of Law

Time: 8:50 a.m. – 3:40 p.m. — Program
Place: Zoom – a link will be sent prior to the seminar
Price: \$240 LBA Members | \$480 Non-members
Credits: 6.0 (including 2.0 Ethics) CLE Hours — Approved

MESA ONE-HOUR ETHICS

It's Not the Fruit, It's the Root: Getting to the Bottom of Our Ethical Ills

Monday, June 24

In this unique legal ethics seminar, Sean Carter goes beyond the “dos” and “don'ts” of the Rules of Professional Conduct to get to the heart of the matter – the common mindsets that result in ethical violations in the first place. He will provide tips and insights on how to heal ourselves from these mindsets so that the ethical canons become guideposts and not obstacles in our drive to become successful lawyers.

Speaker: **Sean Carter**, MESA CLE

Time: 1 – 2 p.m. — Program
Place: Zoom – a link will be sent prior to the seminar
Price per hour: \$55 LBA Members | \$50 Sustaining Members | \$25 Paralegal Members | \$125 Non-members
Credits: 1.0 CLE Ethics Hour — Pending

Please note this is a partnered CLE program. Attendees must register through MESA CLE and follow MESA CLE's cancellation policy.

MESA DAY-LONG

Engage!: Hands-On A.I. Training For Modern Legal Practice

Tuesday, June 25

Join us for an extraordinary six-hour webinar journey where you'll not only learn about artificial intelligence's revolutionary impact on the legal profession but will also engage directly with the technologies reshaping our field. This hands-on workshop program is designed for forward-thinking legal professionals eager to command the tools of tomorrow, today.

Speaker: **Sean Carter**, MESA CLE

Time: 10 a.m. – 6 p.m. — Program
Place: Zoom – a link will be sent prior to the seminar
Price per hour: \$55 LBA Members | \$50 Sustaining Members | \$25 Paralegal Members | \$125 Non-members
Credits: 6.0 CLE Hours — Pending

Please note this is a partnered CLE program. Attendees must register through MESA CLE and follow MESA CLE's cancellation policy.

LBA AI/IP/PRIVACY LAW SECTION ONE-HOUR

AI and IP: The Fundamentals of Intellectual Property Law and How Generative Artificial Intelligence is Shaking Them

Tuesday, June 25

The proliferation of artificial intelligence (AI) applications leveraging, and the explosion of use cases for, deep-learning models that can generate high-quality text, images and other content (generative AI) is sending shockwaves through the IP world. Chatbots like Open-AI's ChatGPT or Google's Gemini and image generation tools such as Stability AI's Stable Diffusion and the self-titled program from Midjourney are creating novel problems in IP as plaintiffs, defendants and the courts struggle to freshly apply old categories of copyright, trademark and patent law to these new technologies. This program will provide a brief overview of copyright and patent law, and then explore recent litigation moving through US courts.

Speakers: **Dalton Cline**, Dentons and **Gary (Nick) Stewart**, Stites & Harbison

Time: Noon – 1 p.m. — Program
Place: Zoom – a link will be sent prior to the seminar
Price: \$40 LBA Members | \$36 Sustaining Members | \$15 Paralegal Members | \$15 for qualifying YLS Members | \$25 Solo/Small Practice Section Members, Government or Non-Profit Members | \$80 Non-members
Credits: 1.0 CLE Hour — Pending

2024 LBA AI/IP/Privacy Law Section Leadership: Dalton Cline, Dentons and Gary (Nick) Stewart, Stites & Harbison

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LBA DAY-LONG

Killing It in Court: Litigation Tips from A Courtroom Comedian

Tuesday, June 25

John Cleese of Monty Python fame said, “He who laughs most learns best.” This applies equally to CLE and to persuading others in court. Learn practical tips that will make you more effective, efficient and persuasive in court. We will hit the best deposition practices, ethical pitfalls in litigation, cross-examining like Vinny Gambini and how to avoid the dreaded bench slap.

For more information and a detailed agenda visit www.loubar.org.

Speaker: **Joel Oster**, Comedian of Law

Time: 8:50 a.m. – 3:40 p.m. — Program
 Price: \$240 LBA Members | \$480 Non-members
 Place: Zoom – a link will be sent prior to the seminar
 Credits: 6.0 (including 2.0 Ethics) CLE Hours — *Approved*

LBA & LOUIS D. BRANDEIS INN OF COURT

14th Annual Lively M. Wilson Memorial Lecture Series on Ethics, Professionalism and Civility

Wednesday, June 26

This annual program focuses on civility and professionalism in the legal profession. More details to come!

Time: 11 a.m. – 1 p.m. — Program
 Place: Zoom – a link will be sent prior to the seminar
 Price: \$80 LBA Members | \$72 Sustaining Members | \$15 Paralegal Members | \$15 for qualifying YLS Members | \$25 Solo/Small Practice Section Members, Government or Non-Profit Members | \$160 Non-members
 Credits: 2.0 CLE Hours — *Pending*

MESA ONE-HOUR ETHICS

Show Me The Ethics!: The Ethical Way to Bill for Legal Services

Wednesday, June 26

While it is important for lawyers to be compensated for their services, it is even more important for lawyers to use ethical billing and collection practices in securing such compensation. Drawing on examples provided by current and past nominees from his annual Ethy Awards for the worst ethical behavior, legal humorist Sean Carter will provide a poignant reminder of how NOT to bill clients and collect fees. And in the process, he will reinforce the relevant legal ethics principles underlying such practices.

Speaker: **Sean Carter**, MESA CLE

Time: 1 – 2 p.m. — Program
 Place: Zoom – a link will be sent prior to the seminar
 Price per hour: \$55 LBA Members | \$50 Sustaining Members | \$25 Paralegal Members | \$125 Non-members
 Credits: 1.0 CLE Ethics Hour — *Pending*

Please note this is a partnered CLE program. Attendees must register through MESA CLE and follow MESA CLE's cancellation policy.

LBA DIVERSITY & INCLUSION ONE-HOUR

LGBTQIA+ Legislation & the Kentucky General Assembly

Thursday, June 27

This program will address legislation that has been proposed or passed in the last two sessions of the Kentucky General Assembly and affects the LGBTQIA+ community. Chris Hartman, Executive Director of the Fairness Campaign and Senator Cassie Chambers Armstrong will explain this legislation and their perspectives as to why some legislation passed and some did not. The legal issues presented by this legislation will also be addressed.

Speakers: **Senator Cassie Chambers Armstrong** and **Chris Hartman**, Fairness Campaign

This program is offered in a hybrid format: in-person at the newly-renovated Bar Center or virtually via Zoom (link provided one day prior). Please choose your preferred attendance method during registration. For in-person attendees, a boxed lunch is available for an additional \$15. Please indicate your lunch preference during registration. Please note, boxed lunches will not be available for purchase on-site.

Time: Noon – 1 p.m. — Program
 Place: Hybrid
 Price: \$40 LBA Members | \$36 Sustaining Members | \$15 Paralegal Members | \$15 for qualifying YLS Members | \$25 Solo/Small Practice Section Members, Government or Non-Profit Members | \$80 Non-members; Add \$15 for in-person box lunch, optional
 Credits: 1.0 CLE Hour — *Pending*

2024 LBA Diversity & Inclusion Committee Leadership: *Michelle L. Duncan, Dinsmore & Shohl and John E. Selent, Dinsmore & Shohl*

LBA DAY-LONG

A Comedic De-Briefing of the Law: A Comedic Review of the Supreme Court, Legal Ethics and Headline Cases

Thursday, June 27

This class is a comprehensive de-briefing of the law. Starting with ethics, we review the crazy predicaments some ethically challenged attorneys have found themselves in. You will have to decide based on the severity of the facts and the relevant model rule, whether you would take a deal for that violation. While Hollywood might not be setting the finest examples when it comes to actual morals and ethics, they do a good job of exhibiting legal ethics.

We will explore the Model Rules through the eyes of Hollywood. From Hollywood, it's not a long journey to our legal rock stars – the Nine! The Supreme Court, aka, the Real League of Justice, has been busy exerting their superhero legal powers. We will review a recent landmark Supreme Court case. For example, Masterpiece Cakeshop and stale wedding cake: discrimination or a valid excuse to skip your cousin's wedding?

Finally, we will take a countdown of the Top 10 wacky cases. You might be surprised by what you will learn about legal strategy from these headline cases.

For more information and a detailed agenda visit www.loubar.org.

Speaker: **Joel Oster**, Comedian of Law

Time: 8:50 a.m. – 3:40 p.m. — Program
 Place: Zoom – a link will be sent prior to the seminar
 Price: \$240 LBA Members | \$216 Sustaining Members | \$480 Non-member
 Credits: 6.0 (including 2.0 Ethics) CLE Hours — *Approved*

MESA HALF-DAY ETHICS

The 2024 Ethy Awards

Thursday, June 27

Each year, Hollywood celebrates the best performances in motion pictures at the Oscars. In this program, we note the worst ethics violations in the legal profession at the Ethys. Humorist Sean Carter will host the festivities and announce the award winners in such categories as: Worst Original Excuse, Best Courtroom Outburst, Most Creative Billing, Least Competent and much more. In the process of recapping some of the most egregious instances of unethical behavior, Carter will demonstrate how the rest of us can avoid more common ethical violations.

Speaker: **Sean Carter**, MESA CLE

Time: Noon – 3 p.m. — Program
 Place: Zoom – a link will be sent prior to the seminar
 Price per hour: \$55 LBA Members | \$50 Sustaining Members | \$25 Paralegal Members | \$125 Non-members
 Credits: 3.0 CLE Ethics Hours — *Pending*

Please note this is a partnered CLE program. Attendees must register through MESA CLE and follow MESA CLE's cancellation policy.

MESA ONE-HOUR ETHICS

ChatOMG: The Ethical Pros and Cons of Using AI

Friday, June 28

ChatGPT and other AI generative language models are changing the way that we do business and practice law. And while AI will not replace the need for lawyers in the foreseeable future, it will drastically change how lawyers go about plying their craft.

In this forward-looking webinar, legal humorist Sean Carter will give you a sneak preview of the ethical pros and cons of utilizing this game-changing technology.

Speaker: **Sean Carter**, MESA CLE

Time: Noon – 1 p.m. — Program

Place: Zoom – a link will be sent prior to the seminar

Price per hour: \$55 LBA Members | \$50 Sustaining Members | \$25 Paralegal Members | \$125 Non-members

Credits: 1.0 CLE Ethics Hour — Pending

Please note this is a partnered CLE program. Attendees must register through MESA CLE and follow MESA CLE's cancellation policy.

THE AMERICAN CONSTITUTION SOCIETY & THE LBA APPELLATE LAW SECTION

Annual Supreme Court Update

Friday, June 28

The seminar will address the key cases before the U.S. Supreme Court during October Term 2023. The court will recap key opinions from the previous year, discuss any new or continuing trends at the Court and preview the upcoming Term.

Speakers: **Michael P. Abate**, Kaplan Johnson Abate & Bird; **Pamela S. Karlan**, Stanford Law School; and more to be announced.

Time: 11 a.m. – 1 p.m. — Program

Place: Zoom – a link will be sent prior to the seminar

Price: \$80 LBA Members | \$72 Sustaining Members | \$15 Paralegal Members | \$15 for qualifying YLS Members | \$25 Solo/Small Practice Section Members, Government or Non-Profit Members | \$160 Non-members

Credits: 2.0 CLE Hours — Pending

MESA TWO-HOUR ETHICS

Nice Lawyers Finish First

Saturday, June 29

It's been said that nice guys finish last. And while that might be true in the rough and tumble arenas of politics, professional prize fighting and marriage, nothing could be further from the truth in the practice of law. Zealous representation doesn't require us to be zealots. In fact, the most effective representation requires just the opposite. Nice lawyers finish first ... and so do their clients!

Speaker: **Sean Carter**, MESA CLE

Time: 10 a.m. – Noon — Program

Place: Zoom – a link will be sent prior to the seminar

Price per hour: \$55 LBA Members | \$50 Sustaining Members | \$25 Paralegal Members | \$125 Non-members

Credits: 2.0 CLE Ethics Hours — Pending

Please note this is a partnered CLE program. Attendees must register through MESA CLE and follow MESA CLE's cancellation policy.

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Kentucky Citation: Don't get RAP-ped for Bad Cites

Kurt X. Metzmeier

For most Kentucky lawyers, formal instruction in citation is a dim memory from a first-year law school legal writing or lawyering skills class. Somewhere in their office is a tattered copy of the *Bluebook* or *ALWD: The Guide to Legal Citation* (pronounced “all-wood”), but they mostly cite cases, Kentucky statutes and state regulations the way they see other people do in motions, briefs and other court documents.

And they are probably right to do so. That is because what they may not have learned in law school is that many of the citation rules Kentucky lawyers need to follow when filing documents in state courts are not in a law school textbook but in the Kentucky court rules. Until recently, these rules were included with the rules for drafting briefs in CR 76 of the Kentucky Rules of Civil Procedure, but now are found throughout the relatively new Kentucky Rules of Appellate Procedure (RAP). But that isn't the only place where state-specific rules for citing Kentucky law are found. This article will ferret out these rules and compare them to the scholarly citators.

Cases

Before moving to citation style, a few words

on the tactics of citing cases. Like everything in a legal document, citing is advocacy. You cite cases for their authority, not for decoration; make sure the best ones have the proper impact. Sometimes less is better—don't drown the impact of your good-law citations with string cites. Kentucky judges don't have big staffs to pull cites and they are looking for precedent on the key points. Also, new isn't always better; cite the best case, not the newest. The Kentucky Supreme Court has long been miserly with its “To-Be-Published” stamp, so often the best and most well-reasoned case is perhaps a decade or more old. The new cases you find on a database search often cite those leading precedents without comment, which deadens their impact. One retired Supreme Court justice told me this was a particular annoyance, especially when the citing source drifted from the original decision's meaning—and even more so when that justice wrote the early case!

Returning to citation rules, older lawyers may remember when the Kentucky rules had a very eccentric way of citing Kentucky cases. What would be cited now as *Haney v. Butler*, 990 S.W.2d 611 (Ky. 1999) would have been *Haney v. Butler*, Ky., 990 S.W.2d 611 (1999) until a

welcome rules change in 2006.

Current rules mostly comport with academic citation practices, although case names should always be italicized in Kentucky court submissions:

Haney v. Butler, 990 S.W.2d 611 (Ky. 1999)

Owens v. Williams, 955 S.W.2d 196 (Ky. Ct. App. 1997)

Source: Kentucky RAP 31(E)(1)

(Case names are not underlined in law review footnotes under *Bluebook* and *ALWD* style. If you are mentioning a case in the text of a law review article, italics are used.)

Unpublished decisions are treated somewhat differently in RAP than they were in the old rule CR 76. Both sets of rules make it clear that Not-To-Be-Published opinions of the Supreme Court and the Court of Appeals “are not binding precedent,” but the new rules go on to state that “citation of these opinions is disfavored.” RAP 41(A). One can only cite to an unpublished decision if it meets all four of these conditions: (1) it was rendered after January 1, 2003, (2) it is a final decision, (3) there is “no published opinion of the Supreme

Court or the Court of Appeals that would adequately address the point argued by the party,” and (4) the party “clearly states that the opinion is not binding authority.”

Moreover, the new rules try to stop parties from citing unpublished opinions using proprietary citations (like 2009 WL 2408464 or 2018 Ky. Unpub. LEXIS 48) which do not give the opposing party's lawyer adequate information to find those cases on public domain websites. (This was sometimes a boorish act by a big firm lawyer to one-up an attorney without those premium services.)

Therefore, when citing one of these opinions, one must use the style, date and case number of the decision:

Doe v. Roe, 2019-SC-1234 (Ky. Feb. 20, 2023)

Smith v. Jones, 2019-CA-1999 (Ky. App. Oct. 4, 2023).

Source: RAP 41(C)(1)

Furthermore, when citing an unpublished opinion from another state, the rules require that the party either provide a URL or some other identifier that will provide “easy access to

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LIVE WEBINAR What to Do About Student Loans in 2024
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the opinion on the publicly available database” or else attach a copy of the entire opinion in an appendix to the party’s brief. RAP 41(C)(2).

Statutes

The citation style for law reviews would confuse most seasoned Kentucky lawyers. The statute making Ale-8-One the official state original soft drink would be cited as “Ky. Rev. State Ann. § 2.086 (West 2021)” or “Ky. Rev. State Ann. § 2.086 (LexisNexis 2019)” in the Bluebook while the Kentucky rules direct that the Kentucky Revised Statutes be abbreviated as “KRS.” Thus, the above statute would be:

KRS 2.086

Source: RAP 31(E)(1)

The citation of Kentucky Acts, the laws passed in each annual session of the General Assembly, is also guided by a state rule. The legislature, by statute, mandates this citation rule along the lines of this example:

2005 Ky. Acts ch. 168, sec. 2

2005 (Extra. Sess.) Ky. Acts ch. 168, sec. 2

Source: KRS 13A.222(4)(m)

The first part of the citation isn’t that different from the academic style rules. However, they use page number rather than chapter (“ch.”) and section (“sec.”) to pinpoint a citation:

2005 Ky. Acts 1445 (Bluebook)

Regulations

Okay, at this point I’m going to throw up my

hands and just tell it like it is. Citing Kentucky regulations “by the rules” is a hard thing to do because the Bluebook, ALWD and even the Kentucky regulations say one thing—and everyone does it another way.

The Kentucky Administrative Regulations is a good example. If you follow the “How to Cite Ky. Admin. Regs.” directions on page 3 of every issue of the Administrative Register of Kentucky, you would cite a regulation the following way:

[title number] Ky. Admin. Regs. [chapter number]:[regulation number] (year)

Example: 103 Ky. Admin. Regs. 25:131 (2005)

The Bluebook and ALWD agree. However, if you run a search in Westlaw, the same regulation would be cited the following way in 51 cases in just the last year:

Example: 103 KAR 25:131 (2005)

In the half-century since the Kentucky Administrative Regulations was started in 1975, 1,481 cases used “KAR” and only 131 used “Ky. Admin. Regs.” The “common law of Kentucky citation” suggests using KAR is acceptable.

The other Kentucky regulatory source is the monthly Administrative Register of Kentucky, which is rarely cited in court cases. They are, however, cited in the regulatory history notes to Kentucky Administrative Regulations regulatory notes by volume number, the abbreviation “Ky. R.” and page:

27 Ky. R. 25

(Yes, I noticed; abbreviating Administrative Register of Kentucky as “Ky. R.” is weird.)

Executive Orders

Frankly, it is harder to find an executive order of the governor of Kentucky than to cite it, but the General Assembly helps with the latter. In KRS 13A.222(4)(m)(5), which concerns the drafting of administrative regulations, the legislature directs that “the citation [for executive orders] shall be as follows: ‘EO (year executive order issued)-(number of executive order).’”

Example: EO 2005-927.

Red Ink?

Unlike your legal writing professor, most judges aren’t going to mark up your motions and briefs with an angry red Sharpie and

deduct points because you accidentally italicized a trailing comma. But good, consistent citation, like the absence of typos, signals competence and could psychologically make your arguments seem more salient. And if you have a good case or statute important to your argument, you certainly want a citation that helps the judge find it.

Kurt X. Metzmeier is the interim director of the law library and professor of legal bibliography at the University of Louisville Brandeis School of Law. He is the author of Writing the Legal Record: Law Reporters in Nineteenth-Century Kentucky, a group biography of Kentucky’s earliest law reporters, who were leading members of antebellum Kentucky’s legal and political worlds. ■



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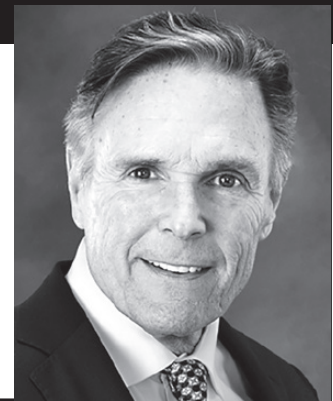
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Kentucky's New Data Privacy Legislation and What it Means for Kentucky Businesses

Keanna Cohen

On April 4, 2024, Governor Beshear signed the Kentucky Consumer Data Privacy Act (KCDPA) into law. KCDPA takes effect January 1, 2026, with two main objectives: (1) it gives Kentucky consumers rights relating to their data, and (2) it requires companies to comply with data collection, processing, distribution and protection measures.

With the passage of KCDPA, Kentucky became the 15th state to pass state consumer data protection legislation. Other states with consumer data protection legislation include California, Colorado, Connecticut, Delaware, Indiana, Iowa, Montana, New Hampshire, New Jersey, Oregon, Tennessee, Texas, Utah and Virginia. Florida has also adopted some consumer data privacy legislation however, its comprehensiveness remains debated as the threshold for applicability is limited to businesses with over \$1 billion in gross revenues.

History of Comprehensive Data Privacy Legislation

Comprehensive data privacy legislation is new to the international legal landscape. The European Union adopted the General Data Protection Regulation (GDPR), the toughest data privacy laws in the world, in 2018. Violating the GDPR leads to heavy fines, amounting to 20 million euros or 4% of global revenue, whichever is higher, for the most egregious breaches. But for many U.S. consumers, such protections are new or still nonexistent.

Taking its cues from the E.U., in 2018, California became the first state to pass consumer data privacy legislation. In 2020, the state took it a step further, amending the 2018 legislation to expand consumer rights and data minimization requirements, and creating a Privacy Enforcement Authority.

In 2023, Virginia passed a similar law. KCDPA largely tracks Virginia's model, placing fewer restrictions on data-collectors (known as "controllers" under KCDPA), excluding a "permanent cure period" during which a controller might remedy a breach, and barring a private right of action.

Applicability

KCDPA imposes obligations on "controllers," defined as "a natural or legal person that ... determines the purpose and means of processing personal data." To be bound by KCDPA, a controller must conduct business in Kentucky or manufacture products or services marketed to Kentucky consumers, and, "during a calendar year control or process data of at least (a) 100,000 consumers; or (b) 25,000 consumers and derive over 50% of gross revenue from the sale of personal data."

Entities exempt from the KCDPA include city and state government agencies; financial institutions subject to the Gramm-Leach-Bliley Act; Health Insurance Portability and Accountability Act (HIPAA)-covered entities and business associates; nonprofit organizations; and institutions of higher education.

The KCDPA outlines data exempt from its regulation. These include healthcare and insurance information subject to HIPAA; financial information subject to the Fair Credit Reporting Act; motor vehicle information subject to the Driver's Privacy Protection Act; and Education information subject to the Family Educational Rights and Privacy Act (FERPA).

Controller Obligations

KCDPA sets forth the following obligations for controllers:

Data Minimization	Controllers must limit the collection of personal data to "what is adequate, relevant, and reasonably necessary."
Data Security	Controllers must implement and maintain reasonable security practices to protect consumer data confidentiality and accessibility.
Sensitive Data Processing	Controllers are required to secure consumer consent for processing sensitive consumer data, relating to race or ethnic origin, religious beliefs, biometric data, health diagnoses and sexual orientation, among other things.
Data Privacy Notice	Controllers must inform consumers, by way of a privacy notice, of the types of personal data processed, the purpose behind processing that data, consumer rights under KCDPA, the categories of data shared with third parties and third parties with whom the controller shares personal data.
Advertising Opt-In	Controllers that sell sensitive data to third-parties must clearly and conspicuously disclose that they engage in the sale of consumer data, identify the type of data sold and obtain consent for the sale of consumer data. Consumers can opt-out and deny consent to the controller's sale of their data to third-parties.
Consumers' Mechanism of Redress	Controllers must clearly and conspicuously provide a method by which consumers can contact the controller to exercise their consumer rights.
Conduct a Data Protection Impact Assessment	KCDPA requires controllers to draft data protection impact assessments that address high-risk data processing. High-risk processing includes personal data used for targeted advertising, personal data for sale and personal data used for profiling, among other things. Although impact assessments must be disclosed to the Attorney General upon request, they are otherwise "confidential and exempt from disclosure, public inspection, and copying."

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Controllers' Use of Processors

Many businesses use outside companies to collect, store, manage and process consumers' data. The KCDPA defines Processor as "a natural born person or legal entity that processes personal data on behalf of a controller."

Data processors are bound by the same obligations as controllers and are expected to help controllers achieve their KDCPA obligations. Additionally, controllers and processors are required to draft and sign a data processing agreement prior to processing data.

Consumer Rights

KCDPA seeks to protect "consumers," Kentuckians who purchase goods or services. Individuals acting in a commercial or employment context are exempt from KCDPA's protections.

KCDPA's consumer rights include:

Right to Confirm	Consumers have the right to know whether a controller is processing the consumer's personal data, and access the data collected. A controller is not required to disclose if disclosure would reveal a trade secret.
Right to Correct	Consumers have the right to correct inaccuracies in their personal data.
Right to Delete	Consumers have a right to delete their personal data.
Right to Data Portability	Consumers have the right to review their personal data in a readable format and readily transfer data from one platform to another.
Right to Opt-out	Consumers can opt-out of personal data processing, if it is for the purposes of targeted advertising, the sale of their personal data or profiling.

Consumer Remedies

Consumers seeking to enforce their data privacy rights may submit a request to the controller. Parents of children may submit a request on behalf of their child. The controller must respond to the request within 45 days, unless it is reasonably necessary to extend the 45 days and the controller notifies the consumer of the extension within 45 days. Only one 45-day extension is permitted.

The controller must also provide a procedure for consumers to appeal the controller's denial of a request. The appeals procedure must be "conspicuously available and similar to the process for submitting [initial requests]." If a controller denies an appeal, the controller must provide a method by which the consumer can submit a complaint to the Kentucky Attorney General.

Consistent with most other comprehensive data privacy legislation, KCDPA does not permit an individual to pursue a private right of action. Instead, KCDPA grants exclusive authority to the Kentucky Attorney General to enforce KCDPA violations. Violations are subject to fines up to \$7500 for each continued violation. Controllers have 30 days to cure the violation before enforcement proceeds and fines may be issued.

The Attorney General is not granted rulemaking authority. KCDPA does permit, however, the Attorney General to establish a Department of Consumer Data Privacy within the Office of the Attorney General. The proposed Department may include three to six attorneys, two technologists, and three to four support staff with an estimated fiscal impact of \$1,800,000 annually in salary and operating costs.

Ensuring client compliance with the KCDPA

If your client does business, manufactures products or provides services in, or targets consumers in one of the other 15 states that have adopted comprehensive privacy legislation, then your client is likely already in compliance with KCDPA. However, because consumer data protection laws vary so greatly from state to state, it might be helpful to double-check your client's privacy notices and disclaimers for compliance with the many provisions of KCDPA.

Below are some suggestions to promote client compliance. This list is not exhaustive, and counsel should do their due diligence to ensure compliance.

- Disclose the sale or sharing of personal data and notify consumers of their right to opt-out.
- Provide a clear and conspicuous link on the controller's homepage permitting consumers to bar or limit the sale or sharing of personal data.
- Ensure the controller's privacy policy is clearly and conspicuously available. The privacy policy should include:
 - a. The types of personal data collected;
 - b. An "opt-out" link; and
 - c. A statement declaring how the controller uses the data collected.
- Limit data requested to data that is relevant, adequate or reasonably necessary for processing purposes.
- Do not sell or share personal data for people under 16 without consent.
- If your client uses a processor, ensure a data processing agreement is in place.
- Ensure your client has the capacity to comply with the consumers' request and appeal requirements detailed in the KCDPA.
- Remind your client of their obligation to complete a Data Protection Impact Assessment.

To read the full text of the Kentucky Consumer Data Protection Act, visit:
<https://apps.legislature.ky.gov/record/24RS/hb15.html>.

Keanna Cohen is an associate at Turner, Keal & Button. ■



LBA Committee Meetings

LBA Diversity & Inclusion Committee Meeting
Wednesday, June 12 | 4 p.m. | Zoom

Please RSVP to Lisa Anspach, lanspach@loubar.org. ■

Women Lawyers Association

The Women Lawyers Association will host its next monthly program on June 13 from noon to 1 p.m. at the Crown Room on the 6th floor of the circuit courthouse. Our speaker is Mashayla Hays, an attorney with The Lawyering Project and a CHS Law and Government Magnet Alumna, who will be speaking about her work and the importance of mentorship in building a diverse legal profession. Keep your eye on the WLA website, wlajeffco.com, for a link to RSVP. ■

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Associate Attorney with Shareholder Path:

The LBA's Placement Service is currently working with a centrally located Louisville law office that is seeking an associate attorney to help support its creditor's rights practice areas, such as bankruptcy, foreclosure and litigation. The individual will be making appearances at court both here in Jefferson County and out in the state. While the firm would consider a new graduate, experience is preferred, and the right candidate will be put on track to become an equity shareholder in the firm. This is a full-time position with salary, potential bonuses, health insurance and other benefits. Salary is commensurate with experience. Send resumes in MS Word format to the LBA Placement Service Director, David Mohr, dmohr@loubar.org.

Two Defense Litigation Attorneys:

The LBA's Placement Service is currently working with a well-established downtown Louisville law office that is seeking to hire two attorneys: a candidate with five to ten years' experience, as well as a candidate with approximately two years' experience. Indiana license preferred for either spot but not required. The firm maintains a diverse practice, including insurance and general tort defense, employment defense, commercial litigation and malpractice defense. Experience in these areas is preferred, but similar experience will be considered. Salary is commensurate with experience. Benefits include an attorney allocation program, 100% paid parking, 100% paid employee healthcare benefits, 100% paid short-term and long-term insurance, a firm-matching 401(k) program, casual Fridays, generous parental leave, professional development assistance, and dental and vision insurance. Send resumes in MS Word format to the LBA Placement Service Director, David Mohr, dmohr@loubar.org.

Foreclosure Attorney:

The LBA is currently working with a multi-state law office that is seeking to add an attorney to their Louisville office. The firm specializes in real estate matters and in representing mortgage lenders. Primary duties will include real estate transactions and foreclosure litigation in Kentucky. Competitive salary with excellent benefits offered. Send resumes in MS Word format to the LBA Placement Service Director, David Mohr, dmohr@loubar.org.

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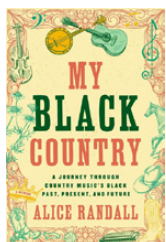
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READING RECOMMENDATION



Library of Congress: Lesbian, Gay, Bisexual, Transgender and Queer Pride Month

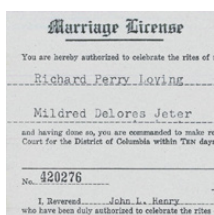
LIVE VIDEO RECOMMENDATION



June 7, 2024 | 7:00 PM - Historically Speaking: Alice Randall: My Black Country with the NMAAHC

LEARN ABOUT "LOVING DAY"

The "Loving" in Loving Day is actually the last name of Mildred and Richard Loving. The Loving Day Story begins when they were arrested for being married in 1958 because they were an interracial couple living in Virginia.



Monthly Focus:

JUNE

- National Caribbean American Heritage Month
- LGBT Pride Month
- 6/12 Loving Day
- 6/19 Juneteenth



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

MEMBERS *on the move*



Browning



Downs



Edwards



Gibbs



Lococo



Paul



Rommelman



Seiffert

McBrayer is pleased to announce the addition of **Mari-Elise Paul** and **Jack Seiffert** to the firm. Paul joins as a Member. Her practice falls heavily in the area of intellectual property, from trademark and copyright clearance and prosecution to enforcement and litigation, but she also handles contract and license negotiation and enforcement and management of supply chain and energy transactions. Paul is a graduate of the University of Louisville Brandeis School of Law. She is a member of the International Trademark Association, where she serves on the Right of Publicity Committee and Influencers Subcommittee. Seiffert joins the firm as a Senior Associate. He handles primarily corporate and finance law matters, working often in supply chain transactions and economic development. Seiffert supports the intellectual property practice with advice on taxation, liability, corporate structure, licensing and asset protection. Seiffert is a graduate of the University of Louisville Brandeis School of Law.

Gwin Steinmetz & Baird is very pleased to announce that **Hunter E. Rommelman** has joined the firm's Insurance Practice Group. His current practice concentrates on representation of companies and individuals in lawsuits alleging personal injury, wrongful death and property damage. Rommelman is a 2021 graduate of the University of Kentucky J. David Rosenberg College of Law and is admitted to practice in Kentucky and Indiana.

Stites & Harbison recently appointed attorney **Carol Dan Browning** as Chair of the firm's Pharmaceuticals & Medical Devices Litigation Group. Browning is a Member (Partner) in the firm's Louisville office. Browning's practice includes drug and medical device litigation, products liability and medical malpractice defense. She serves as national or state counsel for multiple drug, medical device and product manufacturers and is involved in multi-district litigation pending in various federal district courts and in coordinated litigation pending in state courts throughout Kentucky.

Stites & Harbison welcomes attorney **Nicholas (Nick) J. Lococo** to the firm's

Louisville office. He is a Member (Partner) in the Business & Finance Service Group. Lococo's practice focuses on public and municipal finance. He advises clients on financial transactions, including identifying the most efficient means to finance a transaction, analyzing potential transaction risks, and drafting and reviewing legislation, agreements and certificates. Lococo earned his J.D. from the University of Louisville Brandeis School of Law. He is a member of the National Association of Bond Lawyers.

Junior Achievement of Kentuckiana recently appointed Stites & Harbison attorney **Donovan D. Gibbs II** to its Young Professionals Advisory Board. Junior Achievement's mission is to inspire and prepare young people to succeed in a global economy. Gibbs is a member of Stites & Harbison's Intellectual Property & Technology Service Group based in the Louisville office. His practice focuses on counseling clients in litigation and transactional matters involving intellectual property. He assists clients with the selection, adoption, registration and protection of their trademarks as well as registration of copyrights.

Richard W. Edwards and **Jared L. Downs** have joined the Louisville office of Steptoe & Johnson as Of Counsel and Associate. The duo joins the Litigation team, bringing with them decades of experience in representing clients through all phases of complex litigation, from trial through appeal. Edwards is a graduate of the International Association of Defense Counsel Trial Academy and has defended clients in nine states. He has held the role of assistant instructor on trial practice at the UofL Law School. He received his law degree from The University of Kentucky J. David Rosenberg College of Law. Downs has won multiple defense verdicts for his clients and most often works on cases involving personal injuries and property damage due to negligence, products liability, construction defects and bad faith. He is a former felony narcotics prosecutor, a veteran of the United States Army and a current member of the Kentucky Army National Guard's Judge Advocate General's Corps. He received his law degree from the Salmon P. Chase College of Law. ■

In Memoriam



John Warren Bruenderman, 81, passed away peacefully on May 10th, surrounded by his family and closest friends.

Warren was the oldest of 13 children and was a "mama's boy" who dearly loved his mother, Lucille. He was also a devoted husband of 53 years to the love of his life, Janice. His third true love was Trinity High School, where he scored the winning touchdown in the 1959 Trinity-St. X game—a run which seemed to get longer every year he retold the story.

Warren never met a stranger and was liked by everyone who knew him. An attorney with a life-long devotion to doing the right thing, he was ethical to a fault and did his best to instill those same ethics in his three sons. He never turned down anyone who needed a favor, and he sacrificed a lot for the people in his life.

He had many friends, but none as important to him as his life-long friends from high school and even grade school, with some of these friendships spanning more than 70 years. His friends kept him active, regularly meeting for a beer and cheeseburger or to play dominoes and tell the same stories they had told hundreds of times. ■



David Buechler died from cancer on May 10, 2024, at the age of 67. David was born on May 10, 1957, in Louisville, KY. David was educated at St. Xavier High School ('75), Clemson University (B.A. History '79) and Stanford Law (J.D. '83). In his youth, he was a competitive distance runner, winning state championships in track and cross country, attending college on a track scholarship, and winning the Kentucky Derby Festival Mini-Marathon in 1980. David was inducted into the St. Xavier Hall of Honors in 1988.

David began his legal career at Brown, Todd & Heyburn (now Frost Brown Todd). After an interregnum traveling around Asia, he continued it at Lynch, Cox, Gilman & Mahan for several years. He spent most of his career with his own small real estate firm - initially Salyers and Buechler, P.S.C., and later named Stuart & Buechler, P.S.C.

David met the love of his life, Kathleen Doyle, in 1989. The happiest days of his life were spent with Kathleen traveling abroad, many years at the Oaks and Derby, and their evening cocktails at "Dave's Bar." ■



Judge David P. Bowles (Ret.)



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Tuesday, June 18
08:30AM - 04:30 PM
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The Louisville Bar Association would like to welcome our new and returning members!

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