

BARbriefs

113 Louisville Bar Association

Jefferson County, KY
November 3, 2020

October 2020

Directions: To vote, completely fill in the oval as shown. ●
To cast a write-in vote, write the candidate name on the line provided and fill in the oval as shown.

Straight Party (Vote for one)		Soil and Water Conservation District Supervisors (Vote for up to four candidates)	
Republican	REP ○	Sarah Elizabeth SAMMONS	●
Democratic	DEM ○	Jennifer CHAPPELL	●
Libertarian	LIB ○	Write-in	●
		Write-in	●
		Write-in	●
President and Vice President of the United States (Vote for one)		Louisville Metro Council District 10 (Vote for one)	
Donald J. TRUMP	REP ●	Pat MULVIHILL	DEM ●
Michael R. PENCE	DEM ●	Write-in	●
Joseph R. BIDEN	LIB ●	Jefferson County School Board District 2 (Vote for one)	
Kamala D. HARRIS	LIB ●	Jody HURT	●
Jo JORGENSEN	IND ●	Chris KOLB	●
Jeremy "Spike" COHEN	IND ●	Write-in	●
Kanye WEST	IND ●	Nonpartisan Judicial Ballot	
Michelle TIDBALL	IND ●	Circuit Judge "Family Court" 30th Judicial District 3rd Division (Unexpired term) (Vote for one)	
Brock PIERCE	●	Lori GOODWIN	●
Karla BALLARD	●	Daren C. NEEL	●
Write-in	●	Ellie KERSTETTER	●
United States Senator (Vote for one)		Write-in	
Mitch McCONNELL	REP ●		
Amy McGRATH	DEM ●		
Brad BARRON	LIB ●		
United States Representative in Congress 3rd Congressional District (Vote for one)			
Rhonda PALAZZO	REP ●		
John A. YARMUTH	DEM ●		
Write-in	●		
State Senator 19th Senatorial District (Vote for one)			
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State Representative 1st Representative District			

THE
ELECTION
ISSUE



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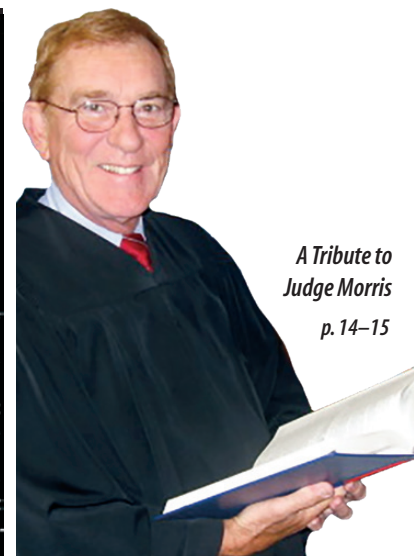
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A Beautiful Democracy

Americans love a fighter, and Justice Ruth Bader Ginsburg was the penultimate fighter. Regardless of whether her opinion was shared by the majority of her Supreme Court Justice colleagues, she was consistent in fighting for the equal protection of all citizens, so much so that by the time she died, she was more than a Supreme Court Justice, she was a cultural icon and the physical embodiment of the Equal Protections Clause of the 14th Amendment.

In 2015, Justice Ginsburg was quoted as saying, "Fight for the things that you care about, but do it in a way that will lead others to join you." Her opinions and the way she lived her life were a testament to this quote. She never wavered on her belief that all people should be treated equally and her passion for this belief is why so many women, and men such as myself, idolize her. Justice Ginsburg, however, while passionate in her beliefs, also understood the importance of respecting a broad array of thought and those who may think differently. As way of example, her closest colleague on the court, and one of her closer friends in life, was the late Justice Antonin Scalia, a man she ideologically differed from greatly.

This friendship is a testament to the beauty of our democracy. We are largely a nation of immigrants, three or four generations removed, and from this diversity we get a wide array of thought. From immigration to the legal authority to mandate masks, there is no shortage of opinions, opinions that are expressed everywhere from Fox News and CNN to the dining room table. I, for one, think this wide array of opinion is a good thing, and I like to think Justice Ginsburg did as well.



While there is no doubt that I am passionate in my beliefs—just ask my wife Julia—I firmly believe society is better when it is full of individuals with varied opinions on matters both small and large. These differing opinions often help each of us refine our own personal positions, or perhaps, make us reconsider whether those positions are correct altogether. Regardless of the outcome, however, there is no doubt that we are all better when speaking with those who think, see, and feel differently. Honestly, life would be boring without these differences. Just take for example the UK vs. UofL rivalry, what would we have without the passion and differing opinions about each institution's sports programs?

The ability to befriend those who think differently, unfortunately, appears to be becoming more and more difficult in the polarized society in which we live today. No longer are differences respected, rather they are dismissed, or worse yet, not tolerated. As a society, this trend should be alarming to each and every one of us. Therefore, as we enter the final phase of the upcoming presidential election, I ask that you try and remind yourself of Justice Ginsburg and embrace the diversity of thought that surrounds you and ignore those times when someone is incapable of understanding this pillar of our democratic society. As Justice Ginsburg said in her 2016 book, *My Own Words*, "...when a thoughtless or unkind word is spoken, best tune out. Reacting in anger or annoyance will not advance one's ability to persuade."

In the end, regardless of whether you are Republican or Democrat, or fall somewhere in between, we can all learn a thing or two from the way Justice Ginsburg lived her life. Always remember to treat everyone equally and with respect and dignity. You may not always agree with other people, in fact you can passionately disagree with them on topics, but never lose sight of the importance of respecting your fellow citizen. Remember to live a life of passion, whatever moves and motivates you, embrace it and use it to make a positive impact on society and your fellow neighbors.

And finally, whether you are attending an upcoming LBA event, a rally in support of racial justice, or attending a parent teacher conference via ZOOM, just remember to be kind and treat others equally regardless of where they are from, what they believe in, or their gender, race or sexual orientation. You may not always get kindness and equal respect in return, but your efforts will pay a large benefit to society and our democracy—a democracy that was built upon and is most successful when a wide diversity of thought exists within its citizenry.

Sincerely,

Peter H. Wayne IV
LBA President

“

... (A)s we enter the final phase of the upcoming presidential election, I ask that you try and remind yourself of Justice Ginsburg and embrace the diversity of thought that surrounds you and ignore those times when someone is incapable of understanding this pillar of our democratic society.

The Continued Journey around the Legal Dinner Table...

In Masks

Chief Judge Angela McCormick Bisig

It feels like a long time since I started 2020 by writing articles for *Bar Briefs* giving readers interesting information about my colleagues on the circuit bench. Just as a reminder, I've featured Judges Willett, O'Connell, Perry, Cunningham, Shaw and Eckerle in past columns and we learned from each what they like "most" and "least" about their jobs as circuit judges. If you are interested and missed any of their bios, you can find them in prior issues this year.

I've taken a break from the biographies to address the court system response to the COVID-19 pandemic and the movement for racial justice in our community. Having written about these top-of-mind issues, I'm again setting the table for two more dinner guests, and of course, requesting that we wear masks. Sitting at the heads of the table this month are Judges McKay Chauvin and Judy McDonald-Burkman.

Judge McKay Chauvin – Division 8



Judge Chauvin has the unique ability to take his role as a judge and his work ethic extremely seriously while not taking himself so seriously at all. He is funny. He is smart. I've worked with Judge Chauvin for many years, and his witty repartee is just priceless. His number one target for humor is himself... second, is the entire rest of the world. Sporting his signature bow tie and khaki pants, he is the first one to laugh at himself for putting jelly on his baloney or having on socks that don't match.

He is an avid reader and can often be seen walking with a book wedged in the small of his back. He watches and follows ice hockey and tells

great stories of his travels to watch his son play. It is easy to see that he cares mightily for the work he does on the bench. He has a genuine respect for the judiciary and works hard to be prepared for the cases he handles in court.

Judge Chauvin went to Vanderbilt University for his undergraduate work, and Georgetown University for his law degree. Prior to joining the bench for the first time in 2004, he served 15 years as a prosecutor in state and federal courts. As an assistant U.S. Attorney, he was the violent crimes coordinator for the Western District of Kentucky and founded the anti-gun initiative known as Project Backfire. He serves in the community on the Board of Directors of the Volunteers of America and as an adjunct law professor at the University of Louisville teaching trial practice.

He also runs a specialized program with probationers on his criminal docket called "SMART probation." He holds extra face-to-face meetings with those from his docket on community supervision to build rapport and understanding with those he supervises.

When asked about what he likes "best" about being a circuit court judge, Chauvin states it is the "least judgey" part of the job. He notes that like many judges, he has "gone from being a judge, to an addiction counselor, to a life coach." He specifically mentions working with those on his criminal docket in the SMART probation program as very rewarding and worthwhile. As a testament to his love of the non-judgey parts of the job, Judge Chauvin served as circuit court chief judge and was always well prepared to represent us when speaking at community gatherings with tales from judicial history. He also presents an excellent speech to grand jurors outlining the history of the grand jury process.

For his least favorite part of being a judge, Chauvin ponders that in his role as a judge, he sees "that the world is full of people getting rich at the expense of the poor." He dislikes when he sees people using the judicial process as a means to accomplish or facilitate that end when he is not able to prevent it from happening. This is not surprising as I have heard Judge Chauvin discuss the work he does in reviewing default judgment motions and seen the importance he places on reading all of the record in a case in preparation for a criminal sentencing hearing.

Judge Judy McDonald-Burkman – Division 9



Judge McDonald-Burkman has served on the bench for 23 years and is the most senior (in years on the bench—not age) of the circuit judges. She is a straight talker and has the command presence of a former teacher... which she just so happens to be. Like Judge Chauvin, Judge McDonald-Burkman is witty and pokes fun at herself from time to time. She has a "big sister" style of protecting issues and people she cares about. As the sitting chief judge during a pandemic and community unrest, she has shown me steady support and empathy.

She works hard to run an efficient docket, and for many years running, had the lowest number of circuit court of pending cases. Once upon a time when both of our families were younger, our sons played on the same baseball team together that her husband and father coached. She was the quintessential "mom in the stands" knowing the game and supporting her family.

Judge McDonald-Burkman has her Master of Arts in Teaching from the University of Louisville in addition to her law degree. Not only was she a teacher in a prior career, she coached varsity volleyball and softball. In her law career, she received the Richard A. Revell Family Law Practitioner of the Year award in 1996, and in 2006 was recognized as an outstanding alumna by the Catholic Schools Foundation Salute. She has also served on the Board of the Sacred Heart Alumna Association. She practiced as a private attorney from 1987 to 1998. Judge McDonald-Burkman says after 23 years as a judge, she hopes she has just about "seen it all!"

When asked about her favorite part of being a circuit judge she responded in true former-teacher style, saying she appreciates having a job that "allows me to learn something almost every day" and "being intellectually challenged." She enjoys watching young lawyers evolve and seasoned ones stay on top of their game. She also has enjoyed working side by side with "incredible judges" through the years.

For her least favorite part of the job, she cites seeing basically good people come before her because they have made bad decisions, and bad people choosing evil. She dislikes the devastation crime can have on the community, families and the victims. She also mentions the isolation that naturally occurs from being a judge and the lack of interaction being exacerbated by the pandemic. She especially feels for members of the bar who are dealing with social distancing and having to stay away from the physical courtrooms. She remarked that walking into an empty courtroom every day amplifies the solitary nature of the position and makes her realize how much we all took the basic interaction we had in courtrooms for granted.

I concur with Judge McDonald-Burkman in this regard, and I know we are all looking forward to the time we can practice law in person once again.



Chief Judge Angela McCormick Bisig presides in Division 10 of Jefferson Circuit Court. ■

JUDICIAL CANDIDATES POLL RESULTS

A special election for a seat in Jefferson Family Court (Division 3) will be on the November 3 ballot. Three candidates are vying to serve the remaining two years of the term of Judge Deborah Deweese who retired at the end of 2019.




As it has done in past years, the LBA recently polled Jefferson County attorneys for their opinions of the qualifications of candidates for this office. The poll is designed to provide a measure of guidance to voters who might otherwise be unfamiliar with the candidates.

The poll was conducted electronically between September 8-22 via SurveyMonkey. More than 4,700 members of the Kentucky Bar Association working and/or residing in Jefferson County were e-mailed a link to the poll with instructions to rate candidates with whom they have had substantial professional contact within the last two years.

Attorneys were asked to consider the candidates' integrity, temperament, demeanor, legal ability, impartiality, industry, diligence and promptness and then rate them in one of these categories: "Highly Qualified," "Qualified" or "Unqualified." Attorneys could also select "Do Not Know Candidate" if unfamiliar with a candidate or "Not Rated" if they could not objectively rate a candidate for any reason. All responses were anonymous.

A total of 617 attorneys completed the poll. Dean Dorton Allen Ford, PLLC, a regional accounting and consulting firm, tabulated the results of the SurveyMonkey responses. Results are shown in the accompanying chart.

The LBA has conducted judicial candidate polls regularly since 1982. The intent is not to endorse any particular candidate, but rather to inform the public of the opinions of attorneys actively practicing in Jefferson County of candidates' fitness to serve in the judicial offices to which they are seeking election. Because judges are different from other elected officials, and often not well known to the electorate, the polls are offered as a public service to help voters make informed decisions in judicial elections. ■

Candidate	Responded "Do Not Know Candidate" or "Not Rated" (not calculated into evaluation percentages)	No. of Respondents Evaluating Candidate	Highly Qualified	Qualified	Unqualified
 Lori N. Goodwin	484	133	27% (36)	54% (72)	19% (25)
 Ellie Kerstetter	384	233	28% (66)	43% (100)	29% (67)
 Daren C. Neel	470	147	65% (96)	26% (38)	9% (13)

Kelly Stephens Appointed Clerk of Supreme Court of Kentucky

Kelly Stephens was appointed clerk of the Supreme Court of Kentucky on April 21 after she was named interim clerk on February 1. As Supreme Court clerk, Stephens oversees case filing and management for the commonwealth's highest court. The Supreme Court clerk is responsible for the custody, control and storage of all Supreme Court records. In addition to serving as clerk, Stephens is also the court administrator. Stephens succeeds Susan Stokley Clary, who retired February 1 after 25 years as clerk. ■




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faculty engage in discussions around labor and employment, disability law

For this month's column, I was pleased to be able to showcase some of the stand-out faculty at the University of Louisville working in a range of areas, including employment, labor and disability law.

First, Professor Ariana Levinson, who, along with Professor JoAnne Sweeny is hosting the 15th Annual Colloquium on Scholarship in Employment and Labor Law (COSELL), spoke with me about their plans for this important conference.

Second, Professor Laura Rothstein, a nationally known disability law scholar, shares her reflections on the 30th anniversary of the passage of the Americans with Disabilities Act and its impact and limitations.

We are fortunate to count these superb teachers and scholars among our faculty.

COLLOQUIUM ON SCHOLARSHIP IN EMPLOYMENT AND LABOR LAW

At the COSELL conference, scholars present their in-progress works to colleagues and receive feedback as they seek to write impactful and cutting-edge articles. The conference draws scholars from major law schools across the country; it welcomes both those who are new to the field and those who are experts in other fields but writing at the intersection of their own area of expertise and labor or employment law.



Professor Ariana Levinson and Professor JoAnne Sweeny, who both presented at last year's COSELL, are hosting this year's event, which will be held virtually from October 8-10.

They expect about 50 people to present works-in-progress on a variety of labor and employment law topics, including telework due to COVID-19; the use of algorithms in employment screenings; and misclassification issues relating to franchisers and franchisees, joint employers and gig workers.

Ariana Levinson

Of course, when they initially agreed to host, they didn't know they would be hosting the first virtual COSELL.

But although some plans have changed, the move to a virtual format has also brought new opportunities, shares Professor Levinson.

"We're getting some presenters internationally, which wouldn't normally happen," she shares, adding that scholars from the City University of Hong Kong, King's College London and Tel Aviv University have registered for the conference.

In addition, scholars from disciplines other than law — such as economics and labor — have registered.

"The pandemic is bringing in a broader group of people and perspectives" than before, says Professor Levinson.

Terrance Sullivan, a 2012 graduate of Louisville Law and Executive Director of the Kentucky Commission on Human Rights, will deliver the keynote address.

Mr. Sullivan, along with fellow UofL alumnus OJ Oleka, also recently formed the grassroots coalition AntiRacismKY, which aims to root out institutional racism in Kentucky through reforms in areas such as housing, health care and the workplace.

While Mr. Sullivan's keynote topic was not finalized as of this publication, Professor Levinson expressed her excitement for his message.

"He can set what's happening with employment law into context with what's happening in Louisville and Kentucky in terms of broader types of discrimination," she says.



Colin Crawford, dean of the University of Louisville Brandeis School of Law, serves on the boards of both the Louisville Bar Association and the Louisville Bar Foundation.

THE AMERICANS WITH DISABILITIES ACT AT 30 — LAWYERS AND THEIR ROLE IN DISABILITY RIGHTS ADVOCACY

The 30th anniversary of the passage of the Americans with Disabilities Act this year provides an opportunity to reflect on the transformative changes brought about by the ADA: changes in the physical design of structures, reasonable accommodations, and greater employment opportunities.



Laura Rothstein

Three extraordinary circumstances currently shaping our lives — namely the pandemic, its related economic impact, and Black Lives Matter — also expose some limitations of the ADA.

The COVID-19 pandemic has highlighted the issues of health equity and access. Individuals with disabilities are disproportionately unemployed and underemployed vis-à-vis the general population and have greater health care needs. Such disparities were present before the pandemic, but massive unemployment has made this even more challenging for those with disabilities.

Moreover, the distressed economy disparately affects people with some disabilities but not others. The ability to work at home might benefit individuals with mobility impairments, but often not those with vision or hearing impairments. It also creates social isolation, the opposite of a key aspect of disability discrimination policy — being able to work and live in the least restrictive environment. Furthermore, many people with disabilities work in the low-wage service sector, which has been especially hard hit.

Another longstanding disability rights' issue — irrespective of our current crises — involves mental health. In the early 1970s, a well-meaning advocacy movement brought lawsuits to close institutions for people with mental illness and intellectual disabilities, asserting that individuals should be in the "least restrictive placement." Courts agreed and held that residents should be moved into community placements. What was lacking was a thoughtful plan and adequate resources to address the needs of those individuals after "deinstitutionalization." Sadly, today there is very little appropriate access to mental health treatment and services.

Moreover, an unintended consequence of deinstitutionalization too often is homelessness such that the criminal justice system becomes the "treatment" alternative. Unfortunately, those who are involved in criminal justice enforcement rarely have the training and understanding about how to deal with individuals with mental health challenges, to say nothing of those with a range of disabilities, including mobility impairments, sensory impairments, and health issues such as epilepsy or diabetes.

In addition, law enforcement officers need better training to understand issues relating to individuals with both mental and physical disabilities. Many of the legal cases involving individuals with serious mental illness who were injured or killed during arrest or incarceration also had claims of race discrimination. However, the courts have consistently held that failure to provide police training for individuals with mental illness is not an ADA violation. Amending the ADA will not fix the problem; comprehensive law enforcement reform that focuses on disability and other questions therefore is required. Lawyers specializing in disability law can be strong advocates to provide specific recommendations about such training programs as part of larger efforts for police reform.

The limitations of current laws make advocacy in individual cases on behalf of clients with disabilities an inadequate means of addressing the bigger issues that require systemic change. Lawyers played major advocacy roles in the passage of the ADA. And while the ADA does have limitations, it has provided the framework for significant transformation in the lives of those with disabilities. We are in transformative times, and lawyers can again step up to take on and advance systemic changes.

Laura Rothstein is a Professor of Law and Distinguished University Scholar. She regularly teaches a course on Disability Discrimination Law and has written several books on the topic.

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GPT-3

An AI That Makes Cars, Not Wrenches and What It Means for the Legal Profession

Rudy DeFelice

One doesn't have to dig too deep into legal organizations to find Artificial Intelligence (AI) skeptics. AI is getting tremendous attention and significant venture capital, but AI tools frequently underwhelm in the trenches. Here are a few reasons why that is and why I believe GPT-3, a beta version of which was recently released by the OpenAI Foundation, might be a game-changer in legal and other knowledge-focused organizations.

GPT-3 is getting a lot of oxygen lately because of its size, scope and capabilities. However, it should be recognized that a significant amount of that attention is due to its association with Elon Musk. The OpenAI Foundation which created GPT-3 was founded by heavy hitters Musk and Sam Altman and is supported by Mark Benioff, Peter Thiel and Microsoft, among others. Arthur C. Clarke once observed that great innovations happen after everyone stops laughing. Musk has made the world stop laughing in so many ambitious areas that the world is inclined to give a project in which he's had a hand a second look. GPT-3 is getting the benefit of that spotlight. I suggest, however, that the attention might be warranted on its merits.

A Few Reasons Why Some AI-Based Tools Have Struggled in the Legal Profession and How GPT-3 Might Be Different

1. Because Not Every Problem Is A Nail
It is said that when you're a hammer, every problem is a nail. The networks and algorithms that power AI are quite good at drawing correlations across enormous datasets that would not be obvious to humans. One of my favorite examples of this is a loan-underwriting AI that determined that the charge level of the battery on your phone at the time of application is correlated to your underwriting risk. Who knows why that is? A human would not have surmised that connection. Those things are not rationally related, just statistically related.

This capability makes AI tools good at grouping like things together to facilitate users finding them based upon revealed correlations. Consequently, many AI applications are some variant of finding stuff better. It is what they do well. However, "finding stuff" is not a first-order problem in legal organizations. It is merely a means to an end.

The "end" in legal organizations is a document of some kind. Documents are their widget, the thing legal teams build. Finding information that is relevant to creating a document is helpful. Actually producing that document, though, is far more helpful.

Producing documents, as it turns out, is something GPT-3 does very well. That is at the heart of its distinction from many other AI tools—its ability to produce sophisticated documents. At its core, GPT-3 is a text prediction engine. It is designed to accept as input a string of text and from that input predict, from a statistical analysis of everything it has

ingested, what text should come next. That process can be repeated recursively, so from a simple text string an entire document can be generated.

It does this through statistics and algebra, more or less. GPT-3 has read, essentially, everything. At least, all substantive publicly available documents in huge portions of the internet, which at this point in history represents a material segment of all expressed

human knowledge. Based upon that, it can predict, given some input of text, what text is statistically likely to come next. You can feed it a few lines and it predicts the next. Moreover, early testers claim that you can instruct GPT-3 to write in a certain voice. Your document can be created in the voice of Hemingway, Shakespeare, or Barack Obama. Pretty cool stuff.

This, I think, is the breakthrough for legal organizations. GPT-3 isn't just *finding* stuff for you. GPT-3 is *making* stuff for you. Certainly other AI products add value. It's not trivial that we have something that makes wrenches. But it's another thing entirely, if you sell cars, to have something that makes a car.

2. With Data Sets, Sometimes the Juice Isn't Worth the Squeeze

Most enterprises that have implemented AI tools confront the training dataset problem. Algorithms that were designed with enormous datasets depend upon such large datasets in operation. When such tools come out of the lab and into the enterprise, assembling the appropriate dataset is often a gating factor.

The issue in legal organizations is one of scale and effort. The volume of documents in most legal organizations, even large ones, are nowhere near the numbers for which AI tools were designed. In addition, vetting and assembling such datasets and authenticating a product's performance after training on such collections can be extremely time consuming.

In areas such as contract intelligence, tools that are trained on large publicly available data, such as the SEC's EDGAR database, can be an exception to this problem. These tend to work out of the box on an organization's contracts, which tend to be similar to the large public dataset. However, absent this pre-delivery training, it is frequently found that creating and monitoring the dataset is a bar to success in an organization.

GPT-3, however, has been pre-trained on

billions of substantive documents from large collections of publicly available documents. Since GPT-3 is pre-trained with a vast dataset, it is functional out of the box for the purpose of generating documents. Early research suggests that it can be hyper-tuned on an organization's own data, but it doesn't have to be. This solves the primary challenge for business users in getting out of the gate with some AI tools.



Producing documents ... is something GPT-3 does very well. That is at the heart of its distinction from many other AI tools—its ability to produce sophisticated documents.

3. Thinking Isn't as Important as Doing

One criticism that has been levied on GPT-3 is that it does not "reason" as humans do, so on occasion its output is absurd. That's an accurate criticism and the public conversation about GPT-3 is not short of humorous examples.

GPT-3 is a statistical engine, without the reasoning ability of humans or the yet-to-be-created "strong AI." Frequently people ask whether an AI will pass the Turing Test (meaning would it fool a human into thinking he/she were interacting with another human). While that is a useful shorthand for measuring an AI's reasoning ability compared to humans, it doesn't say much about its usefulness. In knowledge organizations where creating documents is a central activity, usefulness is judged by a tool's ability to do that task, not its ability to fool someone about the source. For that purpose, GPT-3 appears to be well-suited.

While the absurd output that GPT-3 sometimes creates can be fun to see, the wrong turns are pretty obvious and unlikely to escape even cursory review. Most of us can probably point to some pretty absurd output from humans too, but it's hardly a reason to dismiss them as participants in the ecosystem.

What GPT-3 does is create stuff, rapidly, based upon a significant chunk of human knowledge. For all that doing, perhaps its lack of thinking can be forgiven.

Some Applications for GPT-3 Worth Exploring in Legal Organizations

Since GPT-3 is good at generating documents, it's easy to imagine applications of this technology in legal organizations. Almost any task that is document-oriented (except presumably those where the unique facts overwhelm all other aspects of the document) are good candidates. Here are a few that we will be exploring with our corporate legal department clients, which I suspect are

representative of those that make sense in other organizations:

Powering Intake Systems: In our work with corporate legal departments, a common problem is managing the interaction between business units and the legal departments. The requester wants prompt, accurate help. The legal department wants to give that help while complying with headcount and bandwidth constraints.

One aspect of the intake process can be providing immediate answers to common questions. GPT-3 can be part of that solution by providing contextual answers (rather than selecting from an inventory of stock answers like typical bots) as well as creating first drafts of documents. GPT-3's ability to create answers and documents on the fly can enable chat and intake systems that users find useful rather than off-putting.

Document Creation: Creating first-pass documents based on what has been done before is not only powerful, it's what humans already do. Early in my legal practice a senior partner once told me "We created a set of documents in the Garden of Eden and have just been modifying them ever since." GPT-3's garden is much larger—it can include your collection, plus everything else. Also, it analyzes 175 billion parameters, so it makes statistically valid decisions incredibly fast. One can imagine GPT-3 being part of the process that creates initial drafts of legal memoranda, contracts, policy manuals, HR documents, RFP's and audit responses, among other things commonly created by finding and patching together prior versions of these documents by people.

Where We Go From Here

GPT-3 is not the only helpful AI tool at our disposal. However, it does represent a transition from making the raw materials of end products to making end products themselves. For legal organizations and other knowledge workers, that is a material change. In addition, the enormous dataset upon which it is pre-trained removes one of the barriers to experimentation and implementation. GPT-3 has its limits. But frequently the first limit is our imaginations. In the case of GPT-3, stretching our imaginations might serve us well.

My company specializes in understanding what business capabilities can be enabled by all the cool new tech coming into the world. We believe that GPT-3 provides some new tools in a legal department's arsenal and will be focused on assessing practical, impactful solutions, hopefully making better legal organizations in the process. Once the world stops laughing, of course.

Rudy DeFelice is the CEO and co-founder of Keesal Propulsion Labs. ■



LAWLAPALOOZA

MOVIE AND TV THEME SONGS

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YOU

*Tune in to hear theme songs
from your favorite movies
and TV shows in this virtual
Battle of the Bands!*

EVENT DETAILS

The Louisville Bar Association is proud to present the 15th annual Lawlapalooza: "Movie Soundtracks." This year's performances will be a little different—Lawlapalooza is going virtual! All performances will be uploaded to the LBA's website on Friday, Oct.23 and voting will take place between Oct.23 and Oct.30. Voting will consist of monetary donations to each band. The band with the most donations wins! The winner will be announced on Monday, Nov.3.

Proceeds from this annual Battle of the Bands benefits the Judge Ellen B. Ewing Foundation.



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CONTINUING LEGAL EDUCATION

LBA LITIGATION SECTION 1-HOUR

Ethics and Electronically Stored Information (ESI)

Tuesday, October 13

This program explores the relationship between ethical behavior and electronically stored information (ESI). General overview on the ethics of handling metadata, from its preservation to inadvertent disclosure, as well as the ethical handling of different forms of data. Examples and consequences of negligence in the ESI context will also be discussed.

Speaker: TBA

Time: Noon – 1 p.m. — Program
Place: Online – a link will be sent prior to the webinar
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 / \$180 Non-members
Credits: 1.0 CLE Hour — Pending with KBA and Indiana

LBA HUMAN RIGHTS SECTION 1-HOUR

Immigration Bonds: How to Represent Detained Immigrants and Reunite Families

Thursday, October 15

Over forty thousand immigrants are detained by Immigration and Customs Enforcement (ICE) in the United States on any given day. Often, immigrants are transferred to private jails after basic traffic violations or after ICE raids their place of work. Immigrants do not have the right to have an attorney appointed to them such a public defender. Most immigrants are eligible for a bond, but it is a difficult process to navigate without a legal representative. This program explains how you can help immigrants obtain a bond and to allow them to pursue their case while being reunited with their families.

Speaker: Thomas D. Clines, Attorney at Law

Time: Noon – 1 p.m. — Program
Place: Online – a link will be sent prior to the webinar
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 / \$180 Non-members
Credits: 1.0 CLE Hour — Pending with KBA and Indiana

LBA HUMAN RIGHTS SECTION 1-HOUR

The Intersection of Immigration and Criminal Law: How Certain Convictions Can Affect Immigration Status

Tuesday, October 20

Until an immigrant in the United States becomes a naturalized citizen, they remain deportable or removable if they are convicted of certain crimes. Even misdemeanors can preclude people from qualifying for programs such as DACA. It is important for practitioners to advise their clients accurately about how criminal pleas and convictions can affect their status in the U.S. even if they are ultimately expunged. This program will review the basics of the intersection of criminal and immigration law.

Speaker: Thomas D. Clines, Attorney at Law

Time: Noon – 1 p.m. — Program
Place: Online – a link will be sent prior to the webinar
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 / \$180 Non-members
Credits: 1.0 CLE Hour — Pending with KBA and Indiana

Cancellation Policy: All cancellations must be received by the LBA 24 hours in advance to receive a credit or refund. Substitutes will be allowed.

LBA LITIGATION SECTION 1-HOUR

Recent Case Law and Trends in eDiscovery

Tuesday, October 27

This program focuses on what the courts have to say about the various aspects of recent matters involving electronic discovery, with case law references. Topics include: recent cases in which sanctions were levied onto both plaintiffs and/or defendants for mishandling electronically stored information, attorney obligations and tips on how to properly handle electronic evidence in each phase of discovery.

Speaker: TBA

Time: Noon – 1 p.m. — Program
Place: Online – a link will be sent prior to the webinar
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 / \$180 Non-members
Credits: 1.0 CLE Hour — Pending with KBA and Indiana

LBA LITIGATION SECTION 1-HOUR

How to Find and Use Location Information in Litigation

Thursday, October 29

Determining the location of an individual at a specific point in time can make or break a case. You can use location data to present an alibi defense, discredit a witness or party, show how long someone was on the road prior to a crash, establish where a digital contract was signed, and more. This unique webinar will show you how to find and use location data in your case. We will answer your pre-submitted and live questions, as well as walk through real-world location analysis. You will come away knowing where to find data to support your case as well as how to analyze some of the data yourself.

Speaker: Tom Plunkett, Archer Hall

Time: 11:30 a.m. – 12:30 p.m. — Program
Place: Online – a link will be sent prior to the webinar
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 / \$180 Non-members
Credits: 1.0 CLE Hour — Pending with KBA and Indiana

Live ETHICS Webinars

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


10-21-2020 | 1:00 pm | 1.0 CLE Ethics Hour — Pending

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 truer 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.

A Nightmare on Ethics Street: Don't Fall Asleep on Your Ethical Obligations

9-23-2020 | 1:00 pm
1.0 CLE Ethics Hour — Pending

On Halloween 2011, more than 700 lawyers from across the country screamed (in delight) as they experienced the first ever CLE webinar spooktacular—A Nightmare on Ethics Street. Exactly nine years later, acclaimed humorist Sean Carter will be back with all new tales of real-life ethical nightmares. In this fun (and sometimes, frightening) webinar, Carter draws upon recent disciplinary cases to demonstrate the ethical danger for attorneys who fall asleep on their ethical obligations.



LBA Member	\$55.00
LBA Sustaining Member	\$50.00
LBA Paralegal Member	\$25.00
Non-member	\$125.00

Due to the partnership with Mesa CLE, the LBA will NOT be accepting registrations for these webinars. Please visit the LBA website's CLE calendar, www.loubar.org, for the link to register and the cancellation policy.

In Memoriam Tribute to Judge Geoffrey P. Morris



On September 2, 2020, the Louisville legal community was saddened to learn of the passing of Judge Geoffrey P. Morris. Before his retirement in 2011, Judge Morris had served two decades presiding in Division 11 (13) of the Jefferson Circuit Court, and afterwards as both a senior judge and a special judge. Remembrances of Judge Morris are shared below by a few of his many friends and colleagues.

Geoff and I were in the same fraternity, in law school together, and I was a groomsman in his wedding. We were good friends. Neither of us would have guessed early on that the other would end up in the judiciary. Geoff enjoyed law practice, but he absolutely loved being a judge. That black robe was a good fit for him, because Geoff had a soft spot for the underdog. He had travelled widely, to the London School of Economics and to Africa with the Peace Corps. He had seen a lot, and it helped form his inner sense of fairness and justice. Some people have to dig deep for that, but Geoff was a natural. A great guy, funny with a wry sense of humor, and genuine. He left this community better for his service.

Senior Judge Charles R. Simpson III
United States District Court for the Western District of Kentucky
 ###

In thinking about Geoff, which I have done a lot in the past week, I have come to realize what a complex person he was under that laid back persona. Here is my best shot at trying to summarize 53 years of friendship in a few sentences:

Geoff and I met and became friends as we began law school together in 1967. Our friendship quickly expanded to include our wives and we grew to understand Geoff was really "Patty and Geoff." When our second son was born in 1971, we named him after Geoff and left him with a lifetime of explaining why you spell "Jeff" with a "G."

Those law school days were marked by civil strife over Vietnam, which made it all the more remarkable to learn that Geoff had served in both the Marine Corps and the Peace Corps! That seems to have been prophetic. Who says past performance is not a predictor of future results? Geoff's professional career, during which he served as both prosecutor and public defender, has been just as exceptional. All those apparent opposites share a common link of public service which Geoff ultimately reconciled by his outstanding service as a trial judge. Well done Geoff. Rest in peace my friend.

Charles J. "Mike" Cronan IV
Stites & Harbison
 ###

It's a blessing to have the opportunity to do a job that, before you began it, you saw performed exactly the way it should be done. Having tried cases and practiced in front of my predecessor, Judge Geoffrey Morris, I've been blessed to have such an opportunity. With his dry wit and mischievous personality, Judge Morris made visits to Division 11 (13) adventures that kept everyone on their toes.

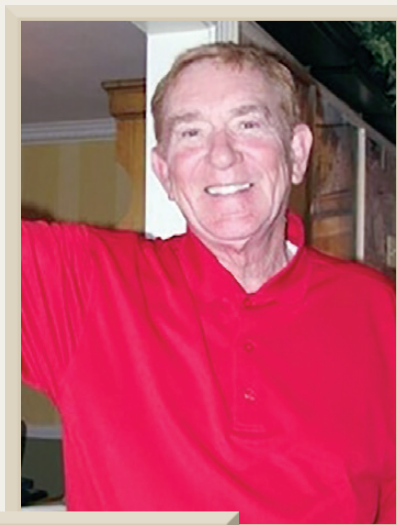
But what shouldn't be lost was that he was a fantastic judge. He was smart, tough, and when he needed to be, compassionate. He was also creative (who will ever forget his opinion in the NCAA case that included a lengthy passage written in Russian) and exceedingly hard-working — always ready to try a case (as many Jefferson County lawyers learned the hard way!). However, at his core, in addition to his unparalleled love of the law, I believe what made Judge Morris such a good judge was that he was a genuinely good person. He will be missed, but each day as I work next to the gavel he passed on to me, he will not be forgotten.

Judge Brian C. Edwards
Jefferson Circuit Court
 ###



The Public Defender's Office came into existence in Louisville in 1972, and that is where and when Geoff and I met. We became good friends, stayed good friends and always will be good friends. Prior to his work as a public defender, Geoff was a member of the Peace Corps. He kept the spirit and purpose of those two organizations throughout his life. All of us who knew Geoff will miss him personally. Those who did not know him will miss all of the good things that Geoff did that helped all members of our community.

David A. Lambertus
Attorney at Law
 ###

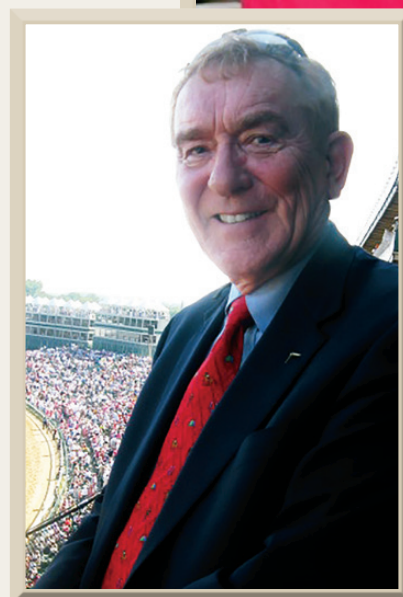


I could write a book about my times with Geoff. I have more wonderful memories of times spent with Geoff than I can count. My favorites, though, were our late afternoon happy hours discussing all aspects of law and life. He was my mentor and a great friend. I will miss him.

Judge James M. Shake (Ret.)
Jefferson Circuit Court
 ###

I learned three main things from Geoff: 1) it doesn't matter what you look like when you dance; 2) you won't care what you look like if you drink enough before you dance and; 3) other than family, there is nothing better than the company of good friends. Geoff had a whole lot of friends who enjoyed his company. I was one of them. I'll miss him.

Gus G. "Skip" Daleure, Jr.
Attorney at Law
 ###



Thank you for reaching out to me with news of Geoff's departure from the bonds of this earth. While it may be of little solace for those left behind, I am sure he is in a better place, once again enjoying the company of those gone before. Geoff, John Fowler and I were the original three trial attorneys hired by Colonel Tobin. It is hard to believe I am now the only one left standing. Back then the public defender was a new concept, and we spent a fair amount of our time trying to convince others that those we sought to defend were truly needy and deserved good representation.

Geoff was not only a good lawyer, he was a great lawyer. He embodied all that we as human beings and attorneys should strive to achieve. All that he did is reflective of his great character; his time in the Marines, his time in the Peace Corps, his time as a public defender, his time as a prosecutor, his time as a judge and, most importantly, his time as a husband, father and friend. All who had the privilege of meeting Geoff are better for it. I will miss his smile and ever present cheery and positive outlook.

Alexander T. "Sandy" Taft, Jr.
Attorney at Law
 ###



Geoff Morris was a mentor of mine at the public defender's office in the early 1970s. Years later I appeared before him when he was a circuit judge in both civil and criminal cases, and he always was prepared, knew the law, the evidence and the facts of each case. He was courteous to both clients and lawyers alike, always giving each side a chance to be fully heard, at times with a bit of wit included. He was truly one of the finest people I ever knew in my legal career.

Terry W. Holloway
Attorney at Law
 ###

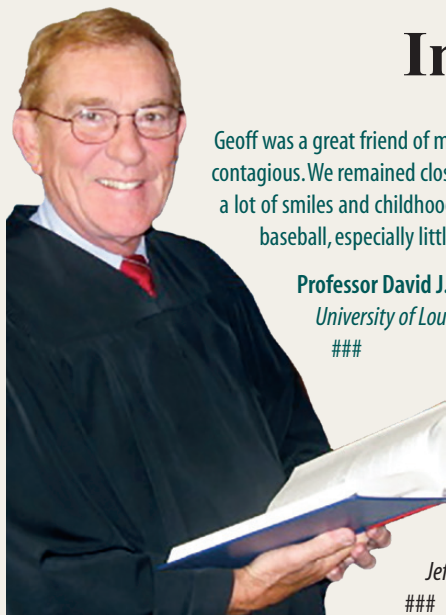
I met Geoff Morris on November 1, 1982, the day that I began working as an Assistant Commonwealth's Attorney. Geoff was assigned to be my trainer and mentor, and I quickly learned how fortunate I was to have been assigned to him. He had just finished his term as president of the Louisville Bar Association, and it seemed he knew every lawyer in town and everyone who worked at the Hall of Justice. His introductions would later give me opportunities and open doors for me as a young attorney.

I quickly learned what an iconic individual Geoff was. He had been a Marine, he had been in the Peace Corps, had spent time as a public defender and as a prosecutor. He loved UofL sports, golf and baseball. During the time that Geoff was my mentor, I picked him up for work and we rode to the office discussing the cases for the day. He was a devoted family man, talking about his wife and children every day during the drive to work.

When I got married, it was only appropriate that my mentor conduct the ceremony. Geoff Morris had taught me a great deal about practicing law, but he was also a role model for everything else that is good both inside and outside of our system of justice. I was one of many young lawyers Geoff Morris shepherded who are still practicing today. Through these teachings, and his fair and consistent days on the bench, Geoff Morris made the justice system better in our community and our Commonwealth.

Joseph P. Gutmann
Teacher/Attorney
 ###

In Memoriam Tribute to Judge Geoffrey P. Morris



Geoff was a great friend of mine for almost 70 years. His zest for life and his love of golf were contagious. We remained close all of our lives and when we were together there were always a lot of smiles and childhood memories. He introduced me to golf and I got him hooked on baseball, especially little league in St. Matthews. I really miss him.

Professor David J. Leibson (Ret.)
University of Louisville Brandeis School of Law
 ###

Judge Morris will be missed by all who knew him. I am the same age as his twin daughters, Danielle and Suzanne, and spent many, many days in their house growing up. It was always lively and full of love.

Judge Jennifer Leibson
Jefferson District Court
 ###

Judge Morris was a family man and a great neighbor for 37 years. He was a mentor to our sons. He was a deep thinker and a quiet man, but also enjoyed a good joke and loved to laugh. He was an honest individual, who as a judge dispensed justice based on facts and law.

Joseph A. Soergel, RPR
Director Emeritus, Court Reporting Services, Inc.
 ###

Among many interests, Geoff was a Radio Shack/gadget aficionado. He was one of the first lawyers to carry a digital calendar and he enjoyed pointing out how behind the times the rest of us were and how modern he was. Until it crashed. Nothing could retrieve his information and he spent weeks hanging out in the Hall of Justice so folks could come find him to tell him he had a client on the docket in one courtroom or the other. Of course, he didn't mind because he loved to hang out there anyway!

Judge Charles L. Cunningham, Jr.
Jefferson Circuit Court
 ###



Geoff was my first supervisor at the Office of Commonwealth's Attorney in 1979 when I started as a law clerk. I sat with him for my first trial as a law student. He and I served together as prosecutors, law partners and circuit judges. I respected his calm approach and his dedication to trying cases. He had a wonderful, dry sense of humor. My favorite story is he accepted a car as a fee from a client. We called it the Exxon Valdez because it leaked oil. He used the car for several years after he became a judge. When the client was about to be released, he demanded the car back. Judge Morris drove it to LaGrange, parked it, and told the client where it could be found. It took several months to clean up the oil spill in the Hall of Justice parking garage!

I could never thank him enough for his help and friendship.

Thomas B. Wine
Commonwealth's Attorney
 ###



Geoff and I were law school classmates and erstwhile golfers in 1963-70. Years later, in 1991, we were elected to serve as members of the circuit court bench. I retired at the end of 2016 and went senior status. I had to drag a very reluctant Geoffrey into senior status in 2017 before that program ended. Through the years, several judges gathered

on Saturday mornings to discuss the previous week's proceedings and the coming week's issues. After retirement we (along with others) gathered at Panera to continue the tradition. A couple of weeks ago, our group got together and Tom Wine's brother was kind enough to film our final tribute to Geoff (see attached photo of the "missing man" formation).

Judge F. Kenneth Conliffe (Ret.)
Jefferson Circuit Court
 ###

It has been said that the truest measure of a man is how he handles adversity, and, ultimately, faces death. In that regard, Geoff left us with no doubt about the high quality of his character.

Shortly after Geoff received the news that his illness was terminal and his days were numbered, I delivered a bottle of his preferred adult beverage to his home just before the cocktail hour. He had been told that continued chemotherapy might result in delaying the inevitable for a short period of time, but there was no guarantee. The bottle of vodka I purchased for him was a brand called "Hope," one that I'd never come across before but thought appropriate under the circumstances. Within the hour, Geoff emailed me a note, and the following exchange ensued:

GM – Thanks for that bottle. There might not be too much hope. I was reading a book that says if you're told you have little time left, whether it's 3 days or 12 months, you should try to live as you normally do. I like that, but I also like the idea of a vodka named "Hope!"

DG – Here's one of my favorite quotes on hope, which I think applies to your situation — it's the best message I can come up with for you as you deal with this challenge: "Remember, Red, hope is a good thing, maybe the best of things, and no good thing ever dies. I will be hoping that this note finds you, and finds you well." (*The Shawshank Redemption*). So drink up some of that Hope . . .

GM – Good one, I like that message and the thought behind it. Another one I like is "As long as they keep talking about you, they remember you."

DG – So true; and if that's the case, you're in pretty good shape.

Daniel T. Goyette
Public Defender Emeritus
 ###

Editor's note: The following are only two of the several stories that available space permits us to print at this time. We're sure the rest of them will be told in a variety of forums and get-togethers in better days to come.

From Joe Gutmann: Younger attorneys, who only knew Geoff Morris as Judge Morris, may not be aware that Geoff had been a brilliant trial lawyer. When he tried a case, his sharp wit and intuitive personality were always on display. Geoff gave me the opportunity to sit second chair when he prosecuted the case of a woman who shot and killed her husband outside the Hall of Justice. Geoff presented a methodical case, attempting to prove the defendant intentionally shot her husband, and when the jury returned a verdict on a lesser offense, I was in disbelief. Geoff, always polished, taught me then that sometimes juries are unpredictable and that, while we do the best we can, one must take it all in stride.

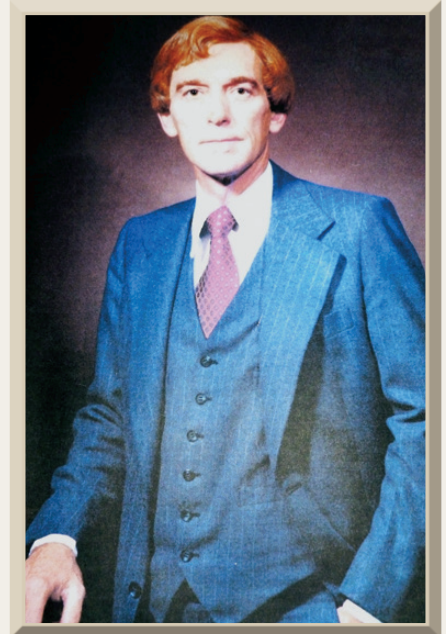
When Geoff left the prosecutor's office for private practice, we sometimes had cases against one another. He remained the consummate professional, even when we didn't see a case the same way. When Geoff was elected to the bench, I was thrilled for my mentor and knew that he would become a legendary judge.

Judge Morris was interested in courtroom decorum both as a prosecutor and a judge. One day, a defendant arrived wearing a tank top and gym shorts. Still trying to impress my mentor, I motioned that he had mixed up the basketball court for a court of law and should be sent home to change clothes. Believing Judge Morris would agree with me, I was surprised when he overruled my motion and then chided me for infringing upon the "free speech" rights of the young man. Geoff Morris was always a guardian of the Constitution.
 ###

From Dan Goyette: When we were both young public defenders, Geoff and I attended a weekend trial practice seminar in St. Louis with several private criminal defense lawyers, including Bob Fleming and Charlie Scott. One night about seven of us went out to dinner at the famous Dominic's restaurant "On the Hill" in the Italian section of St. Louis. At the time, public defender salaries were considerably more "modest" than they are now. We both had growing young families, so we carefully scrutinized the prices on the upscale menu. However, after a round of drinks (maybe two), it became evident to me (but apparently not to Geoff) that this was not an occasion when separate checks would be issued, nor was much time likely to be spent individually accounting for who ate and drank what.

Clearly, when the bill arrived, it was destined to be evenly split among those in attendance. So, with a degree of trepidation, I decided to throw caution to the wind, test the meager limits of my credit card, and get on the party train. Geoff still seemed oblivious to what was transpiring and the group dynamics at the table. When the waiter finally took our orders, he dutifully selected the least expensive chicken dish on the menu and reluctantly ordered a second beer, rather than partake of the expensive bottle(s) of wine "personally chosen" by the sommelier "to enhance our dining experience." No one else in our party exhibited similar frugality and, sure enough, when the final tally for the sumptuous feast was delivered to Bob, who looked (and was) the most prosperous among us, an immediate consensus formed to "just split it seven ways." Needless to say, the total tab was quite pricey. The expression on Geoff's face as he paid his "equal" share was, as they say, "priceless." For a change, he was speechless; however, that only lasted until we got back to our hotel room, and he's been bitching about it ever since.

We had many dinners together after that, from the Blackhawk Steakhouse in Chicago to Pat's Steakhouse down the street from his home, and as the years went by I never tired of reminding him that he paid more for a piece of chicken and a couple of beers than anyone in the history of fine dining.
 ###



ELECTION DAY IS NOVEMBER 3!

Learn more at www.GoVoteKY.com

The 2020 general election will be held on Tuesday, November 3. Due to the COVID-19 pandemic, there will be several ways to vote in Kentucky, both on Election Day and the weeks leading up to it. Use this guide to make your vote count in the 2020 election.

3 WAYS TO VOTE

1. Absentee Ballot
2. Early Voting (In-Person)
3. Election Day Voting (In-Person)

Absentee Voting

- Any Kentuckian may request an absentee ballot due to COVID-19 concerns
- Ballots may be requested at www.govoteky.com or through your county clerk through October 9.
- Absentee ballots must be postmarked by November 3 and received by November 6.
- Drop boxes will be available for those concerned about postal delays. The boxes will be located at the Kentucky Exposition Center, the KFC Yum Center, the Kentucky Center for African American Heritage, the Jefferson County Elections Center and one undisclosed location that is still to be determined but will be in the East End. The drop box at the Election Center is already set up and all other locations will be available to voters starting October 13.
- Once a voter has requested an absentee ballot, the voter cannot vote in person unless the voter does not receive their requested ballot by October 28, 2020.

Early Voting

- Any Kentuckian may vote early for any reason. Early voting is NOT absentee voting.
- Every county clerk will provide at least one location for safe in-person voting.
- Early voting will begin October 13 and end November 2. Early voting will be available Monday-Friday and 4 hours each Saturday.
- Early voting will take place at the Kentucky Exposition Center, the KFC Yum Center, the Kentucky Center for African American Heritage and one undisclosed location that is still to be determined but will be in the East End. The location will be posted on www.govoteky.com when finalized.

Election Day Voting

- Election Day voting will take place on Tuesday, November 3 between 6 a.m. – 6 p.m.
- The Jefferson County Clerk has submitted a plan to the Secretary of State that includes 20 in-person voting locations but the plan was awaiting approval at press time. For the most up-to-date information visit www.govoteky.com.

Voter-ID Info

Effective July 15, 2020, all Kentuckians must produce a photo ID when voting. Senate Bill 2, which the General Assembly passed in April, requires that Kentuckians show proof of identification to the poll clerk before casting a ballot. The ID must be issued by the United States, the Commonwealth of Kentucky, the Department of Defense, a college or university, or a local government. It must also have the name and photo of the individual seeking to vote.

Kentuckians who were unable to get a driver's license or photo ID because their clerk's office was closed due to the pandemic, or because they were concerned with the spread of COVID-19, may sign a document explaining this concern, produce an approved non-photo ID, and cast their ballot. The document may be signed on www.govoteky.com for absentee voters or in person at your voting location.

Poll Workers

Kentucky attorneys who serve as poll workers can receive 1.5 CLE hours for taking the necessary training. Secretary of State Michael Adams announced the partnership with the KBA to help recruit poll workers for the election. Any registered voter can sign up to be a poll worker through www.govoteky.com.

Important Dates & Deadlines

October 5 at 4:00 p.m.: Last day to register to vote for the general election

October 9: Last day to request an absentee ballot

October 13: First day of early in-person voting

November 2: Last day of early in-person voting

November 3: All absentee ballots must be post-marked by this date

November 3: Election Day, polls open 6 a.m. – 6 p.m.

November 6: All absentee ballots must be received by this date in order to be counted

For updated information on voting locations, voter registration status and to view a sample ballot, please visit www.GoVoteKY.com.

Voters to Consider Proposed Amendments to Kentucky Constitution

Editor's note: Unbeknownst to many Kentucky voters, next month's election ballot will include two proposed constitutional amendments that they will be asked to consider. Both amendments passed the Kentucky General Assembly by wide margins but must be approved by a majority of voters before they become part of the state constitution.

Pursuant to a 2019 ruling by the Kentucky Supreme Court, the full text of both proposed amendments will appear on the ballot. This may overwhelm many voters who will not take the time to understand, or even read, the amendments' technical language. Below is the full text of both amendments as they will appear on the ballot.

CONSTITUTIONAL AMENDMENT 1

Section 1: Are you in favor of creating a new section of the Constitution of Kentucky relating to crime victims, as proposed in Section 2 below?

Section 2: It is proposed that a new section be added to the Constitution of Kentucky to read as follows:

To secure for victims of criminal acts or public offenses justice and due process and to ensure crime victims a meaningful role throughout the criminal and juvenile justice systems, a victim, as defined by law which takes effect upon the enactment of this section and which may be expanded by the General Assembly, shall have the following rights, which shall be respected and protected by law in a manner no less vigorous than the protections afforded to the accused in the criminal and juvenile justice systems:

Victims shall have the reasonable right, upon request, to timely notice of all proceedings and to be heard in any proceeding involving a release, plea, sentencing, or in the consideration of any pardon, commutation of sentence, granting of a reprieve, or other matter involving the right of a victim other than grand jury proceedings; the right to be present at the trial and all other proceedings, other than grand jury proceedings, on the same basis as the accused; the right to proceedings free from unreasonable delay; the right to consult with the attorney for the Commonwealth or the attorney's designee; the right to reasonable protection from the accused and those acting on behalf of the accused throughout the criminal and juvenile justice process; the right to timely notice, upon request, of release or escape of the accused; the right to have the safety of the victim and the victim's family considered in setting bail, determining whether to release the defendant, and setting conditions of release after arrest and conviction; the right to full restitution to be paid

by the convicted or adjudicated party in a manner to be determined by the court, except that in the case of a juvenile offender the court shall determine the amount and manner of paying the restitution taking into consideration the best interests of the juvenile offender and the victim; the right to fairness and due consideration of the crime victim's safety, dignity, and privacy; and the right to be informed of these enumerated rights, and shall have standing to assert these rights.

The victim, the victim's attorney or other lawful representative, or the attorney for the Commonwealth upon request of the victim may seek enforcement of the rights enumerated in this section and any other right afforded to the victim by law in any trial or appellate court with jurisdiction over the case. The court shall act promptly on such a request and afford a remedy for the violation of any right. Nothing in this section shall afford the victim party status, or be construed as altering the presumption of innocence in the criminal justice system.

The accused shall not have standing to assert the rights of a victim. Nothing in this section shall be construed to alter the powers, duties, and responsibilities of the prosecuting attorney. Nothing in this section or any law enacted under this section creates a cause of action for compensation, attorney's fees, or damages against the Commonwealth, a county, city, municipal corporation, or other political subdivision of the Commonwealth, an officer, employee, or agent of the Commonwealth, a county, city, municipal corporation, or any political subdivision of the Commonwealth, or an officer or employee of the court. Nothing in this section or any law enacted under this section shall be construed as creating:

- (1) A basis for vacating a conviction; or
- (2) A ground for any relief requested by the defendant.

CONSTITUTIONAL AMENDMENT 2

Section 1: Are you in favor of changing the term of Commonwealth's Attorneys from six-year terms to eight-year terms beginning in 2030, changing the terms of judges of the district court from four-year terms to eight-year terms beginning in 2022, and requiring district judges to have been licensed attorneys for at least eight years beginning in 2022, by amending the Constitution of Kentucky to read as stated below?

Section 2: It is proposed that Section 97 of the Constitution of Kentucky be amended to read as follows:

In the year 2000, and every six years thereafter, there shall be an election in each county for a Circuit Court Clerk, and, until the year 2030, for a Commonwealth's Attorney, in each circuit court district, unless that office be abolished, who shall hold their respective offices for six years from the first Monday in January after their election, and until the election and qualification of their successors. Beginning in the year 2030, and every eight years thereafter, there shall be an election for a Commonwealth's Attorney in each circuit court district, unless that office be abolished, who shall hold his or her office for eight years from the first Monday in January after his or her election, and until the election and qualification of his or her successor.

Section 3: It is proposed that Section 119 of the Constitution of Kentucky be amended to read as follows:

Justices of the Supreme Court and judges of the court of appeals and circuit court shall severally

hold their offices for terms of eight years, and until the year two thousand twenty-two, judges of the district court for terms of four years. Beginning in the year 2022, judges of the district court shall hold their offices for terms of eight years. All terms commence on the first Monday in January next succeeding the regular election for the office. No justice or judge may be deprived of his term of office by redistricting, or by a reduction in the number of justices or judges.

Section 4: It is proposed that Section 122 of the Constitution of Kentucky be amended to read as follows:

To be eligible to serve as a justice of the Supreme Court or a judge of the court of appeals, circuit court or district court a person must be a citizen of the United States, licensed to practice law in the courts of this Commonwealth, and have been a resident of this Commonwealth and of the district from which he or she is elected for two years next preceding his or her taking office. In addition, to be eligible to serve as a justice of the Supreme Court or judge of the court of appeals or circuit court a person must have been a licensed attorney for at least eight years. Beginning in the year 2022, no district judge shall serve who has not been a licensed attorney for at least eight years.

Section 5: The eight-year licensure requirement for district judges set forth in the amendment to Section 122 of the Constitution shall not apply to any person serving as a district judge on the effective date of this amendment.



“Fight for the things that you care about, but do it in a way that will lead others to join you.”

Ruth Bader Ginsburg

March 15, 1933 — September 18, 2020

Marsy's Law is Bad for Victims and Wrong for Kentucky

Sen. John Schickel, Shane Young, Heather Gatnarek, Scott Hofstra, Jan Skavdahl

It's not often that you see an ACLU attorney, a Republican Senator, a Commonwealth Attorney and members of the Tea Party agreeing on something. This may be a first in Kentucky history, but we all agree that Marsy's Law is bad for victims and wrong for Kentucky.

A movement that has been sweeping the nation, backed by millions of out-of-state dollars, is rearing its head again in the Commonwealth. Marsy's Law seeks to amend our state's constitution to create an entirely new set of "rights" and standing for victims or survivors of alleged criminal activity. But the bill promises to do so without any detail, funding, resources or direction. It is once again up for consideration after the Kentucky Supreme Court declared the ballot question put to voters in 2018 was unconstitutional.

Kentucky law already grants victims many of the rights outlined in Marsy's Law, including the rights to timely notice of all court proceedings, to be heard in release, plea, or sentencing proceedings, to be present at trial and all other proceedings, and the ability to consult with Commonwealth or County Attorneys. Prosecutors' offices have victims' advocates. If victims feel uninformed or unsupported by these advocates, the advocates should

be provided with additional resources. If the laws we have in place aren't serving victims, let's amend our laws, not our Constitution.

Marsy's Law uses inconsistent and confusing language that would be at odds with Kentuckians' constitutional rights and create significant unintended consequences. Some of the state's top legal minds cannot even untangle the contradictory language in Marsy's Law. Once when analyzing the legislation, one Kentucky Supreme Court Justice simply remarked: "I don't know what this means."

One thing Marsy's Law does is explicitly deny victims a path to seek legal remedies for violations of their rights. Victims of criminal acts need resources and support, not an empty promise. Marsy's Law provides no guidance to lawmakers or judges on how to prevent violations of the rights guaranteed to all people by the U.S. Constitution.

There are also real financial concerns to consider with Marsy's Law. It creates a need for substantial additional resources but does not allocate any. For example, the legislation gives victims of criminal acts the right to counsel but provides no mechanism for the state to provide attorneys to victims without the resources to hire an attorney.

Similar legislation in North Dakota, a state with less than a quarter the population of Kentucky, was estimated to cost \$2 million per year. In North Carolina, Marsy's Law was estimated to cost \$16.4 million to implement and \$30.5 million annually in subsequent years. Unfortunately, Kentucky's Marsy's Law doesn't include a fiscal note, so we don't have an estimate of the costs here.

Many people are afraid to publicly be against Marsy's Law because of the fear of being perceived to be against victims' rights. This could not be further from the truth. This amendment will be bad for our criminal justice system. It will inhibit the ability to get to the truth. Its effect will be to further burden, muddy and confuse an already overwhelmed system, which will hurt victims and defendants alike.

Sen. John Schickel represents District 11 in the Kentucky General Assembly and is a retired law enforcement officer. Shane Young is commonwealth's attorney for Kentucky's 9th Circuit, which covers Hardin County. Heather Gatnarek is a former defense attorney and currently serves as staff attorney at the ACLU of Kentucky. Scott Hofstra is the spokesperson for the United Kentucky Tea Party. Jan Skavdahl is a leader of the Northern Kentucky Tea Party. ■

Judicial Nominating Commission Members to be Elected

Kentucky attorneys residing in the 30th judicial circuit (Jefferson County) will soon elect a new bar member of the Judicial Nominating Commission (JNC). The JNC is the body that recommends individuals for appointment to vacancies in judicial offices; the governor makes all such appointments from a list of names generated by the JNC.



Holloway



Meyer

Seeking election to the JNC for the 30th circuit are Demetrius Holloway and Robert Meyer. On October 10, an electronic ballot and instructions will be emailed from BallotBox, an online voting system, to all attorneys residing in the 30th circuit. Paper ballots will not be mailed. ■



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Experience Matters: The Case for Passage of Constitutional Amendment 2

"Experience is not always the kindest of teachers, but it surely is the best."

– Spanish Proverb



I was elected to the district court bench in 1996 at the ripe age of 33.

In 1996, no respectable lawyer needed eight years of experience to probate a few wills, decide a small claims case, preside over some speeding tickets, or determine if a leash law ordinance was enforceable.

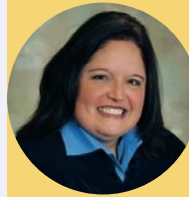
In 1996, every young lawyer could dance The Macarena.

Of course, in 1996, no district court judge in Kentucky had heard the word "methamphetamine." In 1996, there was no opioid epidemic and there was no COVID-19 pandemic. In 1996, the Commonwealth had only TWO specialty (drug) courts and "rehab" was your physical therapy after knee surgery. In 1996, no district court judge in the Commonwealth had ever been asked to decide whether a 14-year old middle school student should be tried as an adult because he had gunned down three classmates at school. There was no internet bullying. There were no cyber-threats. In 1996, no district court judge had conducted a "human-trafficking" preliminary hearing.

Over my 24 years as a district court judge, I have watched the law strain hard to keep up with the lightning pace of our state's crises, our crime and our changing culture. In order to be a district court judge, one need only pass the bar exam 24 months ago. In every other level of the state's judiciary, eight years of experience is mandatory. Eight years is something of a "Goldilocks Zone" for experience. Not too hot, not too cold. A district court judge should have no less legal—or life—experience than any other judge in the Commonwealth. It's not 1996.

Honorable Louis Keith Myers

Chief District Judge, Ballard & Carlisle Counties



I have spent every day of my now 19-year legal career in the Hall of Justice. I joke that, at the two-year point in my career, I could barely find the courtroom I was supposed to be in, much less preside over cases. As one's career ages, so does one's understanding of the judicial system as a whole and more specifically, one's place in it. While we have been lucky with the caliber of young attorneys who have ascended to the bench in district court, life experience and maturity are important in

making well-rounded judges. The longer I am on the bench, I realize just how important empathy is when dealing with the public and deciding cases. Empathy can't be learned in a book, it must be fostered through experience.

Raising the bar to require a minimum of eight years legal experience before one can be a district judge increases the likelihood that candidates will be fair, well-reasoned and empathetic to those who come before them. Raising the bar is a win-win scenario for all Kentuckians.

Honorable Jennifer H. Leibson

District Judge, Jefferson County



I was a judge for 17 years and a senior judge for four years. Almost all of my judicial career was as a district court judge. I had six years of legal experience before taking the bench. An additional two years of experience would have been invaluable both at the beginning of my tenure, and throughout the years, in terms of legal knowledge and procedures. More importantly, two years of additional courthouse experience as a lawyer would have given me so much more compassion, humility and sense of fairness. It can only improve the administration of justice to require eight years of legal experience to become a judge.

Honorable Henry F. Weber

Retired District Judge, Jefferson County

On November 3, voters will have an opportunity to raise the bar on Kentucky's judiciary by requiring candidates for district court judge to have more experience. Surprisingly, candidates for district court judge must only have a law license for two years. Constitutional Amendment 2 raises that requirement to eight years, commensurate with every other level of Kentucky's unified court system.

At a time when district judges face more and more responsibility and handle important issues like domestic violence, mental illness and addiction, Constitutional Amendment 2 will benefit Kentuckians by "raising the bar" for candidates to the district court bench. Our district judges must be prepared to handle a broad range of criminal and civil proceedings, including matters involving our most vulnerable citizens in juvenile, guardianship and mental health cases.

Kentucky's 115 district court judges preside over more than 700,000 new cases each year and despite being a court of limited jurisdiction, district court judges are not limited in the scope of their work or the reach of their efforts to help Kentuckians.

District court judges preside over cases involving the following: city and county ordinances; juvenile offenses (public and status); misdemeanors; preliminary felony proceedings; violations; traffic offenses; probate matters; small claims complaints

involving amounts of \$2,500 or less; civil matters involving amounts of \$5,000 or less; involuntary commitments; guardianship petitions; petitions for emergency protective orders and interpersonal protective orders; petitions for dependency, abuse and neglect; actions seeking involuntary inpatient treatment for substance use disorders ("Casey's Law"); and actions seeking court-ordered assisted outpatient treatment for the seriously mentally ill ("Tim's Law"). Many district court judges also volunteer their time to Kentucky's specialty courts, including Veterans Treatment Courts, Mental Health Courts and Drug Courts.

Without question, a candidate for any judicial office should be an experienced attorney. Both professional legal experience and life experience are necessary for one to be a capable jurist. Breadth of experience lends itself to a more thoughtful decision-making process for someone to choose to be a district court judge. The district court bench should not be viewed as a training ground but as a position one aspires to achieve. A more experienced bench benefits all Kentuckians and raising the licensure requirement will improve the public perception and confidence in the district court judiciary.

Although numerous Constitutional Amendments were proposed during the 2020 Legislative Session, only House Bill 405, now "Constitutional Amendment 2" and Senate

Bill 15, more widely known as "Marsy's Law," passed both chambers to earn submission to Kentucky voters on November 3. House Bill 405 received overwhelming bipartisan support from both legislative chambers, passing the House of Representatives by a 76-7 margin and the Senate by a 25-7 margin. Senate Bill 15 will be listed first on the ballot as Constitutional Amendment 1, while House Bill 405 will be listed second as Constitutional Amendment 2. The entire text of each amendment must be presented to voters on the statewide ballot pursuant to a ruling by the Supreme Court of Kentucky in 2019.

Constitutional Amendment 2 proposes to amend Sections 97 and 119 of the Constitution of Kentucky by extending the terms of Commonwealth's Attorneys and district court judges to eight years. Currently, every circuit court judge, family court judge, court of appeals judge, and Supreme Court Justice serves an eight-year term while district court judges serve four-year terms. An eight-year term, coupled with an eight-year licensure requirement, would make district court consistent with every other level of court in the Commonwealth of Kentucky. Our Commonwealth's Attorneys, who prosecute cases in circuit court, currently serve six-year terms.

It is not uncommon to have multiple-county circuits with a circuit court judge serving an eight-year term, and a Commonwealth's Attorney serving a six-year term. To modify

judicial circuits to meet the necessity of the various regions, the two positions must be selected at the same time. The eight-year term for district court judges would take effect following the 2022 general election, while the eight-year term for Commonwealth's Attorneys would not take effect until after the 2030 general election due to the current disparity in term lengths and the misaligned election cycles of the prosecutors and circuit judges.

The Board of Directors of the Louisville Bar Association, the Commonwealth's Attorneys' Association, the Kentucky District Judges Association and District Judges for a Better Commonwealth support passage of Constitutional Amendment 2 on the November 3 ballot.

You are more likely to come in contact with a district court judge than any other elected official. Experience matters. On November 3, vote "YES" to "raise the bar" on Kentucky's Judiciary. Vote "YES" on Constitutional Amendment 2.

Visit www.raisethebarky.com for more information on Constitutional Amendment 2.

Respectfully submitted,
Officers and Executive Committee Members,
Kentucky District Judges Association
and
Officers, District Judges for a Better Commonwealth ■

Proposed Rule Amendment Would Prohibit Discrimination and Harassment

Jessica Cole & Jennifer Kleier

The LBA Gender Equity Committee was created in October of 2018 with the purpose of supporting, preserving, protecting and advocating for gender equity in the legal profession within the greater Louisville community and the Commonwealth of Kentucky. Since its inception, the committee has undertaken multiple initiatives in support of this purpose. The focus of this article is on the committee's work to research and draft a proposed amendment to the Kentucky Rules of Professional Conduct ("the Rules") prohibiting discrimination and harassment in the practice of law.

Currently, the Rules do not directly address discrimination and harassment. In fact, Kentucky is in a minority of states that do not directly address discrimination and harassment. At least 35 other states have some form of a rule which prohibits discriminatory or harassing behavior. In January, these efforts resulted in the Louisville Bar Association and the committee submitting a proposed amendment to the KBA Rules Committee for consideration.

It is incumbent upon every lawyer to cultivate an awareness of current issues surrounding discrimination and harassment in the practice of law and to avoid furthering a culture that allows discrimination or harassment, creates unequal opportunities and erodes trust and confidence in our profession. Discrimination and harassment in the legal

industry continues to be a significant issue that stalls, limits access to and prevents advancement in the legal profession. Until we are able to more broadly prevent discrimination and harassment in the legal industry, our otherwise powerful profession will be limited in its ability to fully represent, protect and benefit our community.

Events this year, including the death of Breonna Taylor in Louisville and George Floyd in Minneapolis, have highlighted the need for self-reflection as well as meaningful change. Kentucky lawyers must combat discrimination and harassment in our profession and seek equal justice for all people. The KBA Rules Committee will be considering the LBA's proposed rule amendment and voting on the amendment this fall. We ask that you join the LBA Board and Gender Equity Committee in supporting the proposed amendment and combatting discrimination and harassment in the practice of law in the Commonwealth of Kentucky.

How can you show your support?

- Register your support online at www.loubar.org; or
- Provide your own letter of support and send it to Lisa Anspach at lanspach@loubar.org; and
- Share this with your colleagues and request their support and help in reaching out to their colleagues.

We need your support no later than Friday,

October 30, so that we may provide it to the KBA Rules Committee. If you have any questions, please reach out to Lisa Anspach, lanspach@loubar.org.

Proposed KRCP 8.4 amendment:

It is professional misconduct for a lawyer to:

...

(f) engage in conduct or communication related to the practice of law that the lawyer knows or reasonably should know is harassment and/or discrimination on the basis of race, sex, religion, national origin, ethnicity, socioeconomic status, disability, age, sexual orientation, or gender identity. For purposes of this subsection, the following definitions apply:

"Discrimination" on the basis of race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, or gender identity as used in this subsection means conduct or communication that a lawyer knows or reasonably should know manifests an intention: to treat a person as inferior based on one or more of the characteristics listed in this paragraph; or to cause or attempt to cause interference with the fair and balanced administration of justice based on one or more of the listed characteristics.

"Harassment" on the basis of race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, or gender identity as used in this subsection means one or more instance of derogatory or demeaning conduct

or communication.

"Related to the practice of law" as used in this subsection means occurring in the course of representing clients including but not limited to: interacting with witnesses, coworkers, court personnel, lawyers, law students and others while engaged in the practice of law; or operating or managing a law firm or law practice. This subsection shall not limit the ability of the lawyer to accept, decline, or withdraw from representation consistent with other Rules of Professional Conduct, nor does it preclude a lawyer legitimate advocacy on matters of public policy, the exercise of religion, or a lawyer's right to advocate for a client. This subsection shall not be construed as limiting to a lawyer's Freedom of Association. This subsection also does not include legitimate advocacy when the listed characteristics are issues in the proceeding. Advocacy of policy positions or changes in law are not regulated by Rule 8.4(f).

Jessica Cole is Head of Stable Value Contract Group at Invesco Advisers, Inc. Jennifer Kleier is a partner at Karem & Kleier Law and chair of the LBA's Gender Equity Committee. ■



Retiring Early! Good for you! What about Health Insurance?

Steve Church

You have put in decades of hard work, were diligent about saving and contributed to various retirement options. You may have been blessed with transformational ideas, built wonderful companies that employed hundreds of people and provided a good wage for their families. The kids are grown, out of the house and you have what you need to step away and enjoy the fruits of your labor while young enough to do so. Good for you! But what about health insurance?

Most working adults in the U.S. obtain their health insurance through an employer sponsored health plan. Those benefits are not available to employees after retirement, unless a pension plan is in place that clearly defines retiree health insurance coverage. If you are in that sweet spot between 55 to 65 years of age, health insurance will be a challenge, but not insurmountable.

There are a few ways to "ease" into the individual health insurance market that may help you get to the magic Medicare qualification age of 65, if you are not disabled. Although this list is not exhaustive, it is a starting point for consideration if you are in this position.

1. Elect COBRA for 18 months upon leaving your employment. This option will "buy" you some time to research alternative coverage while providing you with employer-based health insurance that you are accustomed to.
2. Elect a high deductible health plan, along with a Health Savings Account and fund the HSA to the maximum allowed by the tax code. (consult your tax advisor for those amounts)

3. Use a specific investment or passive income source to fund insurance premiums, co-payments and out of pocket maximums.
4. Establish coverage through a spouse's employment, if available. Losing employer coverage due to retirement would be a qualifying event and allow you to be added as a dependent.

All these options will require you to purchase health insurance through a source that may be unfamiliar to you. The cost of health insurance will be much greater than you will be used to in most cases, as there will not be an employer contribution toward the premium for these coverages. We encourage most people to avoid 'self-insuring' as health status changes quickly and catastrophic health events can financially devastate even the most robust retirement portfolio. Insurance is relatively inexpensive as compared to some of the medical claims we have seen come through our office.

Seek counsel from a licensed insurance agent who can assist you in finding appropriate health insurance that will protect you from the worst-case scenario at the same time it protects your retirement assets.

If you need assistance navigating the various options that exist for this type of insurance coverage, we are happy to be of service. Contact Logan Lavelle Hunt for more information.

Steve Church is a partner at Logan Lavelle Hunt. ■



Member Benefit Spotlight

Hey! Did You Know?

The LBA has partnered with Logan Lavelle Hunt to offer group health insurance as a member benefit. Logan Lavelle Hunt will be the agent of the insurance plan underwritten by Anthem.

For more information or to see if this plan is right for you and your employees, please contact Darren Epperly at darrenepperly@llhins.com or Leslie French at lesliefrench@llhins.com or (502) 499-6880.



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Over \$2.9 million
in grant funds
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1982

Our Mission

Justice starts with a solid foundation. The Louisville Bar Foundation is the charitable giving arm of the Louisville Bar Association. Its mission is to raise and distribute funds for:

- Delivery of legal services to the poor and indigent
- Law-related public education
- Improvement of the judiciary, the legal profession, and citizen access to the justice system

\$88,000
awarded YTD for
10 law-related
programs in
2020

Fellows

The LBF Fellows Program is vital to creating and sustaining a strong foundation. The LBF Fellows Program recognizes individuals who have achieved success in the legal profession and whose generous personal gifts have supported the law-related mission of the Louisville Bar Foundation.

You may become a Fellow by contributing or pledging a minimum of \$1,000 to the Louisville Bar Foundation. Pledges may be made in equal installments over a four-year period. Contributions to the Fellows Program are applied to the Foundation's endowment, thereby increasing the amount of grant funds available in future years. To make your gift to the endowment, call (502) 292-6734 or donate online at www.loubar.org/foundation/contribution.

240
Fellows
recognized

Recognition

Fellows are recognized for their generosity in the following ways:

- A listing of Fellows appears in LBA publications, including Bar Briefs and the Pictorial Roster.
- Names of Fellows are listed on the Foundation's video display located in the lobby of the Bar Center.
- A certificate of membership is presented to each Fellow.
- Fellows receive a special lapel pin.

\$3 million in
endowed funds

Grants

The Foundation makes approximately \$125,000 in grants to local not-for-profit organizations each year. Since its founding in 1982, the Foundation has distributed \$2.9 million in grant funds.

The LBF is supported by contributions from individual attorneys, law firms, in-house law departments, and corporations.

At present, the Foundation has an endowment of \$3 million.

A complete list of grants made by the LBF is available online at www.loubar.org (click on the Bar Foundation tab).

Opportunities

LBA members and LBF Fellows are encouraged to promote the Foundation by sponsoring grant applications submitted by charitable groups and by participating in the projects it funds.

Guidelines and applications for grant funds are available by calling the Foundation at (502) 292-6734 or by visiting www.loubar.org (click on the Bar Foundation tab).

2020 Fellows

(as of 9/1/2020)

Jennifer M. Barbour
Amy B. Berge
Ingrid V. Geiser
Eric J. Graninger
Rebecca M. Moore
John T. Rippy

Why Lawyers Should Be Early Adopters of Instagram Reels

Aron Solomon

Instagram Reels is a new in-app function where users can create 15-second short clips that are synced with fully licensed music, audio effects and filters. After a global soft launch in places such as Brazil, Reels launched in the United States in early August and has become wildly popular in many social media circles.

Instagram released Reels because they saw an opportunity to grab TikTok's market share in the US and beyond. As the regulatory screws tighten around Chinese-owned TikTok, some large platform was bound to release their own equivalent, so Facebook-owned Instagram was a natural fit to eat up this social media market share.

What Reels does is simple and compelling. You can record and edit 15-second multi-clip videos with audio, effects and new creative tools, one of which I will discuss in some detail. You can share Reels with your followers on your feed, and, if you have a public account, make them available to the wider Instagram community through a new space in your search (Explore).

This is a real key as Instagram users have seen a marked change over these past three weeks in the appearance of the Explore function in Instagram. Reels in Explore is the first thing you now see when you search, and the com-

pany claims to have done this to offer "anyone the chance to become a creator on Instagram and reach new audiences on a global stage."

This is really a key point. Most people who use social media dream of creating a piece that can become viral. I can assure you, from the perspective of someone who had an article go viral on social media a few years ago, that going viral can be an overwhelming experience but a potentially very desirable one for building your brand and base of prospective clients.

I'm pretty bullish on Reels because, as with any new social media app or functionality, it's invaluable to be an early adopter, which you can still do, especially if you'd like to use Reels for business purposes. Instagram's Reels gives you a chance to try something totally new on social media and I highly recommend trying out its functionality.

For lawyers, the ultimate goal is discovery. Who wouldn't want a larger reach and visibility for their Instagram account, if they have one? And if you don't, Reels should have you thinking twice about why you're not on a platform with such a massive reach.

As for the functionality of Reels, my favorite feature so far is something known as Transitions. Transitions allows you to create interesting and unique transitions between clips.

Sure, apps such as TikTok can do similar things, but Reels brings a huge net new audience to features such as Transitions because a large number of the Instagram audience hasn't used TikTok.

So here is how I recommend a lawyer use Transitions in the maximum 15 seconds allowed on Reels.

You should use Transitions in Reels to show three aspects of your life that would give prospective clients some insight into who you are as a person. See these 15 seconds as a unique opportunity to show three things about you in a way that is potentially very memorable.

Let's look at an example:

You love to cook, run on trails and ride horses. Great. Transitions in Reels allows you to give people your visual perspective on each of these activities. You would take a little video of you doing each of these activities then use the Transition feature to pull them together. Often in Reels the person snaps their fingers or throws something in the air to mark the transition. Always think about interesting camera angles as well. Perhaps you want to do a POV-shot from your point of view, as if the camera is your eyes, rather than having the camera pointed at you.

While I don't recommend that you throw a

meat cleaver or horse in the air do to a Reels transition, there is ample room to show the same energy and creativity to prospective clients that you may one day show them as their lawyer.

So, practically, what's the advantage of being on the leading edge not only of a new technology but even its most new and widely popular feature?

It shows that you're open to experimenting, learning, trying new things, and that you aren't a stuffy person who takes themselves too seriously. In other words, Reels may be the polar opposite of that lawyer stock art that litters Google images.

I always remind clients that lawyers shouldn't be using any social media to immediately attract new clients. Rather, the goal is to build relationships with people through social media that will later bring some of them into your prospective client funnel - and then of course you will work some of these prospects through the stages of your funnel into clients.

Aron Solomon is the Senior Digital Strategist for NextLevel.com and was the founder of LegalX at MaRS Discovery District in Toronto. ■



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Each year the LBA recognizes members who personify the best of the legal profession with their work and professionalism. We invite you to consider the qualities that these awards represent and nominate individuals who exemplify their respective traits. The criteria is listed below.

Judge of the Year

This award is presented to a member of the judiciary who has shown judicial integrity and professionalism. A nominee for this award has contributed to the community by volunteering in civic organizations to help promote the image of the legal profession and has established a reputation for integrity, scholarship and professionalism.

Justice Martin E. Johnstone Special Recognition Award

This award is the highest recognition bestowed upon an LBA member for outstanding participation and partnership within the legal community. An individual deserving of this award has made a significant impact in the Louisville community through professional or volunteer efforts and exemplifies what it means to be a lawyer.

Judge Benjamin F. Shobe Civility & Professionalism Award

Individuals receiving this award have consistently demonstrated adherence to the highest standards of civility, honesty and courtesy in their dealings with clients, opposing parties and counsel, the courts and the general public. They have shown sustained excellence through leadership in the profession.

Robert & Frank E. Haddad Jr. Young Lawyer Award

Nominees for this award must have been practicing as a trial lawyer—either criminal or civil—for less than five years. Nominees must demonstrate an ability to handle complex or unusual trials or appeals and they must have garnered the respect and admiration of the judiciary and of their colleagues.

Paul G. Tobin Pro Bono Service Award

This award recognizes the work of LBA members who have unselfishly given time to improve the quality of society through their legal work. Worthy nominees will be LBA members who helped deliver legal services to the disadvantaged through a pro bono program or cause.

Daniel M. Alvarez Champion for Justice Award

This award is given to a lawyer demonstrating a strong devotion to serving underrepresented individuals or groups by giving a legal voice to those who would otherwise be voiceless. These groups include, but are not limited to, the Hispanic and Latino communities, documented and undocumented immigrants, the LGBTQ community, incarcerated juveniles, and indigent criminal defendants.

To Submit a Nomination:

Include the following information for both submitter and the nominee: Award name, name or contact person, address, telephone and e-mail.

When writing your nomination letter, consider the following information:

Describe the nominee's contributions as they pertain to the award criteria; distinguishing characteristics of the nominee's service to the LBA and the community; additional information that will assist the committee in its deliberations.

Nomination letters and information should be submitted either via e-mail to Scott Furkin at sfurkin@loubar.org or postal mail to: LBA Awards, Louisville Bar Association, 600 W. Main St., Ste. 110, Louisville, KY 40202-4917.

Nominations are due by Friday, October 30.

Louisville Association of Paralegals

Check out upcoming educational programs and special events on the Louisville Association of Paralegals website at www.loupara.org. The LAP offers joint membership with the Louisville Bar Association for voting members and joint LAP/LBA members may attend most LBA CLE programs at the discounted rate of \$15. To learn more about the benefits of LAP membership, visit www.loupara.org. ■

MEMBERS *on the move*



Dye



Farag



Seiffert

O'Bryan, Brown & Toner is pleased to announce that **Brent E. Dye** has rejoined the firm. Dye has practiced Kentucky workers' compensation law since 2006. He previously worked for O'Bryan, Brown & Toner from 2012 through 2016. In early 2017 he was appointed an Administrative Law Judge for the Commonwealth of Kentucky. Dye has litigated every case type, ranging from orthopedic injuries to complex occupational disease and death cases. His practice will continue to focus exclusively on workers compensation law.

Vaughn Pettitt is pleased to announce the addition of **Ibrahim Farag** to the firm. Farag is licensed to practice law in all state and federal courts in the Commonwealth of Kentucky. Farag handles claims of personal injury, premises liability, civil rights violations, administrative law, excessive force, and contractual disputes. He received his J.D. from the University of Louisville Brandeis School of Law.

Stites & Harbison and **James C. Seiffert** have been honored in IFLR1000 United States for 2020. IFLR1000 is the guide to the world's leading financial and corporate law firms and lawyers. Seiffert was ranked as "highly regarded" in the practice areas of banking and finance as well as corporate and mergers and acquisitions. Stites & Harbison was ranked Tier 1 in Kentucky for financial and corporate services. Seiffert is a partner at Stites & Harbison where he is a member of the Business & Corporate Services and Tax Service Groups. His practice focuses on venture capital financing, closely held business, taxation, project financing, tax incentives, mergers and acquisitions and general business law. ■

NOTICE

Nomination & Election of LBA Officers

It's time to nominate and elect officers of the Louisville Bar Association for 2021.

Offices to be Filled:

- President-Elect
- Vice President/Treasurer
- Secretary

Nominations

- Nominations for these offices are made by written petition signed by not less than ten (10) active LBA members;
- Nominations for multiple offices can be made on a single petition;
- All petitions must be filed with the secretary by November 1, 2020.

Send Petitions to:

Katherine L. Crosby
c/o the LBA
600 W. Main St., Ste. 110
Louisville, KY 40202-4917

For more information and petition forms, contact LBA Executive Director Scott Furkin at (502) 583-5314.

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