

BAR *briefs*

Louisville Bar Association

October 2019

**Pro-Bono is
Who We Are**



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VOLUME 19, NO. 10

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

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KRCP 6.1, part of the Kentucky Supreme Court Rules, encourages lawyers to donate legal services to persons of limited means. The hope is that all lawyers will perform at least 50 hours of pro bono service every year. As the Commentary to the rule notes, "... (P)ersonal involvement in the problems of the disadvantaged can be one of the most rewarding experiences in the life of a lawyer."

The LBA provides a myriad of opportunities for lawyers to engage in meaningful pro bono and public service. As we celebrate National Pro Bono Month, we thank those who have answered the call to lend a hand to the less fortunate in our community. See page 9 for an "honor roll" of volunteers in LBA pro bono/public service programs.



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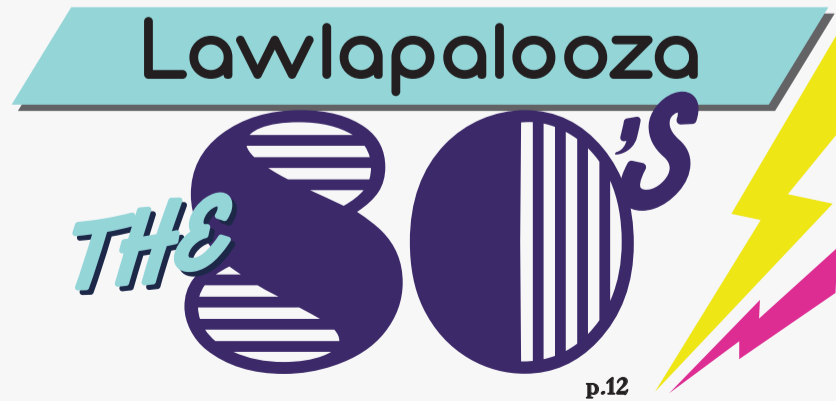
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Pro Bono is Who We Are

We all know that the Latin phrase “pro bono publico” is translated “for the public good.” Wikipedia goes on to add: “Unlike traditional volunteerism, it is service that uses the specific skills of professionals to provide services for those who are unable to afford them.” Wikipedia does not further define “specific skills” or “those who are unable to afford them.” At times we consciously or unconsciously segregate the members of the bar and their firms into those providing pro bono services from those who don’t. Thus we tend to self-limit ourselves and the assessment of our freely given time consistent with Wikipedia’s focus on the truly indigent.

While pro bono efforts spent in both civil and criminal settings on behalf of the needy are clearly the heart and soul – the “bread and butter” – of the bar’s pro bono contributions, I submit that the scope of most lawyers’ pro bono contributions is not only broader, but is equally deserving of acknowledgement. In fact, if we take a moment to examine the nature of our collective personality as lawyers, I believe that the concept of pro bono publico has been historically and culturally ingrained in the very essence of who we are.

Perhaps this can be underscored with an example from the current advertising media. In a series of television commercials for Home Advisor, one friend asks another if they know of a contractor, insurer, investment analyst, etc. When the friend answers in the affirmative, he or she is immediately instructed to obtain details, several bids and arrange for the service requested. The humor in these spots is derived from the absurdity of imposing on a friend to perform these time-consuming tasks. Implicit in the request is the fact that the requested service is for compensation. Funny? Absolutely, but not unusual in the day to day experiences of a lawyer.

Why is that? I submit that unlike persons in nearly any other profession, trade, or occupation, lawyers are perceived as problem solvers – professionals who know how the system works and how to resolve questions that arise along the way. Taking it a step further, when the inquiry involves the law, free advice is often solicited and expected. Bringing the paradigm full circle, such a request is seldom seen by lawyers as inappropriate or burdensome, simply because as lawyers we are wired to expect such requests, both as a compliment and simultaneously as complementary to our function in society. When we tender help and advice in these situations are we really providing a pro bono service?

Consider for a moment our profession’s “end product.” It’s not manufactured goods or bricks and mortar, or infrastructure or utility services. As credited to Abraham Lincoln, “a lawyer’s time and advice are his (or her) stock in trade.” As we all know, our time does not fall neatly into a work day or eight hour shift and our advice can be solicited in a variety of venues and situations. Obviously, if our time and advice are sought for a fee, we are NOT contributing pro bono time. Likewise, if it is sought in a social setting over cocktails or dinner it would be a stretch to contend that this is truly pro bono publico. Yet there are many instances when we may underestimate the free tender of our professional talents simply because we believe it does not fall within the ordinary parameters of a specified pro bono activity.

One of my published Christmas short stories entitled “For the Good” involves two prominent lawyers in competing law firms who become obsessed with the accolades accompanying charitable pro bono work. Attendees of the same church, they fixate on outdoing each other in gathering “angel tree” gifts for the needy. Ultimately, the only prize for the most prolific progenitor of good works is verbal acknowledgment at an awards banquet. In the end (though I urge you to read the story) they both lose out to the “church lady” who conceived of and ran the “angel tree” project in the first place. One of the lawyers – my protagonist – while waylaid in the company of his son’s youth group who are caroling at local nursing homes, meets a lonely nursing home resident whose story sends him on an unheralded pro bono Christmas mission. This mission causes him to miss the awards ceremony, but ultimately provides a deeper fulfillment than could ever have been attained by public recognition.

The story wasn’t meant to be didactic – or offer more than a gentle, tongue in cheek poke at our worthy, traditional good works – but rather was intended to impart the hint that a lawyer’s good works may be private and unrecognized, yet still substantial and magnanimous.

Many of my colleagues have served as adjunct professors/lecturers without compensation at the Brandeis School of Law. They prepare their classes/lectures, counsel students individually, dutifully appear at the appointed hour and are ultimately responsible for papers/exams/grades. As a whole, neither the student body nor the law school as an institution is indigent, yet the men and women offering time they could have spent at leisure or billing clients are clearly serving the public good.

Similarly, how many of us have been drafted or “volunteered” to offer substantial legal assistance to our church, synagogue, neighborhood association, civic organization or other nonprofit entity in time of need? In most instances these calls to duty are carried out quietly and without fanfare, often behind the scenes. The task may be as limited as reviewing a contract for basic

services or as expansive as taking on complex litigation or pre-litigation issues. The monetary risk involved might be minimal or it might be a million dollars. In any event, the organization (though nonprofit) is probably not destitute and is accustomed to compensating contractors for cleaning, painting, electrical or plumbing services, not to mention salaries for day to day administration. Yet lawyers readily accede to requests for their time and advice (i.e. stock in trade) and ordinarily wouldn’t dream of billing for their services, nor would it be expected by the “client” organization.

Many of you have come to the aid of an individual who finds themselves in a legal quagmire, usually not of their own creation. Whether it’s a land dispute over a property line, fallen tree or easement; a family squabble over a small estate; a contested service contract; a misdemeanor charge; or a

request to assess a friend’s legal rights to sue when that friend feels wronged, the individual requesting assistance would be offended if you declined and even more offended if you sent them a modest bill. Friends who would never dream of asking an electrician to wire their house or a painter to scrape and paint it or the CPA down the street to do their taxes – all for free – don’t give a second thought to “asking the lawyer,” to paraphrase Randy Bulleit’s radio show.

Why is that? Perhaps, in part, because a lawyer’s time and advice are often invisible, intangible or for a lay person unquantifiable. Yet there is another reason – and it lies not in the person asking for assistance, but in the lawyer who has been solicited. It is at the heart and soul of who we are as legal professionals. Not just those who go the extra mile and generously and graciously engage in more public acts of pro bono service, but to a greater or lesser extent, all members of the bar.

Quite simply, as lawyers we are expected to make sense out of the nonsensical, bring order out of chaos, and provide solutions in the wake of problems. In some instances we are expected to charge a fee, in other instances our work is presumed to be gratis. This has been the case since our country was founded. Even for those valiant

men and women who are compensated very modestly for what is essentially institutionalized pro bono work – legal aid lawyers and public defenders come to mind – the public seems to have little urgency to increase their compensation. Lawyers are simply expected to serve as society’s overseers, counselors and public policy architects. And whether we like to acknowledge that most politicians are lawyers, the association between the two often shapes the public’s poor impression of the latter.

Perhaps that is why the citizenry expects great things of our elected officials and are crestfallen – and increasingly cynical – when they see political gamesmanship and power mongering substituted for simple, lawyer problem solving. At their best, our lawyer/elected officials are forthright and transparent, providing truly pro bono service to their fellow citizens. Their salaries don’t match those in the private sector and their workload is substantial. Their duty to maintain our democracy is even more substantial. When they fail to fulfill the expectations of the populous, that failure is far more resounding than when the occasional shift, “master of the deal” businessman holds elective office. Much is expected from the former and relatively little from the latter.

This essay is not intended to elicit breast beating from those of us who are often the butt of shyster, lawyer jokes. Nor is it a clarion call for honors and accolades to be heaped on the everyday lawyer for simply doing what we do and being who we are. It is my intent to awaken us all to the inherent nature of our role in society and prompt our quiet pride in the perpetuation of that role for the better good of all. Frankly, a little bit of encouragement and some accompanying acknowledgment helps to remind us of the ingrained duty of pro bono service we all possess.

As we salute our colleagues engaged in more traditional pro bono settings, we can’t afford to separate ourselves from them. The public at large may or may not appreciate how freely lawyers give of their time and advice, but it’s important that we do, not to give us a leg up on our place in heaven, but to constantly remind us that it is expected of us and, moreover, that we expect it of ourselves.

Sincerely,



Gerald R. Toner
LBA President



The public at large may or may not appreciate how freely lawyers give of their time and advice, but it’s important that we do, not to give us a leg up on our place in heaven, but to constantly remind us that it is expected of us and, moreover, that we expect it of ourselves.

Reflections From A Decade on the Bench

Judge Brian C. Edwards

Last month marked the 10-year anniversary of my appointment to the circuit court bench. Among the many things I have most enjoyed about serving as a judge are the opportunities to speak to students about my career and my job. When speaking to students, inevitably, one of them will ask whether I always knew I wanted to be a judge (answer – no) and what things someone can do to prepare themselves to become a judge (answer – keep reading).

You may remember from one of my previous columns that I grew up in a family of educators and teachers. I wrote about how as I came to the end of my undergraduate studies, I did not know whether I should continue my education by going to graduate school to become an educator or law school to become a lawyer. After choosing law school, there were certainly times in which I was unsure if I had made the right decision and at one point, I was pretty sure that I had not.

I took a year off and sold Billy Ray Cyrus CDs and Wu Tang Clan cassettes (remember those?) at a music store, worked as a door to door sales representative for AAA, and joined a local theatre ensemble where I rehearsed and performed in stage plays during the evenings. I don't know if it was having one too many doors slammed in my face as I tried to convince people to purchase AAA or if it was the realization that I was not going to be the next Denzel Washington, but eventually I decided to return to law school.

After graduating from law school, I worked as a public defender before going into private practice. While in private practice, I got a position working as guardian ad litem for children in family court. I also practiced in the areas of employment and civil rights law. I drafted articles of incorporation for friends who were starting businesses and I drafted powers of attorney documents for friends who needed to assist their elderly parents with their affairs. Eventually, my genetic propensity for teaching kicked back in and I accepted positions at the University of Louisville teaching classes in Pan African History to undergraduates and trial practice skills to law students.

Circuit court is the ultimate court of general jurisdiction. On any given day, I may be asked to listen to conflicting testimony from licensed psychologists and deliver an opinion as to whether a defendant is competent to stand trial. I may be asked to look into the eyes of 16-year-old who swears that if I release him pending trial, he'll listen to his mom, not hang around the wrong crowd and stay out of trouble pending the resolution of his robbery case. I may be asked to render a dispositive opinion on a complex commercial litigation dispute where there exists little authority to guide me. And, I may be asked to follow or deviate from a jury's decision to sentence a defendant to life in prison or perhaps even death.

When making these decisions, I have drawn not only upon the lessons learned in my formal legal education but also upon each of those life experiences mentioned above. When looking into the eyes of a defendant and trying to predict his future behavior, I have drawn upon the diverse relationships, experiences and interactions I've been fortunate enough to have. When asked to address the myriad of different types of cases that fall under the umbrella of "civil litigation," I have drawn upon the variety of different types of cases that I was involved in during my law practice. And ultimately, I have attempted to use my range of experiences to assist me in making the best possible decisions.

My inspiration for writing this column came from a book that I am currently reading, the latest work by author David Epstein entitled *Range: Why Generalists Triumph in a Specialized World*. Mr. Epstein's book examines the careers of a number of individuals who have excelled in a variety of different mediums ranging from the military to athletics to business. He finds that although there were some who succeeded due to single-minded focus and clarity of purpose, a common thread amongst the majority of these men and women is that they are "people who started broadly and embraced diverse experiences and perspectives while they progressed. People with range."

As I reflect upon my first decade on the bench, I think of all that has changed since my swearing-in back in 2009. At that time, my oldest (then ONLY) son was an energetic four-year-old who insisted on placing the bible that would be used for my swearing-in on top of his head. That little boy is now a six-foot tall teenager. Not present at that ceremony was my youngest son, who had not been born at that time but who would have undoubtedly provided much entertainment for all in attendance if he were there. He is now a rambunctious eight-year-old third grader. And, sitting on the front row and beaming with pride was my mother. She now sits with the angels, hopefully still beaming with pride.

As I embark upon my second decade on the bench, I look forward to continuing to incorporate the life lessons learned and the experiences that I have accumulated throughout my life. I endeavor to learn from the mistakes that I may have made both in "life" and on the bench (thank you, Court of Appeals). And I endeavor to incorporate those experiences and lessons learned over the past 10 years and beyond to assist me in better serving all of those whom I will have the privilege of working with and serving.

Chief Judge Brian C. Edwards presides in Division 11 of Jefferson Circuit Court. ■



Program Will Focus on Business Court Pilot Project

Mark your calendars for November 20 (10am-12pm) for a free program about the Jefferson County Business Court Docket Pilot Project slated to begin later this year. Presented by the LBA Litigation Section, the program will feature a panel discussion with Kentucky Supreme Court Justice Lisabeth Hughes, Jefferson Circuit Court Judges Angela McCormick Bisig and Charles Cunningham and Business Court Docket Advisory Committee Members Janet Jakubowicz and Elizabeth Gray. The program will educate practitioners on the rules, procedures, jurisdiction and other unique aspects of litigating a civil dispute in the first-of-its-kind division in the Kentucky courts.

Twenty-four states have adopted some form of business court, with pilot projects underway in an additional five states. Business courts allow for more effective judicial management of complex business and commercial cases by concentrating them in a docket with rules and processes specially designed for those types of cases.

Don't miss this opportunity to find out about the Jefferson County Business Court Docket Pilot Project! For more information or to register, visit www.loubar.org.

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Third Time's the Charm

Marcus Walker

If you are the slightest bit interested in the history of the University of Louisville School of Law, then you likely know about the merger with Jefferson School of Law in 1950. Yet you may not be aware there were at least two previous efforts at consolidating the schools, the first coming after just Jefferson's third year of existence.

On June 22, 1908, the *Courier-Journal* reported that the faculty of the Law Department of the University of Louisville, Dean W.O. Harris, Emmett Field, and Charles B. Seymour, resigned so the University Board of Trustees "might not be hampered" in pursuing a merger with Jefferson. However, nearly three weeks later discussions were called off, and not only did Harris, Field, and Seymour resume their roles, the number of professors more than doubled to seven.

The proposed combination of Jefferson and Louisville in 1918 was not originally intended to be permanent, but instead a means to allow both schools to continue operating through the First World War. Unfortunately, enrollment remained low, and the joint session was cancelled, with Louisville shifted its role to handling the needs of the Student Army Training Corps, while Jefferson suspended its program for the year altogether. In April 1919, University Board of Trustees President A.Y. Ford suggested a full unification of the schools, but the offer was rejected by the Jefferson faculty, determining that such a union "would impose on the instructors more labor than they would be willing to undertake." Although Ford was acting on the possibility that Jefferson would not resume operations, the closing might well have had a significant impact on the night school's future: prior to the war, Jefferson had begun offering the LL.M. – a degree the University's Law Department did not provide – but did not restart the program afterward.

Despite the lengthier history of the University of Louisville, at the time of the above attempts, the two law programs were essentially peer institutions: While accreditation had begun, it had yet to take a prominent role in legal education. Similarly, although the Louisville program consisted of mostly of dedicated legal professors rather than practicing lawyers as did Jefferson, this distinction was not considered an indication of program quality; in fact, Jefferson touted their faculty's practical knowledge as a benefit for their matriculants.

But by the time of the third consolidation, the landscape of legal education had changed significantly. The University of Louisville School of Law program had been approved by both the ABA and AALS for nearly two decades, and though graduating from a nationally accredited law school was not required to practice law in Kentucky, that would soon to come to an end. While Louisville was initially more eager to reduce Jefferson's student enrollment "to a trickle" by opening a competing evening program, sensibilities changed after the Jefferson School administration approached the Louisville Law School about a merger. The University of Louisville Board of Trustees approved of the consolidation during its April 19, 1950 meeting, making the past students of Jefferson both School of Law and University alumni.

Yet even that was not quite the end of the Jefferson School of Law. Indeed, the original plan was to terminate Jefferson with the establishment of the evening program at Louisville, with then-current Jefferson enrollees becoming University of Louisville Law School students. A snag, however, came in the difference in tuition – Jefferson had charged \$150 per year, while the University of Louisville proposed a cost of \$225 per year to equalize the night tuition with that of the day program.

In order to maintain goodwill, and with the approval of the ABA, the Jefferson School of Law was allowed to teach its second- and third-year students in the University's School of Law building, with only the incoming evening class being taught by the University of Louisville law faculty (and charged the higher rate). Hence the final Jefferson class graduated – and the school truly ceased to be – in Spring 1952.

Marcus Walker is the librarian in charge of the Louis D. Brandeis School of Law Archives. He maintains, curates, and seeks historical material for both the University of Louisville and Jefferson schools of law, and is happy to help with research about the alumni or the history of either school. ■



MEMBER NEWS

Wyatt's Softball Team Claims Title

Wyatt Tarrant & Combs' Louisville co-ed softball team claimed the title of Louisville Softball Champions after victories against Judge Holton's Dirty Dawgs in the finals, and Phillips Parker Oberson and Arnett in the semifinals.



The members of the Wyatt Team are pictured at right with the Louisville trophy.

LBA Retains President's Cup

In a decisive 24-12 victory over the Cincinnati Bar Association, the LBA retained possession of the President's Cup trophy for another year. This was the eleventh time the two bar associations have squared off in the friendly Ryder Cup-style golf match. Over the years, the LBA has won six times and the CBA has won four times; one match ended in a tie. In addition to bragging rights, the winning teams gets to display the trophy in its bar center until the next match.

Members of Team LBA are pictured below with the President's Cup trophy.



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Workers' Compensation Law: Two Perspectives

Dean Colin Crawford

When Harlan County coal miner Felix "Matt" North died as a result of his injuries sustained in an underground mining accident in May 2019, I began thinking about Kentucky's rich and complicated history with the coal mining industry. Long an economic engine and a deep source of local and generational pride, coal mining is also at the center of a national conversation about, among many other topics, workers' rights and workplace safety. With that dispute very much in mind, this month my column takes a look at developments in workers' compensation law. As with so much in our social and economic life right now, workers' compensation law reflects the debates we are having as a society on how best to serve the needs of both our citizens and our nation's economic growth.

To get an idea of the hot issues in the area, I contacted two of our practitioners who, between them, have a whopping 100 years of practice experience.

Tom Ferreri, our 1972 graduate and member of Ferreri Partners PLLC, has, in various capacities, concentrated on worker's compensation law for 47 years. For many of them, Tom's practice has focused on representing employers.

Ched Jennings, our 1975 graduate and the founder of Jennings Law Offices, has been at it for 43 years, largely representing workers and unions.

My discussions with them delved straight into the debates on the future of workers' compensation law in the Commonwealth. Their sharp differences also underlined the effects our workers' compensation laws will experience from debates that are as much national as they are local – like who should pay for prescription drugs and how much, and what types of medical procedures may be covered or, more broadly, about the role of the courts and agencies in responding to and interpreting legislation.

For his part, Tom Ferreri offered that the coming year would see an effort in Kentucky to "harness some of the payments that are inconsistent with standardized medical protocols." Tom explained that, in his view, Kentucky has not standardized allowable medical costs the way other states have, so as to make the payment of benefits a more predictable economic cost for companies.

This would be to ask, for example, "What kinds of medications are appropriate? When is it right to operate on an injury? When is it not?" – and a series of other inquiries designed both to respond to worker claims and also to keep costs down and predictable. For Tom and lawyers who represent business interests, "a fee schedule that is specific is a good thing."

Tom referred in part to the work begun in the last legislative session with the introduction and signing into law of House Bill 2, which placed limitations on the nature and circumstances of

medical claims available to those filing worker's compensation claims.

For his part, Ched Jennings could not have seen it more differently. For Ched, House Bill 2, which, for example, caps medical benefits at 15 years, has unfair and costly consequences for workers: "Benefits can get extended but the worker needs to get a doctor to evaluate and a lawyer to represent them. That is just not fair."

Ched's view is that the standard medical protocols may also not necessarily generate the most efficient result. As an example, he explained that these protocols may require physical therapy (PT) instead of an MRI in cases where PT may not be the right response.

In short, both men argued for approaches that, they both said, would lead to more economically sensible results. For Tom, standardized protocols made more sense because they would fairly treat the nature of workplace injuries, while for Ched this placed financial burdens on the workers and would not necessarily lead to the best medical and economic result.

Another point on which the two men disagreed was about the role of the Kentucky courts as a check on legislative action. For example, in a case that made it to the Kentucky Supreme Court, *Parker v. Webster County Coal*, 529 S.W.3d 759 (Ky. 2017), a Webster County miner suffered workplace injuries and was determined entitled to workers' compensation. A lower court, interpreting the Kentucky statute, found that plaintiff was not entitled to compensation because, as an older worker (the claimant was 68), he could claim Social Security benefits unavailable to a younger worker.

The Kentucky Supreme Court, however, reversed and overturned a statute providing that: "[a]ll income benefits . . . shall terminate as of the date upon which the employee qualifies for normal old-age Social Security retirement benefits under the United States Social Security Act, 42 U.S.C. secs. 301 to 1397i, or two (2) years after the employee's injury or last exposure, whichever last occurs." The Supreme Court, in an opinion penned by Justice Keller, rejected this provision on Equal Protection grounds, finding that "we discern no rational basis or substantial and justifiable reason for the disparate treatment of two groups of injured older workers."

For Tom Ferreri, a decision like *Parker* represents "legislating by the court and not deciding."

But Ched Jennings sees it differently. "The Supreme Court," he said, "is doing what they needed to do to be a check on changes" and "rightfully ruled to protect workers." In Ched's eyes, companies wanting a different result were "all about the greed."

Both men shared a bit of common ground, however. They both said to me that these conflicts, and others like them, are sure to continue in both the legislature and the courts in this and coming years.

They also both agreed that there has been less litigation on workers' compensation cases in the last couple of years. For Tom Ferreri, this has occurred in large part because the workers' compensation system has helped make companies more safety-conscious and keen to avoid worker claims. In Ched Jennings' view, however, this is a "very very minor" reason. In his view, the workers' compensation system has created many more cumbersome and costly hoops for injured workers to jump through when asserting claims, creating strong disincentives to file.

One thing that my conversations with Tom and Ched revealed is that the fight for cost containment to promote corporate growth versus compensation for workers' injuries remains as fiercely contested as it has been for generations. We all need to keep our eyes on the resolution of these struggles.

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



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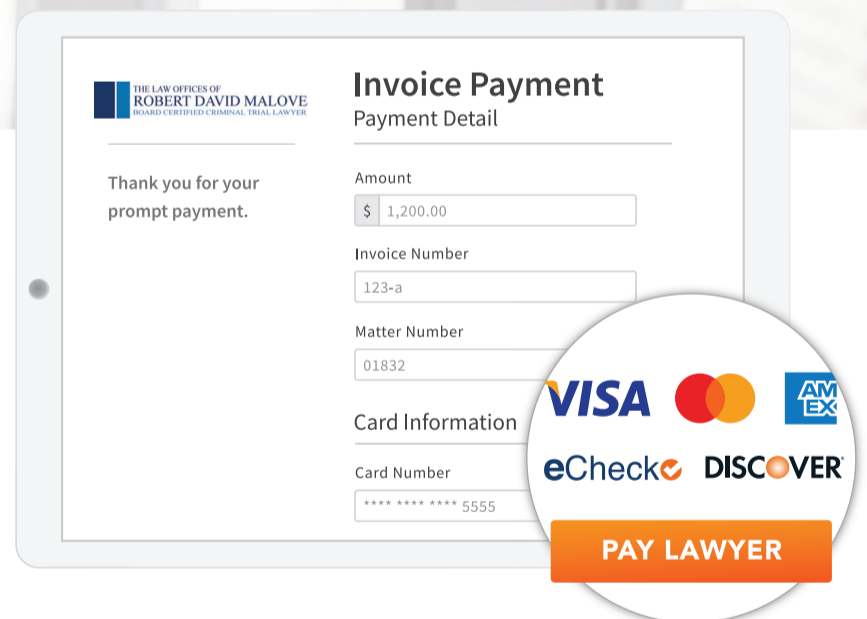
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This award is the highest recognition bestowed upon an LBA member for outstanding participation and partnership within the legal community. An individual deserving of this award has made a significant impact in the Louisville community through professional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

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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.

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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.

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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.

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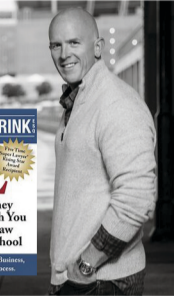
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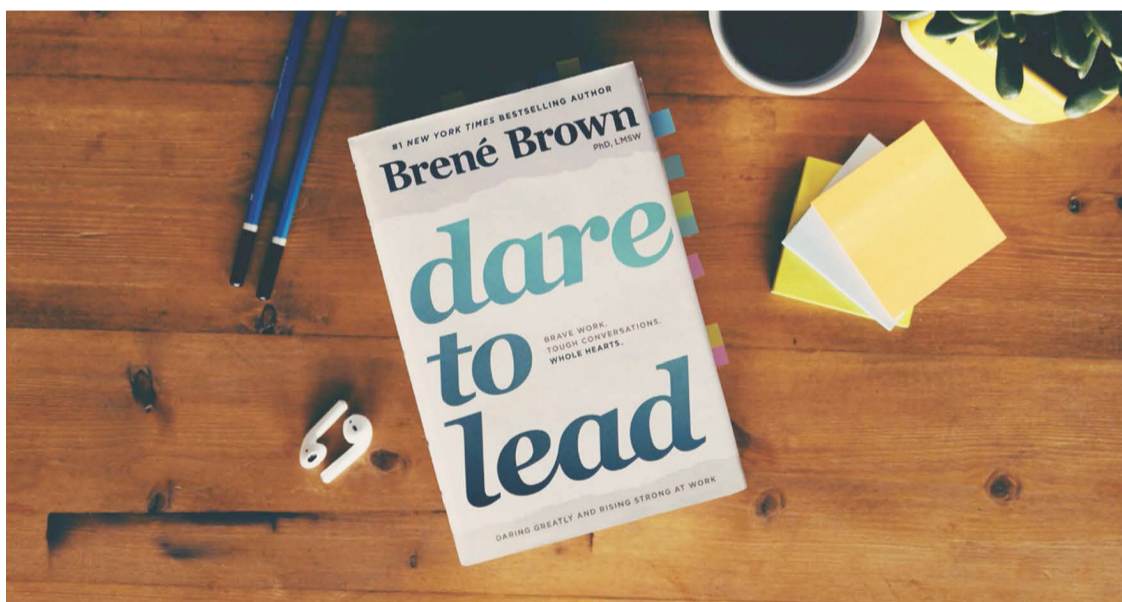
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Management Effectiveness Makes or Breaks Retention Efforts

Cara Silletto, MBA, and Leah Brown

The reasons behind employee turnover can be complicated – and hard to pin down. Below is part 1 of a 6-part series delving into retention strategies and tips that make it easier to keep your employees. This series was derived and modified from the M.A.G.N.E.T. strategies outlined in the book “Staying Power: Why Your Employees Leave and How to Keep Them Longer.”

High employee turnover can be affected by a myriad of factors – you know this. But no matter the business, the most beneficial place to start with retention efforts resides at the top: improving management effectiveness.

You can find the best talent, put all your effort into hiring and develop a top-notch onboarding program until you're blue in the face. But if managers aren't effective in their roles, and if new staff don't have good relationships with their supervisors, all that effort spent getting them to the company will be wasted.

So where to even start?

COMMUNICATE MORE CLEARLY

When it comes to managers' effectiveness, the same rule that applies to any other relationship applies here: communicate, communicate, communicate. When in doubt, be open and honest.

One of the touchstones of this generation's workforce is its desire for transparency and clear expectations. They want to know how their managers feel about their work, what their supervisors expect and what their future at your firm looks like.

So many managers – especially those who have been partners for years, or decades – operate with the assumption that all staff are aware of the “unwritten rules” the organization has. Don't take your shoes off at your

desk. Hats are discouraged (even though it's not written in an official dress code document). Some of these concepts may seem obvious to you – but your version of “common sense” might be completely different from some of your younger staff's experiences and expectations.

Here's the thing: managers can't expect employees to read their minds. It's important to communicate unwritten policies and expectations from the beginning of someone's time at the firm and to continue clearly communicating expectations along the way. The more (and the earlier) you communicate, the fewer misunderstandings will pop up later on down the road.

DEVELOP YOUR STAFF

Once the groundwork of expectations is in place, managers should focus on developing their people. This generation's workforce wants to move up the ladder – and even if a company can't provide opportunities for pay increases or official promotions, they can develop employees' skillsets and still advance their careers in other ways. Committing funds to training and development budgets is crucial to retaining today's new workforce.

On top of that, managers can rely on a few more simple concepts to improve their effectiveness and their relationships with their employees: appreciation and an ability to listen.

RECOGNIZE & APPRECIATE YOUR TEAM

Today's new workforce wants their hard work appreciated – and a quick “thank you” from their managers goes a long, long way. Undoubtedly, there are employees who don't show up for work on time, or don't put in their best effort while working and that should make it even easier for managers to discover

their appreciation for the employees who are dependable and meet their expectations. Showing verbal appreciation for a job well done is the natural next step.

LISTEN

One final suggestion: managers these days need to find more ways to listen to their staff. Many believe they're already good at listening – but then when asked, it's hard for them to articulate how they're actively and regularly soliciting feedback from their people. Simply saying there's an open-door policy isn't enough; managers should actively seek feedback, especially from employees who are less likely to march up to their “open door.”

And checking in with staff saying, “everything good?” as you pass by them does not count as listening. When you check in with staff (which you should make time to do regularly), be sure it's genuine and that you express your authentic concern for their thoughts, which includes allowing time for them to answer your questions face-to-face.

Managers making an effort on all these fronts – whether it's communicating and listening more, or saying “thank you” more often – can have a huge impact on retention efforts. Today's new workforce is less likely to job hop if they have a positive relationship with their managers and supervisors. Now you know where your improved retention efforts need to start.

This article's content is adapted from Cara Silletto and Leah Brown's recent book *Staying Power: Why Your Employees Leave & How to Keep Them Longer*. The workforce thought leaders and speakers at *Crescendo Strategies* work with thousands of business leaders to help reduce unnecessary employee turnover.

LAW POEM

This Mediator

Douglas Haynes

This mediator
No savant
Seemingly a pleasant listener
Who will never know
My clients' months of
Fears
Impatience
Paranoia
Hope
Anger

No.
This guide only
Doesn't need or want
That.
The long minutes
Become quick hours.
Signing words as
What?
Victory?
Or an ending only?

Douglas Haynes is a family law attorney and mediator with Fernandez Haynes & Moloney in Louisville. ■



Lawlapalooza 2019

The LBA presents Lawlapalooza!
The Louisville Legal Community's Annual
Battle of the Bands

Friday, October 18
Bourbon Hall
(116 W Jefferson St)
Doors at 6:30pm, show at 7:00pm

General Admission: \$15
Student: \$10
Food and drinks available to purchase

Call the LBA at (502) 583-5314 for tickets
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in grant funds
distributed since
1982

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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

\$105,500
awarded YTD for
13 law-related
programs
in 2018

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.

235
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 \$2.8 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).

2019 Fellows

(as of 9/1/2019)

James M. Bolus, Jr.
Brian P. Buter
Hon. Angela J. Johnson
A. Nicholas Naiser
Loren T. Prizant
Josh P. Schneider
Brennan J. Soergel
Evan G. Spalding

For more information contact LBF Executive Director Jeff Been at jbeen@loubar.org or (502) 292-6734.

Rockin' the RAMBLE

We had a rockin' good time celebrating 10 years of support for Doctors & Lawyers for Kids at the Rockin' the Ramble party on September 6 at Sawyer Hayes Community Center.

Proceeds from this family-friendly event will help low-income families facing health problems stemming from legal issues related to housing, utilities, education, employment, bankruptcy, immigration status and domestic violence. The LBA is proud to support the ongoing work and expansion of DLK.

Doctors & Lawyers
for Kids
A Medical-Legal Partnership

Thanks to all who came out to enjoy the barbeque, beer, music and games. Special thanks to our sponsors, vendors and volunteers for making it all possible.

Our friends at TJ's Warriors – a nonprofit group dedicated to brain injury prevention – went above and beyond in helping with the "bicycle rodeo" and helmet giveaway.

**Cornhole Tournament
Winners:
Trevor Lind & Jo Rupp**

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GLADSTEIN LAW FIRM, PLLC





Luncheon to Celebrate Pro Bono & Public Service

October is National Pro Bono Month

The LBA is partnering with the Legal Aid Society to celebrate National Pro Bono Month with a luncheon and continuing legal education seminar on Wednesday, October 23. Beginning at 11:30 a.m., there will be a brief awards ceremony to honor attorneys and law firms who have provided outstanding pro bono legal services through Legal Aid's Volunteer Lawyer Program in 2019. The CLE seminar – focusing on substantive law and public policy issues associated with the eviction process – will run from 12:00-1:00 p.m. Presenters include Cathy Hinko (Metropolitan Housing Coalition) and Megan McGinn (Alltrade Property Management).

The luncheon and CLE seminar is FREE to all attorneys who have participated in the LBA's pro bono or public service efforts over the last year (see the list on p. 9). Please RSVP to David Jacobs at 583-5314 or djacobs@loubar.org no later than Monday, October 21. Others wishing to attend may register at www.loubar.org or by calling the CLE Department at the same number. The cost is \$40 (LBA members) or \$80 (non-members).



Did you know?

THE LBA HAS 20 SECTIONS MEMBERS CAN JOIN?

ADR/Mediation	Human Rights Law	Public Interest Law
Appellate	In-House Counsel	Real Estate
Bankruptcy	Intellectual Property	Social Security
Corporate Law	Labor & Employment	Solo & Small Practice
Criminal Law	Litigation	Taxation
Environmental Law	Probate & Estate	Young Lawyers
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Portable book of business is a plus.

E-mail resume to resume@qpwbllaw.com

NOTICE:

Nomination & Election of LBA Officers

It's time to nominate and elect officers of the Louisville Bar Association for 2020.

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, 2019.

SEND PETITIONS TO:

Seth Gladstein, 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.



LOUISVILLE BAR
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Louisville Bar Association



Awards Luncheon

Friday, December 6
Marcus Lindsey, 801 E. Main St.
11:00 am – 1:00 pm

The LBA will be honoring those who have helped make the Louisville legal community great this year!

- Judge of the Year
- Justice Martin E. Johnstone Special Recognition Award
- Judge Benjamin F. Shobe Civility & Professionalism Award
- Paul G. Tobin Pro Bono Service Award
- Frank E. Haddad Jr. Young Lawyer Award
- Daniel M. Alvarez Champion for Justice Award
- Committee of the Year
- Section of the Year

\$30 per person (Govt/Public Service \$25)
\$200 for table of 8
Prices include tax

RSVP no later than Monday, November 25.
Contact Marisa Motley, mmotley@loubar.org or
(502) 583-5314 for more information or to register.



Please RSVP. Due to space limitations, we will not be accepting walk-ins.

MEMBERS *on the move*



Brightwell



Klein



Camden



Cecil



King



Zelli

Sturm, Paletti & Peter is pleased to announce that **Bruce A. Brightwell** has joined the firm as an attorney. Brightwell will continue to focus his practice in the areas of elder law, estate planning and probate, as well commercial litigation.

The American Bar Association (ABA) recently named Stites & Harbison attorney **Aaron Klein** as a 2019-20 TIPS Now! Fellow. His one-year term began September 1, 2019. TIPS Now! is a leadership initiative of the ABA Tort Trial & Insurance Practice Section (TIPS). Klein is a member of the firm's Construction Service Group. His practice focuses on advising owners, contractors, subcontractors, design professionals, and trade and materials contractors in all phases of the building process.

Moore Law Group is pleased to announce that **Andie Brent Camden** has joined the firm, bringing 19 years of experience as an attorney. Camden will lead the firm's team representing individuals and families injured as a result of medical negligence, nursing home abuse and neglect, and defective products and medical devices.

Dinsmore & Shohl is pleased to announce **Philip E. Cecil, Kylie A. King** and **Christopher S. Zelli** have joined the firm. All three will practice out of the litigation department. During law school Cecil externed for Brown-Forman, the U.S. Attorney's office for the Western District of Kentucky, and Judge Jorge Luis Alonso in the Northern District of Illinois. He received his J.D. from Northwestern Pritzker School of Law. King received her J.D. from the University of Louisville Brandeis School of Law, where she received the CALI award for highest grade in Torts 1 and worked on the law review. Zelli received his J.D. from the University of Louisville Brandeis School of Law where he graduated *summa cum laude*, earned seven CALI awards for highest grade in his class, and served as the managing editor of the *University of Louisville Law Review*.

The Best Things in Life are Free...

Did you know that Members on the Move announcements are a "member perk" and FREE of charge?! Let us know what you've been up to!

Send announcements to Lauren Butz: lbutz@loubar.org.

Notices are printed at no cost, must be submitted in writing and are subject to editing. Items are printed as space is available. News releases regarding lawyers who are not LBA members in good standing will not be printed. Peer review rating announcements are not published, these include, but are not limited to: Best Lawyers, Super Lawyers, Chambers and Martindale-Hubbell. Others will be considered on a case-by-case basis.



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MEETING SCHEDULES

Section Meetings

Section meetings are held at noon at the Bar Center, 600 W. Main St., Ste. 110.

Thursday, October 31: Young Lawyers

Meetings scheduled at the time of printing. Please watch for announcements in eBriefs or e-mail blasts for additional confirmed meeting dates. Guests are welcome to attend a meeting before joining the section. For reservations or to join a section, call (502) 583-5314 or visit www.loubar.org.

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 \$20. To learn more about the benefits of LAP membership, visit www.loupara.org.

Legal Assistants of Louisville

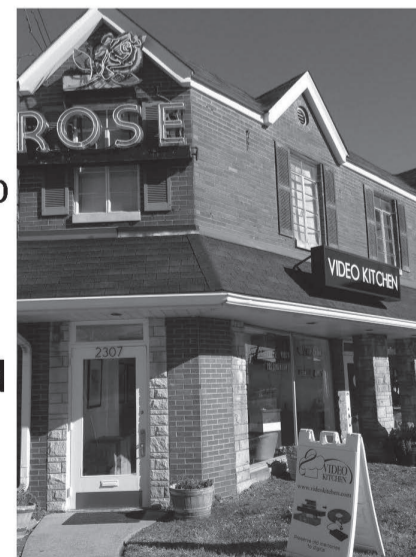
The next regularly scheduled meeting of the Legal Assistants of Louisville will be held on Tuesday, October 15, at 11:30 a.m. at the Bristol Bar & Grille Downtown located at 614 W. Main Street. For more information about the organization, please contact Loretta Sugg, Vice President, at (502) 779-8546.

Frost Brown Todd's (FBT) efforts to diversify the firm will undergo a 12-month voluntary tracking process developed by Diversity Lab. Mansfield Rule 3.0 measures whether FBT has affirmatively considered at least 30 percent women, lawyers of color, and LGBTQ+ lawyers for leadership and governance roles, equity partner promotions, formal client pitch opportunities, and senior lateral positions.

The goal of the Mansfield Rule is to boost the representation of diverse lawyers in law firm leadership by broadening the pool of candidates considered for these opportunities. New this year, Diversity Lab will also look at the inclusion of lawyers with disabilities. FBT will either obtain certification or not in July 2020 depending on how the firm's metrics meet the benchmarks determined by Diversity Lab.

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(or)

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Access to conference rooms, copy machine, fax and postage machine, and full kitchen. Free parking. Available January 1, 2018. For more details email mmalaw1@aol.com or call Laura Garrett at 502-582-2900.

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fax: (502) 583-4113

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Two offices side by side for rent at 125 South 6th Street. Includes surface parking next to building, utilities, phone, basic office supplies, copier, fax & internet. Call Lowen & Morris at 587-7000.

Office Space Available:

One Riverfront Plaza - river view; 1 to 3 offices available (2 furnished) on 20th floor; library/conference room; secretarial services and/or space available. (502) 582-2277.

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Charles Monin
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Discrimination Issues & Other Related Matters:

Samuel G. Hayward is available for consultation of discrimination and other related matters for either plaintiff's or defendant's practice. Mr. Hayward has over forty years' experience in this area with Title 7, 1983, and sexual harassment cases. Samuel G. Hayward, 4036 Preston Hgwy, Louisville, KY 40213, (502) 366-6456.

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Immigration Consultant:

Dennis M. Clare is available to practice immigration and nationality law. Member of the American Immigration Lawyers Association. Law Office of Dennis M. Clare PSC, Suite 250, Alexander Bldg., 745 W. Main St., Louisville, KY 40202, (502) 587-7400.

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Witness Location Service:

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Help Wanted

Through the LBA Placement Service

Associate Attorney:

Growing Louisville law firm located on the east side of town is currently looking for an Associate Attorney with at least 1-2 years of litigation experience to assist with the firm's civil defense litigation practice. Advancement potential is there due to the firm's growth. Salary is commensurate with experience, plus full benefits. Send resumes in MS Word format to the LBA Placement Service Director, David Mohr, dmohr@loubar.org.

Office Share Attorney:

The LBA is working with a well-established and successful Louisville attorney who is seeking another established attorney for an office share situation, (he would not employ this attorney candidate). The successful candidate will need to pay a modest amount of "rent" and shared expenses. The candidate would need to keep the clients happy, do quality work, and draft sophisticated legal language similar in style to his drafting. The main two obstacles he has confronted are inadequate experience to service a more sophisticated level of business/commercial legal needs and a need for health insurance, which is obviously not offered. Candidate should have experience providing legal services to businesses, licensed professional or nonprofits. Business law/corporate and/or tax experience. (This is a must). Send resumes in MS Word format to the LBA Placement Service Director, David Mohr, dmohr@loubar.org.



On September 19, several past and present leaders of the LBA gathered at the Bar Center for a luncheon and roundtable discussion. Pictured above with the year they served as LBA president indicated in parentheses are Scott Furkin (2004), Peter Wayne IV (2019 president-elect), William Lawrence (1977), Scott Spiegel (2001), Charles Ricketts (1984), Laurel Doheny (2010), Thomas Williams (2007), Martha Hasselbacher (2002), Homer Parrent III (1994), Deena Ombres (2019 vice-president), Margaret Keane (1997), Frank Doheny (1978), Philip Grossman (1996), Gregory King (2000) and Gerald Toner (2019).

The past presidents discussed challenges facing local voluntary bar associations and offered suggestions for how the LBA might evolve in order to stay relevant to the next generation of Louisville lawyers.

“Betty was a quiet and humble employee who was treated horribly at the office.”

- Betty's attorney during opening statement



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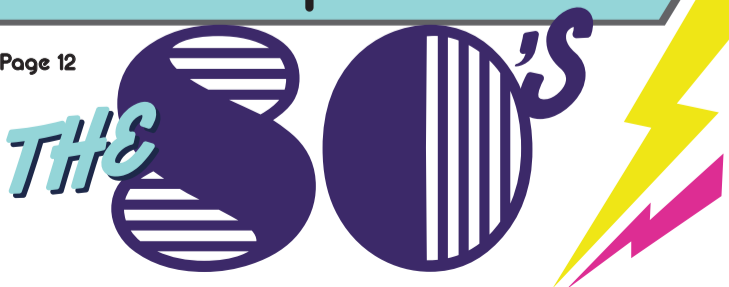
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