

KENTUCKY BAR ASSOCIATION



Bench & Bar

Volume 74 Number 3

May 2010



ETHICS §
AND THE NEW RULES §

**INSIDE:
PROPOSED RULES
AMENDMENTS**

You protect your clients, let us protect you.

Term Life and Disability insurance
available ONLY through the KBA plan.

Simple 1-page applications.

We can make it easy, because we
know you and your business.



**NATIONAL
INSURANCE
AGENCY** Inc.

Insurance for Life

This issue of the Kentucky Bar Association's *Bench & Bar* was published in the month of May.

Communications & Publications Committee

Frances E. Catron, Chair, Frankfort
Paul Alley, Florence
Mindy Barfield, Lexington
Sandra A. Bolin, Berea
Michael A. Breen, Bowling Green
Christopher S. Burnside, Louisville
David C. Condon, Owensboro
James P. Dady, Newport
Bruce K. Davis, Lexington
Judith D. Fischer, Louisville
P. Franklin Heaberlin, Prestonsburg
Sheryl E. Heeter, Newport
Judith B. Hoge, Louisville
Edna M. Lowery, Frankfort
Theodore T. Myre, Jr., Louisville
Eileen M. O'Brien, Lexington
Brian K. Pack, Glasgow
Richard M. Rawdon, Jr., Georgetown
E.P. Barlow Ropp, Glasgow
Candace J. Smith, Covington
Jeffrey R. Soukup, Lexington
E. Frederick Straub, Jr., Paducah
Gerald R. Toner, Louisville
Katherine Kerns Vesely, Louisville
Michele M. Whittington, Frankfort

Publisher

John D. Meyers

Editor

Frances E. Catron

Managing Editor

Barbara L. Thomas

The *Bench & Bar* (ISSN-1521-6497) is published bi-monthly by the Kentucky Bar Association, 514 West Main Street, Frankfort, KY 40601-1812. Periodicals Postage paid at Frankfort, KY and additional mailing offices.

All manuscripts for publication should be sent to the Managing Editor. Permission is granted for reproduction with credit.

Publication of any article or statement is not to be deemed an endorsement of the views expressed therein by the Kentucky Bar Association.

Subscription Price: \$20 per year. Members subscription is included in annual dues and is not less than 50% of the lowest subscription price paid by subscribers. For more information, call 502-564-3795.

POSTMASTER

Send address changes to:

Bench & Bar

514 West Main Street

Frankfort, KY 40601-1812

Ethics and the New Rules

- 6 **“Knowing the Rules”
The New Kentucky Rules of Professional Conduct**
By A.J. Singleton
- 11 **New “Privacy Protection” Rules:
Conform and Redact or You Could be Sanctioned**
By Valorie D. Smith & William F. English
- 14 **The Amazing Client Electronic File
The 2009 Kentucky Rules of Professional Conduct
Bring Electronic Documents in from the Cold**
By Del O’Roark

Departments

- 3 **President’s Page** *By Charles E. English, Jr.*
- 5 **YLS** *By Adrienne Godfrey Thakur & Roula Allouch*
- 20 **Formal Ethics Opinion KBA E-430**
- 27 **New Regulation of the Attorneys’ Advertising Commission**
- 28 **Proposed Rules Amendments**
- 82 **Kentucky Bar News**
- 90 **Who, What, When & Where**
- 97 **Kentucky Bar Applicants**
- 99 **CLE**
- 102 **Effective Legal Writing** *By Helane E. Davis*

Don't Shop Rates. Shop Companies.

Nothing says more about a company's good reputation than a long-standing commitment to the people it serves.



"I believe attorneys need a professional liability carrier that understands their practice, knows what they need on a day to day basis, and is proactive with risk management help. That is why I chose Lawyers Mutual."

*— Marcia Milby Ridings
Hamm, Milby and Ridings, PLLC*

Lawyers Mutual understands your business. Other companies just want your business. To learn more about Lawyers Mutual, call Nancy Meyers or visit our Web site to discover what Lawyers Mutual can do for you.

When You Need a Court Bond. Anytime, Anywhere.
Lawyers Mutual Insurance Agency

877.553.6376 • Fax: 888.658.6761 • www.lmia.onlinecourtbonds.com

Apply Online with our Quick Quote!

323 W. Main St., Ste 600 • Louisville, KY 40202

502.568.6100 • 800.800.6101 • www.lmick.com • Meyers@lmick.com



Lawyers Mutual

www.lmick.com

By Kentucky Lawyers • For Kentucky Lawyers • Founded in 1987

Approved by: Kentucky Bar Association, Kentucky Justice Association, Louisville Bar Association, Northern Kentucky Bar Association, The Young Lawyers Section of the KBA



Charles E. English, Jr.

THE VALUE OF PRO BONO IN THE ADMINISTRATION OF JUSTICE

My first experience with pro bono came right after I learned I had passed the bar. It took forever to get the results. Rumors were flying that the pass rate was the lowest in years. People who passed had already heard and, if you had not heard, you should plan to take the exam again in the spring.

Finally, the letter arrived. We had to depend on the United States Postal Service for notification way back in the day. Relief, excitement, joy, and celebration were just a few of the emotions I experienced. I won't go into any more detail about what happened after I learned I had passed the bar because my mother may read this article. I was back at work on Monday morning when the phone rang. It was Jim Gildersleeve, the Warren Circuit Court Administrator.

Jim said that Judge Francis wanted to see me and asked if I could come to the courthouse. Of course I said yes. I thought our local circuit judge wanted to congratulate me on passing the exam. So I took off to the courthouse with all the excitement and ignorance of a brand new lawyer.

When I arrived at Judge Francis' office, then public defender and now Court of Appeals Judge, Kelly Thompson, was sitting there along with Commonwealth Attorney Morris Lowe, both of whom were smiling. They knew

what was about to happen. With trepidation, I walked into Judge Francis' office where he gregariously congratulated me on passing the bar exam.

"By the way," Judge Francis said, "I have somebody I want you to represent." "But Judge," I responded, "I have not been sworn in." My protest fell on deaf ears, like many of my future arguments. "No problem," Judge Francis said. "Raise your right hand." And he administered the oath on the spot.

The poor soul I was appointed to represent had been charged with escape. At that time, many of our bailiffs were getting along in years and were not specimens of physical fitness. My client had decided to show off his track skills while he was being transported to the courthouse from the old county jail. He saw his opportunity and took off running.

The bailiffs' speed was no match for my client's. I was grateful that the bailiffs showed enough restraint to not fire their pistols. Bystanders could have been killed. A few days later, my client was captured and was back in Warren Circuit Court with literally the greenest lawyer in the Commonwealth of Kentucky appointed to defend him.

In law school, I took criminal law from Bob Lawson. Professor Lawson drafted much of the state's penal code.

He is a great teacher. I don't mean any disrespect to Professor Lawson, but there was not a damn thing I learned in criminal law that could help me in this case.

What is the defense to escape? Either you're in custody or you're not. Was my client's *mens rea* an issue? Did he have any reason to take off running? What was his intent? I was the proverbial lost ball in high weeds.

With the help and guidance of some more experienced lawyers, I was able to negotiate a plea agreement and my client unfortunately had to serve a little bit more time in the Kentucky Penal System than he would have otherwise. From then on, he was also shackled when he was transported between the courtroom and the jail.

Over the years, I have accepted other appointments in criminal cases and I hope have had better success. I have also supported and participated in pro bono activities through Kentucky Legal Aid.

As lawyers, we must remember that we have an exclusive license to practice law. We are the means by which the public gains meaningful access to the third branch of government. Without a law license, a person cannot represent another person in court, prepare legal documents for others, or do the many other tasks that lawyers do on a regular basis.

We have seen growth of the sellers of legal forms and hear advertisements for these companies every time the radio is turned on. Some of the people who use these services just don't want to pay legal fees. Many, however, are harmed because they do not understand the forms or wrongfully complete the forms they pay for.

I realize that individuals have the right to appear *pro se* and every client's claim or defense is not meritorious. Sometimes, there are good reasons that people cannot find a lawyer to take up their cause.

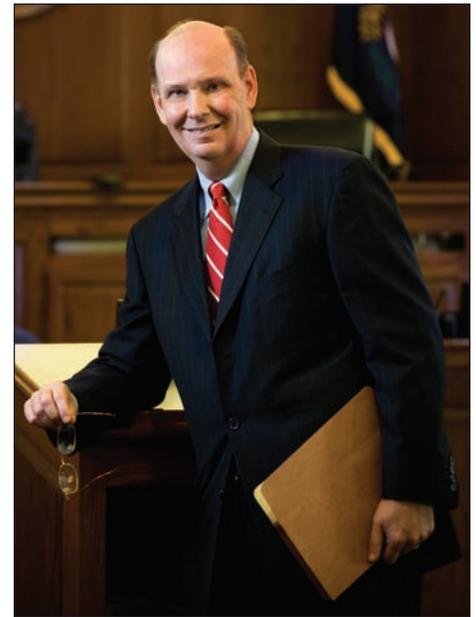
Nonetheless, no person should be denied access to our justice system because of their inability to afford a lawyer. Every director of legal services across Kentucky has horror stories to tell about individuals who qualify for legal services help, but the resources are

not available to meet the client's needs. It is our obligation as holders of the exclusive right to practice law to make up the gap.

CLOSING ARGUMENT

This is my last President's Page article. On July 1, 2010, Bruce Davis will take over as President of the Kentucky Bar Association. Bruce retired as our executive director of the KBA but came back as a volunteer officer for the KBA. We are fortunate to have someone with his knowledge, experience, and love of the lawyers of Kentucky to serve as President.

Every day, thousands of lawyers and judges across this Commonwealth work diligently, professionally, and tirelessly seeking justice. The needs are many. The resources are few. There is no better group of people than the lawyers and



judges across this Commonwealth who work to serve the needs of our system of justice. Thank you for giving me this opportunity to serve as President of the Kentucky Bar Association. ☺

Terms Expire on the KBA Board of Governors

On June 30 of each year, terms expire for seven of the fourteen Bar Governors on the KBA Board of Governors. SCR 3.080 provides that notice of the expiration of the terms of the Bar Governors shall be carried in the *Bench & Bar*. SCR 3.080 also provides that a Board member may serve three consecutive two-year terms. Requirements for being nominated to run for the Board of Governors are contained in Section 4 of the KBA By-Laws and the requirements include filing a written petition signed by not less than twenty (20) KBA

members in good standing who are residents of the candidate's Supreme Court District. Board policy provides that "No member of the Board of Governors or Inquiry Commission, nor their respective firms, shall represent an attorney in a disciplinary matter." Any such petition must be received by the KBA Executive Director at the Kentucky Bar Center in Frankfort prior to close of business on the last business day in October. The current terms of the following Board members will expire on June 30, 2011:

1st District
W. Douglas Myers*
Hopkinsville

2nd District
R. Michael Sullivan
Owensboro

3rd District
Richard W. Hay
Somerset

4th District
Douglass Farnsley
Louisville

5th District
Fred E. Fugazzi, Jr.
Lexington

6th District
Thomas L. Rouse
Fort Mitchell

7th District
William H. Wilhoit
Grayson

*W. Douglas Myers will commence his term as KBA Vice President on July 1, 2010 in accordance with the By-Laws of the Kentucky Bar Association. Serieta G. Jagers, of Princeton, will fill the 1st District vacancy and will commence serving as 1st District Bar Governor on July 1, 2010.

YOUNG LAWYERS SECTION

KENTUCKY BAR ASSOCIATION

WHY CHOOSE LAW: DIVERSITY MATTERS

By Adrienne Godfrey Thakur,
Chair YLS Diversity Committee



First, I would like to introduce myself as the new YLS Diversity Committee Chair. Stephanie Renner, the prior chair resigned for personal reasons in March 2010. I want to thank her for establishing a solid foundation and direction for the Diversity Committee. I look forward to serving as the YLS Diversity Committee Chair and working with members of the Bar and our communities to increase diversity in the profession.

Diversity is important to the Bar as well as to our greater community. As attorneys we must represent all the people of our state, understanding their issues and perspectives in order to be able to bring their grievances in court and to the government. Although diversity is not necessary to represent clients in court, having attorneys who look like, sound like, and have shared the life experiences of the entire community may help many individuals trust and feel comfortable with attorneys. Moreover, such an attorney may better understand his or her client and, therefore, be better able to represent the client's interests.

With that in mind, the YLS Diversity Committee is dedicated to increasing diversity in the Kentucky Bar. To achieve that goal, YLS has coordinated an exciting new program to increase diversity among law students and lawyers in Kentucky. The inaugural "Why Choose Law: Diversity Matters" program will be held on June 15, 2010, in Lexington, Kentucky. This day-long program will host twenty high school students of diverse backgrounds from each of the seven Kentucky Supreme Court Districts. The students will come to Lexington, at no cost to them, and be introduced to the practice of law, judges, and attorneys.

The goal of the program is to encourage students of diverse backgrounds to become lawyers and practice in Kentucky by exposing them to practitioners and judges before college. The program is for rising high school seniors or college freshmen who are from a group typically underrepresented in law school classes, to include racial and ethnic minorities, varied religious, socio-economic backgrounds, and sexual orientation. Participants will learn about the state and federal court systems, participate as a jury of a mock trial demonstration, eat lunch with the Kentucky Bar Association Board of Governors and other attorneys, tour large and small law firms, and hear a panel of practitioners discuss what it is like to practice law. Presenters include federal and state judges, lawyers, and law professors.

I am pleased to announce that we have sponsors for all twenty participants in the program. The KBA Board of Governors and their firms are sponsoring thirteen students, and the YLS and other firms are sponsoring seven. ☺

Adrienne Godfrey Thakur is an associate attorney at Henry Watz Gardner & Sellars, PLLC. For more information about the YLS Diversity Committee programs and initiatives, please contact her at 401 West Main Street, Suite 314, Lexington, KY 40507; (859) 253-1320; agthakur@hwgsg.com.

Thank you to the following law firms and attorneys who have committed sponsorship for "Why Choose Law: Diversity Matters" 2010:

Jonathan Freed
Jennifer H. & Escum "Trey" Moore, III
Charles E. English, Jr.
Richard W. Hay
Stoll Keenon Ogden PLLC
Anita M. Britton
O'Hara, Ruberg, Taylor, Sloan & Sergent
Barbara Bonar
Thomas L. Rouse
Bobby Rowe
R. Michael Sullivan
Margaret E. Keane
Bruce Davis

YOU'RE INVITED TO THE BREAKFAST ROUNDTABLE ON DOMESTIC VIOLENCE ISSUES JUNE 16, 2010 IN LEXINGTON

By Roula Allouch, Co-Chair
YLS Public Service Committee



Each year, the KBA Young Lawyers Section (YLS) selects a public service project for the year. The public service project for this bar year has been Voices Against

Violence. This program is a call to action to young lawyers to raise awareness about and prevent domestic violence and to provide pro bono services to address the legal needs of domestic violence victims and survivors.

As a part of this program, the YLS has sponsored and is planning CLE programming across the state to instruct young lawyers on Emergency Protection Orders and Domestic Violence Orders. Young lawyers who have signed up for this programming have also volunteered their time to represent victims of violence in these proceedings.

In February, the YLS hosted a reception in Lexington in conjunction with the Fayette County Bar Association Young Lawyers Association, Lawyers Mutual Insurance Company of Kentucky, and Stoll, Keenon, Ogden PLLC. The reception raised over \$1,000 for the Bluegrass Domestic Violence Program and the Lexington Art League Witness Exhibit. The "Witness" exhibit was displayed during the reception and showcases original works by artists who have collaborated with victims of violence to create art works symbolizing the victims' stories. The "Witness" exhibit will be displayed at the KBA Annual Convention.

During the week of the Convention, the YLS will be hosting a Breakfast Roundtable on Domestic Violence Issues to be held on June 16, 2010, from 7:30 a.m. to 8:30 a.m. All attorneys are invited and welcome to attend. We hope to see many of you there. ☺



By A.J. Singleton

When I used to ask a mentor of mine what to do in a particular situation, he was fond of reminding me – “What do the Rules say? If you don’t know the Rules, you can’t play the game.” Effective July 15, 2009, the “Rules” – specifically the Kentucky Rules of Professional Conduct – changed drastically. Just how drastically is illustrated by the fact that Kentucky Supreme Court Order No. 2009-05, which revised the Rules and their corresponding Comments, is 134 single-spaced pages long.¹ Necessarily then, this article cannot and will not address all of the changes to the Rules and Comments, and is no substitute for reading the revised Rules yourself. Instead, the article will highlight some of the more important, but perhaps less visible, Rule changes that may affect your everyday practice.²

Informed Consent Confirmed in Writing; Advance Waivers; and Duties to Prospective Clients

Though some of the “Conflict” Rules were reworded, the basic concepts behind them remain largely unchanged. With current client conflicts, the key concerns are still “direct adversity” and “material limitations,” and with former client conflicts, one still must be concerned with “the same or a substantially related” matter. One important change, however, is the Kentucky Supreme Court’s emphasis on documenting a client’s consent to waive a conflict, and ensuring that such consent is an

informed one.

A new “Terminology” Rule, Rule 1.0, its Comments, and new Comments to Rule 1.7 address what makes the client’s consent an “informed” one. Adequate information must be shared with the client, and that discussion should address the relevant circumstances, material risks, and reasonable alternatives.³ Sometimes, it may be advisable to have the client consult with another attorney about the waiver; at the same time, the discussion with a sophisticated client experienced in legal matters may require less information in order to make that client’s consent an informed one.⁴ In addition, if the lawyer will be representing more than one client in the same matter, the discussion must address issues inherent in multiple representations, especially the inability to provide legal advice to one client against the interests of the other, the effect on the attorney-client privilege among the jointly represented clients, and the status of confidential information, relevant to the matter, that one client may share with the lawyer.⁵

As for documenting the client’s informed consent, what was previously “good practice” is now required: the informed consent to waive a conflict *must* be confirmed in writing. This “confirmed in writing” requirement applies to both current client conflicts of interest and former client conflicts of interest.⁶ With respect to client consent to certain undertakings, such as a client’s agreement to a non-refundable retainer, the writing must be signed by the client.⁷ But at least with respect to

documenting a client’s consent to waive a conflict of interest, the lawyer does not need to have the client actually sign the document. “Such a writing may consist of a document executed by the client or one that the lawyer promptly records and transmits to the client following an oral consent,”⁸ and should be sent to the consenting client as soon as practicable after the consent is given. At the same time, a client’s silence will not typically be deemed to mean that the client has consented; some affirmative response to a request to waive the conflict must ordinarily be present.⁹

From a practical standpoint, the lawyer should consider documenting at least some of the discussion with the client to evidence that the consent was an informed one. In explaining the requirement of the written confirmation, Comment 20 to Rule 1.7 states:

The requirement of a writing does not supplant the need in most cases for the lawyer to talk with the client, to explain the risks and advantages, if any, of representation burdened with a conflict of interest, as well as reasonably available alternatives, and to afford the client a reasonable opportunity to consider the risks and alternatives and to raise questions and concerns. Rather, the writing is required in order to impress upon clients the seriousness of the decision the client is being asked to make and to avoid disputes or ambiguities that might later occur in the absence of a writing.

Thus, to eliminate any ambiguity as to what was discussed or what the client agreed to waive, the lawyer should consider adding to the written confirmation a paragraph or two about the discussions she had with the client regarding the conflict and the waiver. Likewise, if the lawyer is at all concerned that the consent may be challenged in the future, the lawyer should also consider having the client sign the writing. This will further impress upon the client the importance of the waiver and will evidence that the

client actually agreed with what the writing says.

The new Comments, specifically Comment 22 to Rule 1.7, recognize advance conflict waivers. The enforceability of an advance waiver will likely be judged by whether the client reasonably understood the risks of agreeing to waive a conflict that had not yet materialized, i.e., whether the consent to waive future conflicts was an “informed” one. Therefore, the more

specific an advance waiver is, the more likely it will be upheld if challenged. For example, an advance waiver is more likely to be upheld if it specifies the types of representation involved (such as transactional, litigation, etc.), and/or specifies the clients, or types of clients, whom the lawyer will represent in future matters adverse to the consenting party. In addition, Comment 22 specifically recognizes that an advance waiver is also more likely to be upheld if the

consenting client is a sophisticated user of legal services and/or is independently represented by another lawyer regarding whether to agree to the advance waiver. At the same time, if the conflict that actually materializes in the future would be nonconsentable under any circumstances, the advance waiver will not be effective – no matter how sophisticated the waiving client or how specific the advance waiver.

New Rule 1.18 imposes certain duties

DEAN || DORTON || FORD

PSC

Whether you are involved with managing your practice or providing litigation services, DDF has the building blocks that can help you find success.



Please come see us in June at the 2010 Kentucky Bar Association Convention in Lexington, KY.

106 West Vine Street
Suite 600
Lexington, KY 40507
859.255.2341

For more information
please contact:
Elizabeth Woodward
859.425.7677

www.ddfky.com

2501 Nelson Miller Parkway
Suite 102
Louisville, KY 40223
502.244.7714

on lawyers regarding persons who consult with them about potential representations, although the protections afforded prospective clients by Rule 1.18 do not rise to the levels afforded current or former clients. Under Rule 1.18, if a prospective client discusses with a lawyer the possibility of forming an attorney-client relationship and the lawyer learns during that discussion relevant information that could be “significantly harmful” to the prospective client in the same or a substantially related matter, the lawyer will not be able to represent another client against the prospective client in that matter.¹⁰ The key inquiry appears to be whether the information obtained during the discussion would be “significantly harmful” to the prospective client as the Comments stress that “the lawyer is not prohibited from representing a client with interests adverse to those of the prospective client in the same or a substantially related matter unless the lawyer has received from the prospective client information that could be significantly harmful if used in the matter.”¹¹

Granted, not everyone who talks with a lawyer about a potential representation will be afforded such protections: if the person unilaterally provides information to the lawyer, or there is no reasonable expectation that the lawyer is interested in forming an attorney-client relationship, the person is not entitled to Rule 1.18’s protections.¹² And though it may never happen, the Comments to Rule 1.18 even recognize that a lawyer may condition her discussions with the prospective client on the person’s agreement that, regardless of what the person may share with the lawyer during the discussion, the lawyer may undertake representation adverse to that prospective client.¹³ Such consent must be an informed one, and though the Comment does not specifically address it, such informed consent should probably be confirmed in writing and probably even signed by the prospective client given the nature of what the prospective client would have consented to allow.

Under Rule 1.18, if the lawyer involved in the discussion would be dis-

qualified from being adverse to the prospective client, that disqualification will also be imputed to all other lawyers in the “tainted” lawyer’s law firm, unless the law firm takes prompt action. The law firm can avoid imputation by (a) obtaining informed consent, confirmed in writing; or (b) screening the “tainted” lawyer from the matter, apportioning that lawyer no part of the fee, and promptly providing written notice of the screen to the prospective client.¹⁴ If the prospective client has retained other counsel at that point, the written notice of the screen should be sent to the prospective client’s attorney. (And, importantly, to avail oneself of the “screening and notice” protections against imputation found in Rule 1.18(d)(2), the “tainted” lawyer must first have taken “reasonable measures to avoid exposure to more disqualifying information than was reasonably necessary to determine whether to represent the prospective client.”)

Because of the danger of disqualification and the possible imputation of that disqualification to the entire law firm absent prompt action, it remains good practice for the lawyer to obtain from potential clients only enough information from which to determine whether the lawyer would have a conflict of interest and whether, generally, the representation is the type that the lawyer is interested in undertaking.

Candor toward the Tribunal; Fairness to Opposing Party and Counsel; and Respect for the Rights of Third Persons

New Rule 3.3 regarding candor toward the tribunal has resurrected a duty not seen in Kentucky since the days of the Code of Professional Responsibility – the lawyer’s duty to disclose contrary authority to the tribunal. Under the old Code of Professional Responsibility (1971-1990), a lawyer was required to disclose to the tribunal “[l]egal authority in the controlling jurisdiction known to him to be directly adverse to the position of his client and which is not disclosed by opposing counsel.”¹⁵ The Kentucky Supreme Court chose not to include the requirement when it

originally adopted the Rules of Professional Conduct in 1990.

New Rule 3.3(a)(2) is a return to the days of required disclosure of contrary authority: “A lawyer shall not knowingly: ... fail to disclose to the tribunal published legal authority in the controlling jurisdiction known to the lawyer to be directly adverse to the position of the client and not disclosed by opposing counsel.” Even before this recent change, the Comments noted that “[a] lawyer is not required to make a disinterested exposition of the law, but must recognize the existence of pertinent legal authorities.”¹⁶ But now, the Kentucky Rules of Professional Conduct stress the “special duties of lawyers as officers of the court to avoid conduct that undermines the integrity of the adjudicative process.”¹⁷ It is understandable, then, that the Comments further justify the disclosure of contrary authority requirement by explaining that “legal argument is a discussion seeking to determine the legal premises properly applicable to the case.”¹⁸

Another new obligation under the revised Rules is the prohibition against requesting that certain non-clients refrain from voluntarily communicating with an opposing party, including that opposing party’s counsel. Specifically, new Rule 3.4(g) requires that “A lawyer shall not: ... request a person other than a client to refrain from voluntarily giving relevant information to another party unless: (1) the person is a relative or agent who supervises, directs or regularly consults with the client concerning the matter or has authority to obligate the client with respect to the matter; [and]¹⁹ (2) the lawyer reasonably believes that the person’s interests will not be adversely affected by refraining from giving such information.” The Comments explain that “[t]he lawyer must reasonably believe that the person’s interests will not be adversely affected by compliance with the request” that the person not voluntarily provide information to opposing counsel;²⁰ however, they also caution that “[a] request that a person refrain from giving information to prosecutors or law enforcement and

regulatory officials will almost never be proper, because that person could violate the law or otherwise be adversely affected by a lack of cooperation with such persons, and such a request might involve the lawyer's violations of other provisions of these Rules and other law."²¹ The Comments also address civil matters: "A request in a civil matter may or may not be proper under the Rule, depending upon the person's interests in the matter, if any, and upon what a lawyer would reasonably believe in the circumstances."²² These Comments demonstrate just how difficult it may be for a practicing attorney to determine, in a particular situation, whether she will be challenged for having asked a non-client not to answer opposing counsel's requests for information.

Inadvertent disclosure is also a "hot topic" of the revised Rules: specifically, the responsibilities of the lawyer who receives a document she knows, or has reason to know, was not meant for her to receive. Under Kentucky's new Rule 4.4(b), "[a] lawyer who receives a document relating to the representation of the lawyer's client and knows or reasonably should know that the document was inadvertently sent shall: (1) refrain from reading the document, (2) promptly notify the sender, and (3) abide by the instructions of the sender regarding its disposition." This obligation to refrain from reading, notify the sender, and abide by the sender's instructions is not a new concept in Kentucky. KBA E-374 (Nov. 1995) previously took the position that the unintended recipient lawyer should refrain from reading the document, notify its sender, and abide by the sender's instructions. Now, Rule 4.4(b)'s use of the word "shall" makes such course of action mandatory.

Interestingly though, the Kentucky Supreme Court's stance on the unintended recipient's responsibilities contrasts sharply with the ABA Model Rules' position on the issue. Under ABA Model Rule 4.4(b), revised in 2002, the unintended recipient lawyer's duty is limited simply to that of notifying the sender. In fact, following the ABA's adoption of its revised Model

Rule 4.4(b), the ABA's Standing Committee on Ethics and Professional Responsibility confirmed, in no uncertain terms, that the ABA Model Rules do not require the recipient lawyer to refrain from reading the document, nor do they require the recipient lawyer to abide by the sender's instructions.²³ Therefore, a Kentucky lawyer whose practice involves other jurisdictions, or whose opposing counsel may be subject to another jurisdiction's ethics rules, needs to be conscious of this distinction between the Kentucky Rule and rules in states that may have adopted the 2002 version of ABA Model Rule 4.4(b). To that Kentucky lawyer's dismay, the opposing lawyer who receives the inadvertently sent fax or email may have a duty to notify the sender, but he may not have a duty to refrain from reading the document and he may not have a duty to follow the sender's instructions for the document's return or destruction.

Direct Solicitation of Former Clients

Rule 7.09 regarding "Direct Contact with Potential Clients" contains a subtle change that could have a huge effect on the ability of Kentucky lawyers to solicit new legal work from their *former* clients. Under the previous version of Kentucky's Rule 7.09,

a lawyer *could not*, in person or by telephone, initiate contact or solicit professional employment from a prospective client *unless* the person was either (a) a family member or (b) someone with whom the lawyer had a "direct *prior* professional relationship." New Rule 7.09(1), set forth in part below, further limits the categories of potential clients whom the lawyer can contact directly:

No lawyer shall directly or through another person, by in person, live telephone, or real-time electronic means, initiate contact or solicit professional employment from a potential client unless:

- (a) the lawyer has an immediate family relationship with the potential client; or
- (b) the lawyer has a *current* attorney-client relationship with the potential client.²⁴

By comparing the exceptions in the old version of Rule 7.09 and those in the new version, one can see how the new Rule has further limited the types of permissible real-time or in person solicitations. According to the Rule as written, no longer may an attorney simply call up a former client about a new

Your Complete Resource For Medical Cases

Gina I. Rogers, RN, BSN, LNCC

Medical Review Consulting, LLC provides litigation support for both the plaintiff and defense, from initial case-screening to locating experts to assisting with discovery and trial.

Services Provided

- Analyze/Organize Medical Records
- Locate Board Certified Physician Experts
- Locate Nursing Experts
- Timelines/Chronologies
- Coordinate Case Development



Medical Review Consulting, LLC

Medical Consulting for the Legal Profession

Toll Free 1.866.542.8285 • www.MedicalReviewConsulting.com



potential representation. Comment 1 to Rule 7.09 bolsters this interpretation of the change, recognizing that: “Communications to prior clients are not prohibited if the lawyer is required by the circumstances of the representation to communicate with a prior client to advise the client of changes in the law that would result in additional legal work.”²⁵ Read together, new Rule 7.09 and Comment 1 to the Rule suggest that only in limited situations may a Kentucky-licensed attorney initiate contact, in person or by telephone, with a former client about possible representation on a new matter.

Conclusion

These are simply a few of the new Rules of Professional Conduct, and new Comments to those Rules, that may affect your practice. While you may find this article and others on the new Rules helpful, there is simply no substitute for taking the time to review the Rules and Comments yourself. ☺



A.J. Singleton is a member of Stoll Keenon Ogden PLLC in the Lexington office. Mr. Singleton graduated, *summa cum*

laude, with a B.A. from Furman University in 1993. He earned his J.D. in 1996 from the University of Washington School of Law. Mr. Singleton’s practice focuses on legal ethics; judicial, legislative and executive branch ethics; mineral litigation, including trespass actions; shareholder derivative actions; and defense of corporate officer and director breach of fiduciary duty claims. He also works on ethics compliance issues and serves as deputy general counsel for the firm. Mr. Singleton has presented ethics CLE’s on such topics as conflicts of interest, confidentiality, the inadvertent disclosure of privileged communications, and communication with unrepresented persons.

ENDNOTES

1. *In re: Order Amending Rules of the Supreme Court (SCR)*, Order 2009-05, found online through the Kentucky Bar Association’s website: www.kybar.org.
2. See also D. O’Roark, “A Quick Reference Guide to the 2009 Kentucky Rules of Professional Conduct,” *Kentucky Bar Association Bench & Bar*, September 2009, at 29-35, as another resource identifying significant Rule changes effective July 15, 2009.
3. Kentucky Supreme Court Rule (“SCR”) 3.130 (Rule 1.0(e)).
4. SCR 3.130 (Rule 1.0), Comment 6.
5. SCR 3.130 (Rule 1.7), Comments 18, 30 and 31. Comment 30 explains: “With regard to the attorney-client privilege, the prevailing Rule is that, as between commonly represented clients, the privilege does not attach. Hence, it must be assumed that if litigation eventuates between the clients, the privilege will not protect any such communications, and the clients should be so advised.” Likewise, Comment 31 explains: “As to the duty of confidentiality, continued common representation will almost certainly be inadequate if one client asks the lawyer not to disclose to the other client information relevant to the common representation....The lawyer should, at the outset of the common representation and as part of the process of obtaining each client’s informed consent, advise each client that information will be shared and that the lawyer will have to withdraw if one client decides that some matter material to the representation should be kept from the other. In limited circumstances, it may be appropriate for the lawyer to proceed with the representation when the clients have agreed, after being properly informed, that the lawyer will keep certain information confidential.” See also *An Unnamed Attorney v. Kentucky Bar Association*, 186 S.W.3d 741 (Ky. 2006).
6. SCR 3.130 (Rule 1.7(b)(4) and Rule 1.9(a)).
7. See, e.g., SCR 3.130 (Rule 1.5(f)).
8. SCR 3.130 (Rule 1.7), Comment 20.
9. SCR 3.130 (Rule 1.0), Comment 7.
10. SCR 3.130 (Rule 1.18(a) and (c)).
11. SCR 3.130 (Rule 1.18), Comment 6.
12. SCR 3.130 (Rule 1.18(a)) and Comment 2.
13. SCR 3.130 (Rule 1.18), Comment 5.
14. SCR 3.130 (Rule 1.18(d)(1) and (2)).
15. Kentucky Code of Professional Responsibility, DR 7-106(B)(1).
16. SCR 3.130 (Rule 3.3), Comment 4; also found in Comment 3 to the previous version of SCR 3.130 (Rule 3.3).
17. SCR 3.130 (Rule 3.3), Comment 2.
18. SCR 3.130 (Rule 3.3), Comment 4.
19. Neither “and” nor “or” appear in Kentucky Supreme Court Order 2009-05; however, both the ABA Model Rule version of this Rule and the KBA Ethics 2000 Committee Report include “and” to connect the two conditions.
20. SCR 3.130 (Rule 3.4), Comment 4.
21. *Id.*
22. *Id.*
23. See ABA Formal Op. 05-437 (Oct. 1, 2005). In proposing the Kentucky Rule, the KBA Ethics 2000 Committee recognized the danger that modern technology poses for lawyers. The Committee noted the growing problem of misdirected faxes and emails, and the ease with which such misdirection could occur. As a result, the Committee believed that more stringent requirements on the unintended recipient were warranted. The Committee’s Report explains that “[b]ecause electronic communication is so prone to this kind of error, the Committee concluded that principles of fairness should govern attorney behavior in these circumstances which, in turn, will promote both just ends and civility in the means of achieving them.” See The KBA Ethics 2000 Committee Report (Nov. 16, 2006), at 4-17 and 4-18.
24. SCR 3.130 (Rule 7.09(1))(emphasis added).
25. SCR 3.130 (Rule 7.09), Comment 1 (emphasis added).

By Valorie D. Smith &
William F. English

In April 2009, the Supreme Court of Kentucky amended its rules to include Civil Rule 7.03. The new rule protects Kentucky litigants and third parties by limiting the disclosure of personal data identifiers and other confidential information in court filings. CR 7.03 closely tracks Federal Rule of Civil Procedure 5.2 and Bankruptcy Rule 9037, both of which became effective in December 2007. In fact, there are only minor differences between the rules.

The reasoning behind CR 7.03, FRCP 5.2, and Rule 9037 is simple and honorable: protect privacy and prevent identity theft. Every rose, however, has its thorn, and a lawyer's failure to redact sensitive information in court filings *could* result in charges of contempt and sanctions. This article will help practitioners understand Kentucky's newest court rule, and steer clear of potential pitfalls.

History/Policy

In June 1999, a subcommittee of the Judicial Conference of the United States began to study privacy and security concerns regarding public access to electronic court filings. As a result, the subcommittee developed several policy recommendations which were adopted by the Judicial Conference in September of 2001. These recommendations included:

1. There should be consistent, nationwide policies in federal courts in order to ensure that similar privacy protections and access presumptions apply regardless of which federal court is the custodian of a particular case file.
2. Notice of these nationwide policies should be given to all litigants in federal court so that they will be aware of the fact that materials which they submit in a federal court proceeding could become available on the Internet.



3. Members of the bar must be educated about the policies and the fact that they must protect their clients by carefully examining the documents that they must file in federal court for sensitive, private information and by making the appropriate motions to protect documents from electronic access when necessary.
4. Except here otherwise noted, the policies apply to both paper and electronic files.
5. Electronic access to docket sheets through PACERNet and court opinions through court websites will not be affected by these policies.
6. The availability of case files at the courthouse will not be affected or limited by these policies.
7. Nothing in these recommendations is intended to create a private right of action or to limit the application of Rule 11 of the Federal Rules of Civil Procedure.¹

The E-Government Act of 2002 sought to implement the above policies of the Judicial Conference. Specifically, the E-Government Act required the Supreme Court to set forth rules "to protect privacy and security concerns relating to electronic filing of documents and the public availability . . . of documents filed electronically."²

As a result, several new civil, bankruptcy, and appellate privacy rules have been adopted to comply with the E-Government Act of 2002.³ FRCP 5.2 and Bankruptcy Rule 9037 were enacted to protect private information within documents filed in federal district courts and bankruptcy courts.

Forensic Psychology Services

Harwell F. Smith Ph.D.

- CRIMINAL RESPONSIBILITY
- COMPETENCE TO STAND TRIAL
- PERSONAL INJURY EVALUATIONS
- INDEPENDENT PSYCHOLOGICAL EVALUATION
- DISABILITY EVALUATIONS
- EXPERT OPINION OFFERED TO DEFENSE OR PROSECUTION

30 years experience.
Over 50 court appearances.

Special interest in criminal cases involving mental condition at the time of the incident – performed more than 500 of these evaluations.

859.276.1836 • 2201 Regency Rd. #501 • Lexington, KY 40503



**Board Certified
Clinical Psychologist**

CR 7.03 tracks the language of FRCP 5.2 and Rule 9037, but applies to all pleadings and documents filed in Kentucky state courts.

Specific Requirements of the Rules

CR 7.03 requires the redaction of *full* social security numbers or taxpayer-identification numbers, the month and day of birth dates (except in criminal cases), and *full* financial account numbers. In contrast, FRCP 5.2 and Rule 9037 require the redaction of the last four digits of social security numbers, birth years, minor's initials, and the last four digits of financial account numbers. Thus, Kentucky's rule is much more inclusive than FRCP 5.2 and Rule 9037. Additionally, CR 7.03 does not include several exceptions provided for in FRCP 5.2 and Rule 9037, including, but not limited to, financial account numbers that identify property subject to forfeiture (FRCP 5.2 and Rule 9037 exempt such financial account numbers from the redaction requirement).

Under FRCP 5.2, Rule 9037, and CR 7.03, the court may order that a document be filed under seal without redaction. Moreover, under the Kentucky rule as well as the federal and bankruptcy rules, failure by a party to redact or seal their own personal identifiers constitutes a waiver of the protection of the rule. Any personal information not redacted or otherwise sealed will be made a part of the court's record and if applicable, will be made available through the court's electronic filing system.

Although redactions can be made by simply using a very dark marker to cover up the required information, the mark must completely cover all of the information as set forth in the rule and must do so on every page where the information is present. Under CR 7.03, redactions may be made by any method, such as replacing sensitive numbers with neutral placeholders or simply covering the sensitive information so it is illegible.

Failure to Redact/Sanctions

Due to its recent inception, there are no Kentucky court opinions addressing CR 7.03. Thus, it is not clear how state courts will react to a violation of CR

7.03. Kentucky's rule, however, does provide that:

*An attorney or party failing to comply with this rule will be subject to the sanction powers of the court, including having the relevant filing stricken from the record. A conforming copy of a filing previously stricken from the record for failure to comply with this rule may be re-filed unless otherwise ordered by the court.*⁴

Assuming that Kentucky follows federal courts in their treatment of privacy violations, it is possible that state litigants and their attorneys will risk subjecting themselves to contempt charges or sanctions if they violate CR 7.03. Recently, at least bankruptcy courts have indicated their willingness to penalize litigants and their attorneys for failing to abide by the redaction requirements of Rule 9037.

For example, in *In re Gregg*,⁵ the Bankruptcy Court found a creditor in contempt of court after the creditor failed to abide by a court order to redact the identifiers of three debtors' in the creditor's proof of claim filings. Specifically, the creditor included each of the debtors' full social security numbers in each proof of claim. The court ordered the creditor to amend the pleadings by redacting the debtors' social security numbers to comply with Rule 9037. The creditor failed to amend the filings. The Court then imposed sanctions, under 11 U.S.C. § 105(a), of \$500 per day starting ten days from the entry of the contempt order.

In *In re French*,⁶ and *In re Greco*,⁷ the courts indicated they were willing to impose sanctions. In *French*, a creditor filed a claim against a debtor on the court's electronic filing system. Included in the creditor's proof of claim was the debtor's social security number and birth date. The debtor then filed an adversary proceeding against the creditor asking the court to disallow the proof of claim and hold the creditor in contempt.

Although the *French* court dismissed all other claims alleged by the creditor on the grounds that the creditor had no private right of action under 11 U.S.C. § 107(c), the Gramm-Leach-Bliley Act, nor

the E-Government Act, the *French* court stated that it did have the power, under 11 U.S.C. § 105(a), to hold a party violating Rule 9037 in contempt of court.⁸ Thus, the request to find the creditor in contempt was not dismissed. Similarly, in *Greco*, the court seemed ready and willing to impose sanctions on a creditor's attorney for filing proofs of claim with at least twenty-three instances of unredacted personal data identifiers of various debtors. Specifically, the court *sua sponte* ordered the creditor's attorney to show cause as to why she, her firm and her client should not be sanctioned for what the court called "impermissible and negligent practice of law..."⁹

Currently, *Gregg* is the only federal case where sanctions have been imposed for a failure to comply with Rule 9037, and notably, the creditor in *Gregg* blatantly disregarded court orders before sanctions were imposed. More commonly, courts are mostly instructing litigants to amend their filings under Rule 9037(d) which allows courts to (1) require redaction of additional information, or (2) limit or prohibit a nonparty's remote electronic access to a document filed with the court. For example, in (*In re Lentz*),¹⁰ the debtor sought to use the creditor's violation of Rule 9037 to prove a lack of claim. The *Lentz* court held that Rule 9037 did not provide the debtor with a private right of action against the creditor. Moreover, the *Lentz* court explained that the debtor's remedies under Rule 9037 were limited to a court order requiring redaction of certain information or the prohibition of nonparty's remote access to certain records. The *Lentz* court noted, however, that although Rule 9037 does not confer a private right of action upon litigants, 11 U.S.C. § 105(a) allows the courts to enter contempt orders against litigants for violations of Rule 9037.¹¹ Particularly, courts are more likely to utilize their inherent sanctioning power for acts involving bad faith and for challenged conduct that is "entirely without color" and "motivated by improper purpose."¹²

Other State Courts

Several other jurisdictions have either amended their current rules or promulgated new rules implementing

privacy policies as they relate to personal data identifiers, including Arkansas, California, Connecticut, Delaware, the District of Columbia, Kansas, Vermont, and the Virgin Islands. Most of the rules require redaction of personal data identifiers in the same manner as CR 7.03, FRCP 5.2, and Rule 9037. As with Kentucky and Bankruptcy Courts, sanctions may follow a failure to redact personal identifiers in these states.

For instance, the Supreme Court of Mississippi, in *In re Admin. Orders of the Supreme Court of Miss.*,¹³ issued an administrative order stating that “[c]ounsel and the parties are cautioned that failure to redact personal identifiers . . . in a pleading or exhibit filed electronically with the court may subject counsel to the disciplinary and remedial powers of the court, including sanctions pursuant to M.R.C.P. 11.”¹⁴



Valorie D. Smith joined the Lexington office of Stites & Harbison as an associate in 2007. Before joining the firm, she served as a

judicial intern for Fayette Circuit Court Judge Gary Payne and was employed by the Kentucky Administrative Office of the Courts. For eight years, she worked in the New York State Court System. Ms. Smith received a B.A. from Fordham University in 1994 and obtained a M.S.W. in 1997 from Fordham University Graduate School of Social Services. She earned her J.D. from the University of Kentucky College of Law in 2007. Ms. Smith's speaking engagements include a CLE presentation on the importance of mentoring.

William F. English is a third year law student at Indiana University in Indianapolis, Indiana.



Conclusion

Kentucky and several other jurisdictions have recently adopted rules requiring the redaction of personal identifiers from documents filed with the court. These rules serve the same purpose: to protect the privacy and identity of those whose personal information is included in court filings. However, the exact information to be concealed is dictated by the specific rule. Therefore, while redactions are a simple matter, the attorney should consult and follow the rule of the jurisdiction. If an attorney fails to redact sensitive information as required by the rule, a court may choose to subject the attorney and their client to penalties. While there haven't been any Kentucky decisions interpreting CR 7.03, guidance from the federal courts indicates that courts are willing to penalize parties and their counsel for their failure to adhere to the new redaction requirements. ¹⁵

ENDNOTES

1. Judiciary Privacy Policy, <http://www.privacy.uscourts.gov/Policy.htm>.
2. Section 205(c)(3) E-Government Act of 2002.
3. Fed. R. Bankr. P. 9037 advisory committee's note.
4. CR 7.03(7).
5. *In re Gregg*, 2009 Bankr. LEXIS 1484 (Bankr. D.S.C. June 9, 2009).
6. *French v. Am. Gen. Fin. Servs. (In re French)*, 401 B.R. 295, 314 (Bankr. E.D. Tenn. 2009).
7. *In re Greco*, 405 B.R. 393 (Bankr. S.D. Fla. May 11, 2009).
8. *French*, 401 B.R. at 315.
9. *Greco*, 405 B.R. at 396.
10. *Lentz v. Bureau of Med. Econ. (In re Lentz)*, 405 B.R. 893 (Bankr. N.D. Ohio June 4, 2009).
11. *See also, French* 401 B.R. 295 (supporting this proposition).
12. *In Cordier v. Plains Commerce Bank (In re Cordier)*, 2009 Bankr. LEXIS 888, *14 (Bankr. Conn. 2009).
13. *In Admin. Orders of the Supreme Court of Miss.*, 2008 Miss. LEXIS 615 (Miss. Dec. 11, 2008).
14. *Id.*

Attention Legal Professionals

Lower Your Health Care Costs, Not Your Expectations.

Affordable Individual Coverage Ideal For:

- Small Businesses
- Independent Contractors
- COBRA/Alternative
- Self-Employed



Call me today for a free quote!



MATT LYONS

Statewide Day or Night:
(859) 368-7783
Toll-Free: 866-817-5087

Matt.Lyons@anthem.com
www.mattlyons-insurance.com

Anthem

Anthem Blue Cross and Blue Shield is the trade name of Anthem Health Plans of Kentucky, Inc. Independent licensee of the Blue Cross and Blue Shield Association. ©ANTHEM is a registered trademark. The Blue Cross and Blue Shield names and symbols are registered marks of the Blue Cross and Blue Shield Association.



The Amazing Client Electronic File

*The 2009 Kentucky Rules of Professional Conduct
Bring Electronic Documents in from the Cold*

Del O'Roark, Loss Prevention Consultant, Lawyers Mutual Insurance Company of Kentucky

For years the bane of many a lawyer's existence was how to manage client paper files. Issues concerned the duty of a lawyer to maintain, return, and destroy client files consistent with the requirements of confidentiality, the property interest of clients in their files, and good malpractice risk management. With the replacement of the typewriter by the computer client documents are now routinely created in electronic format (e-documents) and often transmitted by e-mail. For this reason, one might think the ethical duties of file management got easier to manage because, of course, there would be so much less paper to control.

As we all know that did not turn out to be the case. There seems to be nearly as much paper to file as ever. Adding to the burden is that in addition to e-documents, copious amounts of e-mail relevant to a representation are sent over the Internet to clients, courts, and third persons, as well as e-mail sent within the firm about a matter. In today's practice of law most clients of necessity now require two files – one paper and the other electronic. As the old saying goes, every solution breeds new problems.

The purpose of this article is to review a lawyer's duty to include e-documents in a client's file. The Bar of the City of New York Committee on Professional and Judicial Ethics Formal Opinion 2008-1 nicely framed the issues with these questions:

- What ethical obligations does a lawyer have to retain e-documents and e-mail relating to a representation?
- Are there ethical considerations in how a lawyer organizes and stores e-documents and e-mail?
- What obligation does a lawyer have to provide a client with retained e-documents and e-mail related to a representation that were not required to be retained?

This article begins with a review of the guidance in KBA ethics opinions on client file management and the coverage of e-documents and e-mail in the 2009 Kentucky Rules of Professional Conduct. This is followed with an analysis of the questions raised and answered in Formal Opinion 2008-1. The article concludes with suggested risk management practices for client e-files.

Kentucky Guidance on Client File Management

Is a client entitled to a copy of the file?

The general rule in Kentucky is that clients are entitled to the return of their complete file upon termination of a representation with the exception of uncompensated work product unless withholding it would substantially prejudice the client's interests. The KBA Ethics Committee observed in KBA E-235 that:

The client is entitled to receive what he has paid for and the return of what he has delivered to the lawyer. Beyond that, the conscientious lawyer should not withhold from the client any item which could reasonably be anticipated to be useful to the client.

For more information on this general rule, read 2009 Rule 1.16(d) and its Comments (9) and (10); and KBA Ethics Opinions E-235, E-280 and E-395.

What goes in a client file?

There is no single Kentucky Professional Conduct Rule (hereinafter Rules or Rule) that specifies everything that should be in a client's file, but KBA Ethics Opinions E-235 and E-395 adopted an ABA opinion listing what records must be given to a client. The list includes:

- Notes and memos to the file prepared by the attorney containing recitals of facts, conclusions, recommendations.
- Correspondence between attorney and client.
- Correspondence between the attorney and third parties.
- Material furnished by the client.
- Searches made at the expense of the client.
- Copy of pleadings and the like.
- Legal research embodied in memos or briefs.

In addition Rule 1.15, Safekeeping Property, requires that complete records of client funds and other property be kept by the lawyer and preserved for a period of five years after termination of the representation.

How should lawyers dispose of client files on closed matters that no longer need to be retained?

KBA Ethics Opinion E-300 provides guidance for the disposition of closed or nonessential client files. The basic policy is:

- Storing retired and inactive files is a law practice economic burden.
- A lawyer does not have a general duty to preserve all files permanently.
- Clients reasonably expect that valuable and useful information will not be prematurely or carelessly destroyed.

Based on this policy the opinion lists these considerations in managing file closing and destruction:

- Unless the client consents, do not destroy items that belong to the client (*e.g.*, original documents and items furnished by the client).
- Do not destroy items useful in the defense of a client on a matter in which the statute of limitations has not run.
- Do not destroy or discard information the client reasonably may expect to be preserved (*e.g.*, information the client may need, was not previously given, is not otherwise readily available).
- Do not dispose of files required to be preserved by rule or law.
- A lawyer should ordinarily attempt to contact the client by mail for file disposition instructions before destroying files.

The opinion contains the advice that the lawyer should follow in disposing of files:

- Protect the confidentiality of the contents.
- Screen the file to assure destruction complies with good practice.
- Maintain a closed file register or index of files that have been destroyed or otherwise retired.

How do the Rules treat e-documents and e-mail for client file purposes?

The rapidity with which e-documents and e-mail came to dominate client information in the 1990s overwhelmed the then existing ethics rules on client files. After going through an awkward adjustment period in dealing with the ethics of modern electronic modes of communication and document creation, it was realized that existing ethics principles could be applied to e-documents and e-mail just as they applied to paper documents with only minor adjustments to professional responsibility rules. It is now generally recognized that lawyers are authorized to file client information electronically.¹

An earlier version of Kentucky's Rules did not anticipate

the impact of e-documents and e-mail on the delivery of legal services, but the recently issued 2009 Rules treat e-documents, e-mail, and paper documents related to a representation alike. For example, in Rule 1.0, Terminology, a new definition was added for "writing" or "written":

(n) "Writing" or "written" denotes a tangible or electronic record of a communication or representation, including handwriting, typewriting, printing, photostating, photography, audio or videorecording and e-mail. A "signed" writing includes an electronic sound, symbol or process attached to or logically associated with a writing and executed or adopted by a person with the intent to sign the writing.

Comment (20) to Rule 1.7, Conflicts of Interest: Current Clients, reinforces the point that correspondence with a client by e-mail is a writing that just like paper correspondence should be placed in a client's file:

Paragraph (b) requires the lawyer to obtain the informed consent of the client, confirmed in writing. Such a writing may consist of a document executed by the client or one that the lawyer promptly records and transmits to the client following an oral consent. See Rule 1.0(b). See also Rule 1.0(n) (writing includes electronic transmission).

Comment (2) to Rule 4.4, Respect for Rights of Third Persons, includes another example of the intent of the Rules to treat e-documents and e-mail the same as paper documents:

Paragraph (b) recognizes that lawyers sometimes receive documents or other communications that were mistakenly sent or produced by opposing parties or their lawyers. ... For purposes of this Rule, "document" includes e-mail or other electronic modes of transmission subject to being read or put into readable form.

May required client trust account records be maintained exclusively in electronic format?

I covered this question in "Client Trust Account Principles & Management for Kentucky Lawyers" (2d ed., 2010) as follows:

The question arises whether client trust account records may be maintained exclusively in electronic format eliminating the storage of voluminous paper files. Rule 1.15, Comment (1) provides in part:

"A lawyer should maintain on a current basis books and records in accordance with generally accepted accounting practice and comply with any recordkeeping rules established by law or court order. See, *e.g.*, ABA Model Financial Recordkeeping Rule."

The cited ABA Model Financial Recordkeeping Rule provides the following guidance on electronic files:

“Records required by this rule may be maintained by electronic, photographic, computer or other media provided that they otherwise comply with this rule and provided further that printed copies can be produced. These records shall be located at the lawyer’s principal office in the jurisdiction or in a readily accessible location.”

It appears from these provisions that Kentucky lawyers have a basis for maintaining trust account records in electronic format and do not have to create paper records except on an as needed basis. Note that original client documents entrusted to a lawyer must be maintained in their original form. It is recommended that the KBA Ethics Hotline be called to confirm this conclusion before maintaining client trust account records exclusively in electronic format.

From the foregoing it is concluded that under Kentucky’s Rules lawyers are authorized to file client information electronically in a filing system that consist of e-documents, e-mail, and business records. Retention and disposition of e-documents and e-mail should be managed by the same standards applicable to paper documents as provided in KBA ethics opinions.

What Ethical Obligations Does a Lawyer Have to Retain E-Documents and E-Mail Relating to a Representation?

Given the clear intent of the Rules to treat e-documents and e-mail the same as paper documents, Kentucky lawyers should follow the guidance of KBA E-235 in deciding what e-documents and e-mail goes in a client’s e-file. The duties of competence and diligence along with the requirement to protect a client’s interest upon termination of a representation “such as surrendering papers and property to which a client is entitled” all reinforce this conclusion.²

Section II of Formal Opinion 2008-1 includes this reasonable advice on evaluating what to retain in an electronic file:

- [A] lawyer should use care not to destroy or discard documents (i) that the lawyer knows or should know may still be necessary or useful in the assertion or defense of the client’s position in a matter for which the applicable statutory limitations period has not expired; or (ii) that the client has not previously been given but which the client may need and may reasonably expect that the lawyer will preserve.

- [A] number of documents will likely fall into one of these two categories. Among those documents are legal pleadings, transactional documents, and substantive correspondence. Other documents regularly generated during a representation, such as draft memoranda or internal e-mails that do not address substantive issues, are unlikely to fall into these categories. Often a lawyer will need to exercise good judgment, document by document, to determine whether specific documents should be retained.

- [A] lawyer [is not required] to retain every paper document that bears any relationship, no matter how attenuated, to a representation. For instance ... a lawyer does not have an ethical obligation to keep every handwritten note of every conversation relating to a representation. The same conclusion will often be reached with respect to drafts of correspondence, of pleadings, and of legal memoranda, among other types of paper documents. Because many e-mails and other electronic documents now serve the same function that paper documents have served ... [these] retention guidelines ... also apply to e-mails and other electronic documents.

- [W]hich e-mails and other electronic documents a lawyer has a duty to retain will depend on the facts and circumstances of each representation. Many e-mails generated during a representation are formal, carefully drafted communications intended to transmit information, or other electronic documents, necessary to effectively represent a client, or are otherwise documents that the client may reasonably expect the lawyer to preserve. These e-mails and other electronic documents should be retained. On the other hand, in many representations a lawyer will send or receive casual e-mails that fall well outside ... [retention] guidelines.... No ethical rule prevents a lawyer from deleting those e-mails.

- As to documents to which no clear ownership decision can be made, ... whether and how long to retain these documents [is] primarily a matter of good judgment.

Are There Ethical Considerations in How a Lawyer Organizes and Stores E-Documents and E-Mail Relating to a Representation?

Section III of Formal Opinion 2008-1 provides this guidance on maintaining electronic client files that should work for Kentucky lawyers:

- [A]s a general matter ... a lawyer has [no] ... ethical obligation to organize electronic documents in any particular manner, or to store those documents in any particular storage medium.

- In determining how to organize and store electronic documents, a lawyer should take into consideration the

nature, scope, and length of the representation, and the client's likely need for ready access to particular documents. From an ethical standpoint, a lawyer should ensure that the manner of organization and storage does not (a) detract from the competence of the representation or (b) result in the loss of documents that the client may later need and may reasonably expect the lawyer to preserve.

- E-mail raises more difficult organizational and storage issues. Some e-mail systems automatically delete e-mails after a period of time. With such a system, a lawyer will have to take affirmative steps to preserve those e-mails that the lawyer decides to save.

What Obligation Does a Lawyer Have to Provide a Client with Retained E-Documents and E-Mail Related to a Representation That Were Not Required to be Retained?

The practical consideration of this question is that it is often prudent during a representation to retain virtually all client-related e-documents and e-mail. Later, when a client requests the file, the ethics issue arises whether retained e-documents and e-mail not required to be filed must be provided to the client. In the absence of Kentucky authority on point Section IV of Formal Opinion 2008-1 and New Hampshire Bar Association Ethics Committee Opinion #2005-06/3 offer this guidance that is helpful for Kentucky lawyers:

Section IV of Formal Opinion 2008-1:

- The general rule is that a client is presumptively accorded full access to the lawyer's file on a represented matter.
- Exceptions to the general rule are that "a client does not have a presumptive right of access to e-mail communications between lawyers of the same law firm that are 'intended for internal law office review and use' and are 'unlikely to be of any significant usefulness to the client or to a successor attorney.' ... [T]hose e-mails might include an instruction to another lawyer or employee of the firm to perform a particular task; a preliminary analysis by a lawyer of a factual or legal issue in the representation; or a communication by a lawyer addressing an administrative issue."
- Other exceptions could include "documents containing a firm attorney's general or other assessment of the client, or tentative preliminary impressions of the legal or factual issues presented in the representation, recorded primarily for the purpose of giving internal direction to facilitate performance of the legal services entailed in that representation."
- Does a lawyer "need to provide client access to otherwise inconsequential documents similar to those intended

for 'internal law office review and use,' but sent instead to or from a third party not employed by the lawyer's firm [?]" Common examples of these documents are an e-mail sent to opposing counsel confirming the starting time of a deposition, or an e-mail sent to a testifying expert asking for transcripts of recent testimony. A lawyer is not under an ethical obligation to provide a client with electronic documents of this sort."

New Hampshire Bar Association Ethics Committee Opinion #2005-06/3:

- "[I]f a client requests a copy of her file, the firm has an obligation to provide all files pertinent to representation of that client, regardless of the burden that it might impose upon the firm to do so. ... That burden can be managed, in any event, through computer word search functions or other means that are routinely used for discovery or other purposes. As in discovery-related matters, it is incumbent upon the firm to manage its electronic and other files in a way that will allow for release of a file to a client without releasing other information that might harm a third party."

Risk Managing Client Electronic Files

Risk managing a lawyer's duty to maintain client files in a manner to competently represent a client involves:

- Implementing a file retention and disposition plan,
- Including in all letters of engagement how a client's file is managed, and
- Establishing office procedures for protecting client file confidentiality.

E-documents and e-mail must be specifically covered by each of these risk management tools. It is beyond the scope of this article to go into a detailed examination of each. What follows is an overview of some of the more important considerations in developing a client e-file risk management program.

E-documents and e-mail in file retention and disposition plans

Law firms must have a filing procedure that systematically collates retained records in a readily retrievable paper and electronic filing system format. The first step is to integrate e-document file identification procedures with those used to code paper files for a client by using the same identifying characteristics for both. It is key not to allow a gap in how a client's paper file and e-file are compiled and retrieved. Lawyers sometimes overlook that a client's file is not completely protected by privilege and that some parts are subject to discovery. Organize the office filing system in a way to avoid costly e-document retrieval searches because of a discovery demand or for any other reason.

E-documents are not difficult to manage since they are primarily the electronic version of the kind of documents lawyers are used to filing. The real problem is controlling the filing, retention, and destruction of e-mail. Unlike mail that is received in a central office location, e-mail is sent and received on an individual basis and often on portable e-mail devices, laptops, and computers used outside the office. Furthermore, many firms automatically delete e-mail on a periodic schedule. It is critical that e-mail concerning a representation be at least temporarily part of the client's e-file for retention review and that automatic deletion of e-mail that should be permanently filed be avoided.

One recommended approach in accomplishing this is:

- Ensure that all substantive e-mail communications with clients is maintained in the client's correspondence file, either by printing hard copies or creating a permanent e-mail folder for client correspondence;
- Establish a protocol for ensuring that e-mails are maintained for the client file. For example, if multiple attorneys are working on a matter, assign one person on the matter to be in charge of ensuring that all appropriate e-mails are maintained in the file or create a public folder in which all client e-mail can be stored; and
- Consider deleting internal e-mails with drafts of documents that are not forwarded to the client³

Include in e-mail retention procedures the requirement that e-mail recipients record insofar as possible:

- Date and time of transmission and receipt of the e-mail;
- Author, writer, sender; and
- Identification of the recipient, other addressees, and person for whom intended.

Use a letter of engagement to obtain agreement on how a client's e-file will be managed.

Formal Opinion 2008-1 suggests that a lawyer and client reach agreement at the beginning of a representation on retention, storage, and retrieval of electronic documents in a letter of engagement by considering:

- The types of e-documents and e-mail that the lawyer intends to retain, given the nature of the engagement;
- How the lawyer will organize those documents;
- The types of storage media the lawyer intends to employ;
- The steps the lawyer will take to make e-mail and other electronic documents available to the client, upon request, during or at the conclusion of the representation; and
- Any additional fees and expenses in connection with the foregoing.

In addition consider including in the letter of engagement:

- A specific time and procedure for the client to claim his paper and e-file after the representation is concluded.
- That the file is subject to destruction if not claimed as stipulated.
- All means of communication the firm uses – fax, cell phone, e-mail, etc. disclosing the risk of interception and providing that the client consents to these means.
- (optional) A condition that the firm has the choice of returning some or all of the client's file in electronic format, except for original documents.⁴

Protecting confidentiality of client information in e-documents.

The following is a list of some of the more important risk management measures that should be considered in formulating office policy to protect e-document confidentiality:

Basic Rules: Every firm should have in place measures to protect client e-document confidentiality. This begins with basic rules on office access security, locking doors and filing cabinets, turning off computers and copy machines, memorizing passwords, and making sure that computer screens are not visible to other than firm members.⁵

Hacker Protection: Use "firewalls" – electronic devices and programs that prevent unauthorized entry into a computer system from outside that system.

Off-site Access: Use a password for access to the firm's computer system by firm members working from home or out of the office. Establish encryption requirements for sensitive matters. Limit or prohibit permanent storage of e-documents on home computers, laptops, and other portable e-mail devices. Prohibit communicating confidential information over public connections. If absolutely necessary to do so, use an encryption program.

Portable and E-Mail Devices: Register all portable and e-mail devices used by firm members for firm matters. Establish procedures for prompt notification of the loss of any registered device. Confirm that the firm has the ability to wipe these devices remotely.

E-Mail: Implement written procedures for managing e-mail that protect confidentiality by covering:

- Who has access to confidential e-mail;
- How confidential multiple address messages and group distributions are to be controlled;
- How confidential e-mail is to be backed up, stored, and destroyed; and
- How people who work at home get access to the firm's computer system and send and receive confidential e-mail.

Metadata: Metadata is data hidden in e-documents generated in the course of their writing and editing. Metadata often con-

tains confidential information that is transmitted in e-documents – most frequently by e-mail. Avoid inadvertently disclosing confidential or privileged metadata by carefully using a format that removes metadata from e-documents. Many firms use automatic metadata scrubbers.

One of the most important risk management considerations in protecting client confidentiality is the necessity for a firm to keep up with technological developments in creating and transmitting e-documents and the new ways invented of hacking computer security programs. This is an ongoing requirement that someone high in the management of every firm must have as a top priority in their job description.

A Final Risk Management Consideration

Always consider the possibility of a malpractice claim or a bar complaint when stripping a client's file at the end of a representation. If that happens, you will need a complete file showing how the matter was practiced. This is an important reason to retain at least some routine e-mail and other e-documents that might well be deleted because they show a pattern of client communication and effort on a case. A frequent allegation in bar complaints is lack of communication. A client e-file containing numerous, if routine, e-mails to a client is an excellent defense to that allegation. In contingency fee cases plaintiff's lawyers' client files are often quite thin because detailed records for billing purposes are not required. When a client complains of a lack of diligence by the lawyer, a client e-file showing e-mail with the client and third persons about the case can be strong evidence that the lawyer was working hard on the case. Better to keep too much than deleting useful exonerating evidence. Unlike paper documents that are expensive to retain, e-documents can be saved in great quantity on very small disks and very large in capacity hard drives. 

ENDNOTES

1. ABA/BNA Lawyers' Manual on Professional Conduct, Electronic Communications, 55:404 (4/30/2008).
2. See Rules 1.1, 1.3, and 1.16(d).
3. MacAvoy, Espinoza-Madrigal, and Starr, *Think Twice Before You Hit The Send Button! Practical Considerations In The Use Of Email*, The

Practical Lawyer, Vol. 54, No. 6, 12/2008.

4. The Bar of the City of New York Committee on Professional and Judicial Ethics Formal Opinion 2010, Use of Client Engagement Letters to Authorize the Return or Destruction of Client Files at the Conclusion of a Matter, is an excellent review of the use of LOEs to cover disposition of client files. It includes a sample LOE provision for disposition of a client's file upon termination of the representation. This opinion is readily available on the Internet via Google.
5. Martin, *Why You Need An Employee Policy For Electronic Information*, The Practical Lawyer, Vol. 56, No.1, 2/2010.



Contact Billy Upchurch
 bupchurch@baldwincpas.com
 1-866-287-9604



Offices located in
 Richmond and London, Ky.

www.baldwincpas.com

BUSINESS VALUATIONS

- Business sale or acquisition
- Divorce
- Estate and gifting
- Business acquisition financing
- Support to raise capital
- Secure credit for expansion
- Family Limited Partnerships

FORENSIC ACCOUNTING

- Member of Forensic Accountants Society of North America
- Insurance Claim Analysis
- Fraud

LITIGATION SUPPORT

- Divorce
- Damages
- Expert Witness Testimony

**The best attorney staff
 you'll never put on payroll.**



NLRG

National Legal Research Group
 CHARLOTTESVILLE, VIRGINIA

Put us to work helping you win today.
 1-800-727-6574 or research@nlrg.com

*Fast, Affordable, Specialized Research,
 Writing and Analysis*

For more information, and to see what your peers are saying about us: www.nlrg.com

Serving the Kentucky Bar since 1969.

ADVISORY ETHICS OPINION

FORMAL ETHICS OPINION KBA E-430

January 16, 2010

Note to Reader

This ethics opinion has been formally adopted by the Board of Governors of the Kentucky Bar Association under the provisions of Kentucky Supreme Court Rule 3.530 (or its predecessor rule). Note that the Rule provides: "Both informal and formal opinions shall be advisory only; however, no attorney shall be disciplined for any professional act performed by that attorney in compliance with an informal opinion furnished by the Ethics Committee member pursuant to such attorney's written request, provided that the written request clearly, fairly, accurately and completely states such attorney's contemplated professional act."

Subject: A lawyer's duty to report professional misconduct of other lawyers and judges.

Question I: Under what circumstances does SCR 3.130 (8.3) impose a duty to report professional misconduct of others?

Answer: See discussion in Section I.

Question II: When does a lawyer "know" that a violation has occurred?

Answer: See discussion in Section II.

Question III: What constitutes a "substantial question" under Rule 8.3?

Answer: See discussion in Section III.

Question IV: Does a lawyer have a duty to report conduct unrelated to the practice of law or to judicial duties?

Answer: See discussion in Section IV.

Question V: Does a lawyer have a duty

to report information protected by SCR 3.130(1.6) or other law, or information received in the course of participation in the Kentucky Lawyer Assistance Program (KYLAP) or the Ethics Hotline?

Answer: See discussion in Section V.

Question VI: Does a lawyer have a duty to self-report his or her own misconduct or that of an associate?

Answer: See discussion in Section VI.

Question VII: Does a lawyer have a duty to report the misconduct of a suspended or disbarred lawyer?

Answer: See discussion in Section VII.

Question VIII: Does a prosecutor have additional responsibilities under Rule 8.3?

Answer: See discussion in Section VIII.

Question IX: Is the reporting lawyer immune from civil or criminal liability?

Answer: See discussion in Section IX.

Question X: What are the procedures for reporting a violation and when must the report be made?

Answer: See discussion in Section X.

References: SCR 3.130 (Preamble); SCR 3.130 (1.0) (Terminology); SCR 3.130 (1.5); SCR 3.130 (1.6); SCR 3.130 (3.3); SCR 3.130 (4.1); SCR 3.130 (5.3); SCR 3.130 (5.5); SCR 3.130 (8.3); SCR 3.130 (8.4); SCR 3.166; SCR 3.453; SCR 3.470; SCR 3.530; SCR 3.990; *Clay v. Kentucky Bar Ass'n*, 290 S.W.3d 652 (Ky. 2009); *Kentucky Bar Ass'n v. Bierbauer*, 282 S.W.3d 318 (Ky. 2009); *Kentucky*

Bar Ass'n v. Marcum, 292 S.W.3d 317 (Ky. 2009); *Kentucky Bar Ass'n v. Matthews*, 291 S.W.3d 236 (Ky. 2009); *Radolovich v. Kentucky Bar Ass'n*, 282 S.W.3d 327 (Ky. 2009); *Kentucky Bar Ass'n v. Hawkins*, 260 S.W.3d 337 (Ky. 2008); *Kentucky Bar Ass'n v. Hammond*, 241 S.W.3d 310 (Ky. 2007); *Kentucky Bar Ass'n v. Rice*, 229 S.W.3d 903 (Ky. 2007); *Kentucky Bar Ass'n v. Vanmeter*, 176 S.W.3d 692 (Ky. 2005); *Kentucky Bar Ass'n v. Hall*, 173 S.W.3d 621 (Ky. 2005); *Kentucky Bar Ass'n v. Layton*, 97 S.W.3d 452 (Ky. 2003); *In re Riehlmann*, 891 So.2d 1239 (La. 2005); *In the Matter of Galmore*, 530 S.E.2d 378 (S.C. 2000); *In re Rivers*, 331 S.E.2d 332 (S.C. 1984); ABA Formal Op. 04-433 (2004); ABA Formal Op. 03-431 (2003); Pa. Eth. Op. 2008-12 (2008); Oh. Adv. Op. 2007-1 (2007); S.C. Adv. Op. 05-21 (2005); Or. Eth. Op. 2005-95(2005); S.C. Adv. Op. 02-15 (2002); S.C. Adv. Op. 02-14 (2002); N.C. Eth. Op. 5 (2001); Ct. Eth. Op. 00-01 (2000); Ct. Eth. Op. 01-04 (2001); Pa. Eth. Op. 99-53 (1999); Ct. Eth. Op. 97-30 (1997); Ct. Eth. Op. 96-20 (1996); KBA E-265 (1982).

Introduction

Under the recent amendments to the Rules of Professional Conduct,¹ SCR 3.130 (8.3),² Kentucky lawyers now have an ethical obligation to report certain types of ethical misconduct of other lawyers and judges. The obligations imposed by the rule are designed to preserve the integrity of the profession and to assure public confidence in the judicial system. Because the legal profession has the privilege of self-regulation it has the corresponding responsibility of assuring that the profession's high standards are respected. Rule 8.3 reflects that privilege and responsibility.³

In many circumstances, lawyers are

in the best position to know of another lawyer's misconduct and to minimize its consequences to others. Not only do lawyers know the standards by which lawyers and judges are expected to conduct themselves, lawyers also work closely with them and may be the first ones actually to observe the acts of misconduct. In many cases, the victim of the misconduct may not even be aware of it. As officers of the legal system, lawyers must take the affirmative responsibility to assure that both the bench and bar maintain the highest standards, and to assure that those who do not conform to these standards are disciplined. It is only by taking an active role in the disciplinary process that the profession is deserving of the public's trust and confidence.

The reason for the reporting obligation is summarized in the Preamble to Kentucky's Rules of Professional Conduct:

XIII. The legal profession's relative autonomy carries with it special responsibilities of self-government. The profession has a responsibility to assure that its regulations are conceived in the public interest and not in furtherance of parochial or self-interested concerns of the bar. Every lawyer is responsible for observance of the Rules of Professional Conduct. A lawyer should also aid in securing their observance by other lawyers. Neglect of these responsibilities compromises the independence of the profession and the public interest which it serves.⁴

Many questions have been raised about the rule's application. For example, must lawyers report all violations of the rules? How much does a lawyer have to know before the duty to report is triggered? How does confidentiality affect the obligation? Do lawyers have to report themselves? Do lawyers have to report partners or associates? These are all questions that lawyers may encounter as they seek to understand the

implications of the new rule. It should be emphasized that every situation is different; thus lawyers will need to carefully analyze each situation independently. This opinion is designed to provide a framework for that analysis. In questionable cases, lawyers should seek further advice from their District Member of the Ethics Hotline.

I. Under what circumstances does Rule 8.3 impose a duty to report professional misconduct of others?

The duty to report misconduct of another lawyer or judge does not arise every time one thinks a violation of the Rules of Professional Conduct may have occurred. Rule 8.3 imposes the obligation to report only under certain limited circumstances. The full text of Rule 8.3 reads as follows:

Reporting professional misconduct

(a) A lawyer who knows that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects, shall inform the Association's Bar Counsel (emphasis added).

(b) A lawyer who knows that a judge has committed a violation of applicable rules of judicial conduct that raises a substantial question as to the judge's fitness for office shall report such violation to the Judicial Conduct Commission (emphasis added).

(c) A lawyer is not required to report information that is protected by Rule 1.6 or by other law. Further, a lawyer or a judge does not have a duty to report or disclose information that is received in the course of participating in the Kentucky Lawyer Assistance Program or Ethics Hotline.

(d) A lawyer acting in good faith in the discharge of the lawyer's

professional responsibilities required by paragraphs (a) and (b) or when making a voluntary report of other misconduct shall be immune from any action, civil or criminal, and any disciplinary proceeding before the Bar as a result of said report, except for conduct prohibited by Rule 3.4(f). (e) As provided in SCR 3.435, a lawyer who is disciplined as a result of a lawyer disciplinary action brought before any authority other than the Association shall report that fact to Bar Counsel (emphasis added). (f) As provided in SCR 3.166(2), a lawyer prosecuting a case against any member of the Association to a plea of guilty, conviction by judge or jury or entry of judgment, should immediately notify the Director of such event.

Before a lawyer has an obligation to report the conduct of another lawyer or judge, the following specific conditions must be met:

- The reporting lawyer must "know" of the violation.
- In the case of a lawyer, the violation of the Rules of Professional Conduct must raise "a substantial question as to the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects."
- In the case of a judge, the violation of the Rules of Judicial Conduct must raise "a substantial question as to the judge's fitness for office."
- The information that serves as the basis of "knowledge" must not be "protected by Rule 1.6 or other law" nor have been "receive(d) in the course of participating in the Kentucky Lawyer Assistance Program or the Ethics Hotline."

If the above conditions are met, and none of the exceptions discussed below apply, then the lawyer with "knowledge" must report. If the misconduct raises a

substantial question as to a lawyer's honesty, trustworthiness or fitness, the report must be made to KBA Bar Counsel. The same is true if the lawyer is self-reporting⁵ or a prosecutor is reporting the conviction of another lawyer.⁶ If the misconduct raises a substantial question as to a judge's fitness for office, the report must be made to the Judicial Conduct Commission. The duty to report to Bar Counsel or the Judicial Conduct Commission is independent of any other reporting obligations, such as a lawyer's obligation to report perjury to a tribunal under SCR 3.130 (3.3(a)(3)). Lawyers cannot satisfy their obligations under Rule 8.3 by advising the tribunal of misconduct or by making a referral to KYLAP. The duty to report is an individual duty. It is not satisfied because a report has been made to another person or by another lawyer.

II. When does a lawyer "know" a violation has occurred?

Before a lawyer's duty to report is triggered, the lawyer must "know" of the violation. The term "know" is defined by SCR 3.130 (1.0) (Terminology) as follows:

[5] "Knowingly," "known," or "knows" denotes actual knowledge of the fact in question. A person's knowledge may be inferred from circumstances.

The standard is an objective one. As the Louisiana Supreme Court recently observed:

A lawyer will be found to have knowledge of reportable misconduct, and thus reporting is required, where the supporting evidence is such that a reasonable lawyer under the circumstances would form a firm belief that the conduct in question had more likely than not occurred. As such, knowledge is measured by an objective standard that is not tied to the subjective beliefs of the lawyer in question.⁷

In order to trigger the reporting requirement, absolute certainty is not required; but mere suspicion is insufficient to trigger the reporting requirement.⁸ While lawyers cannot turn a blind eye to obviously questionable conduct, as a general rule they do not have a duty to investigate. However, there may be circumstances where another rule or principle of law may impose an independent duty to investigate. For example, under SCR 3.130 (5.3) a supervising lawyer who suspects a subordinate lawyer is engaging in unethical conduct would have a duty to investigate further. Similarly, an independent duty to investigate misconduct might arise under SCR 3.130 (1.5), which permits the division of fees between unrelated lawyers, but requires the lawyers to assume joint ethical and financial responsibility for the representation, as if they were partners.

Lawyers needing assistance in determining contemplated conduct under Rule 8.3 may contact the Supreme Court District Committee Member (Hotline Member) for guidance.⁹ If lawyers have doubt as to their duty to report, any reasonable doubt should be resolved in favor of reporting.¹⁰ It is then up to the appropriate authority, as designated in Rule 8.3, to follow-up and determine if an investigation should go forward or if the matter should be terminated.

III. What constitutes a "substantial question" within the meaning of Rule 8.3?

Both Rule 8.3(a), applicable to lawyers, and Rule 8.3(b), applicable to judges, use the term "substantial question." The reporting duty is triggered when a lawyer knows that another lawyer has violated the rules in a circumstance "that raises substantial question as to the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects...." The duty is also triggered when a lawyer knows that a judge has violated the applicable judicial code in a circumstance that "raises a substantial question as to the judge's fitness for office...."

The intent of these two provisions is to require reporting of serious violations. Comment [2] reads as follows:

If a lawyer were obliged to report every violation of the Rules, the failure to report any violation would itself be a professional offense. Such a requirement exists in many jurisdictions but has proved unenforceable. The Rule limits the reporting obligation to those violations that a self-regulating profession must vigorously endeavor to prevent. A measure of judgment is, therefore, required in complying with the provisions of this Rule. The term "substantial" refers to the seriousness of the possible offense and not the quantum of evidence of which the lawyer is aware.

Thus, not every violation must be reported. For example, an isolated failure to respond to a discovery request in a timely manner may be a violation of SCR 3.130 (4.1), which states that the lawyer shall not fail to comply with the rules of the tribunal. However, Rule 8.3 would not normally require the reporting of this violation because it does not involve a substantial violation of the rules reflecting on the lawyer's trustworthiness, honesty or fitness.

It would be impossible to list all of the situations in which a lawyer would be obligated to report. Clearly any conduct that would result in disbarment or suspension must be reported. Typical examples of conduct which have led to disbarment or suspension in Kentucky include theft,¹¹ conversion,¹² abandonment of clients,¹³ credit card fraud,¹⁴ perjury,¹⁵ tampering with evidence,¹⁶ comingling of client funds,¹⁷ fraud,¹⁸ failure to act with reasonable diligence or keep client reasonably informed,¹⁹ mishandling of trust accounts,²⁰ refusal to return unearned fees,²¹ and failing to take appropriate action to protect the client upon withdrawal or termination.²² This list is by no means exclusive.

It may also be useful to look at cases in other jurisdictions in which courts

and ethics committees have stated that there is a duty to report under rules which are similar to Kentucky's. Typical examples include cases involving lawyers who have made materially false statements, including offering false evidence to a state grievance committee,²³ making false statements about the filing of pleadings and back-dating documents,²⁴ signing false acknowledgments or forging documents,²⁵ preparing false billing statements,²⁶ or improper suppression of evidence.²⁷

Although most situations which require reporting involve dishonesty and untrustworthiness, Rule 8.3 also contains a catch-all provision, which requires reporting when conduct raises a substantial question as to the lawyer's "fitness in other respects...." Reported examples include breach of a confidentiality agreement,²⁸ egregious conflicts of interest,²⁹ improper contact with jurors,³⁰ and misconduct by a suspended lawyer.³¹ The catch-all provision may also apply to chronic neglect. Examples include situations in which a lawyer has repeatedly, and without explanation, missed court dates, failed to comply with court orders or failed to honor deadlines imposed by the court or the rules. In addition, any conduct which results in a contempt order by the court would normally fall within the catch-all provision and trigger the duty to report.

Misconduct, particularly neglect of duty, often arises when a lawyer is suffering from some kind of impairment. Impairment may arise as a consequence of senility, dementia, alcoholism, drug addiction, substance abuse, chemical dependency or mental illness. While not all impairments must be reported, any impairment that materially affects the fitness of the lawyer or the judge must be reported,³² unless one of the exceptions described below applies.

IV. Does a lawyer have a duty to report conduct unrelated to the practice of law or to judicial duties?

It should also be noted that lawyers have an obligation to report other

lawyers and judges who engage in activities unrelated to their professional obligations, when the conduct raises a substantial question about the lawyer's honesty, trustworthiness or fitness as a lawyer, or the judge's fitness for office. Although most of the duties under the Rules of Professional Conduct relate to the representation of clients, some do not. SCR 3.130 (8.4),³³ especially subsections (b) and (c), may involve behavior unrelated to the practice of law.³⁴ Specifically, the Rule provides that it is professional misconduct to "commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer ..." or "engage in conduct involving dishonesty, fraud, deceit or misrepresentation." Comment [2] to Rule 8.4 provides some guidance in observing that "although a lawyer is personally answerable to the entire criminal law, a lawyer should be professionally answerable only for offenses that indicate lack of those characteristics relevant to law practice. Offenses involving violence, dishonesty, breach of trust or serious interference with the administration of justice are in that category." Thus, for example, a lawyer could be disciplined for fraud in connection with the sale of a personal residence, falsification of documents for personal use, or embezzlement from a non-profit organization with which the lawyer does volunteer work. All of these examples raise a substantial question as to the lawyer's honesty and trustworthiness. Similarly, a lawyer would have a duty to report a judge who engaged in the activities described above, because they would raise a substantial question as to the judge's fitness for office. Whether a lawyer has a duty to report activities unrelated to the practice of law or judicial responsibilities will depend on the nature of the act and the circumstances under which it was committed.³⁵ Clearly, theft, fraud or other serious misrepresentation, even when unrelated to professional activities, must be reported.

V. Does a lawyer have a duty to report information protected by

SCR 3.130 (1.6)³⁶ or other law, or information received in the course of participation in the Kentucky Lawyer Assistance Program (KYLAP) or the Ethics Hotline?

Rule 8.3 provides a number of exceptions to the duty to report. A lawyer may not, without the client's consent, report misconduct of another if the knowledge is based on information protected by Rule 1.6.³⁷ In the context of Rule 8.3, the lawyer's duty of confidentiality takes precedence over any obligation to report misconduct.

Having recognized the exception for knowledge protected by Rule 1.6, two points must be made. First, the rule specifically authorizes the client to consent to disclosure, thus permitting the lawyer to report. "Informed consent" is defined by the Rule 1.0(e) [Terminology] as follows: "Informed consent" denotes the agreement by a person to a proposed course of conduct after the lawyer has communicated adequate information and explanation about the material risks of and reasonably available alternatives to the proposed course of conduct." Reporting is designed to protect the public and lawyers are encouraged to discuss possible waiver and reporting with their clients, especially where the public faces a serious risk of harm.

Secondly, although a lawyer cannot report information protected by Rule 1.6, the lawyer does have a duty to report information from an independent source unrelated to the representation, if it raises a substantial question as to the lawyer's honesty, trustworthiness or fitness.

In addition to the exception for information protected by Rule 1.6, Rule 8.3 (c) does not require disclosure of information obtained while participating in a lawyer assistance program.³⁸ The Kentucky Lawyer Assistance Program (KYLAP) was established to protect the public and to assist lawyers who suffer from actual or potential impairment. SCR 3.990 provides that "all communications to KYLAP and all information

gathered, records maintained and actions taken by KYLAP shall be confidential, shall be kept in strict confidence by KYLAP's staff and volunteers, shall not be disclosed by KYLAP to any person or entity, including any agency of the Court and any department of the Association, and shall be excluded as evidence in any proceeding before the Board of Governors or the Offices of Bar Admissions...." Rule 8.3 recognizes the confidentiality of information obtained while participating in the KYLAP program. KYLAP staff and volunteers need not report misconduct about which they first learned through KYLAP. This reporting exception does not relieve a lawyer who is not a KYLAP staff member or volunteer from reporting an impaired lawyer or judge whose conduct raises a substantial question as honesty, trustworthiness or fitness. The rule attempts to balance the goal of assisting impaired lawyers by providing a confidential support network, with the need to protect the public.

Rule 8.3(c) also provides that information conveyed in the course of Hotline inquiries is confidential under SCR 3.530(3). It provides that a member of the Hotline does not have a duty to report or disclose information obtained as a result of participation in the Ethics Hotline.

VI. Does a lawyer have a duty to self-report his or her own misconduct or that of an associate?

Rule 8.3 requires a lawyer to report certain misconduct of "another lawyer" or "judge." As a general rule, a lawyer does not have to self-report.³⁹ This is not to say that a lawyer should not self-report and in some circumstances it may be the best course of action.

However, self-reporting is required under SCR 3.453, which provides that lawyers must report discipline from other jurisdictions, including federal court. In addition, SCR 3.166 requires a lawyer who has pleaded "guilty to a felony, including a no contest plea or a plea in which the member allows con-

viction but does not admit the commission of a crime, or is convicted by a judge or jury of a felony, in this state or in any other jurisdiction" to self-report.

A lawyer's obligation under Rule 8.3 may require a lawyer to report a partner or associate. This may have consequences for the reporting lawyer, but there is nothing in the rule to suggest that the duty to report does not extend to one with whom the reporting lawyer is or was associated.⁴⁰ For example, if a lawyer knows that another lawyer in the firm falsified material documents for trial, the lawyer is obligated to report that misconduct unless one of the exceptions applied.

VII. Does a lawyer have a duty to report a suspended or disbarred lawyer?

A lawyer who has been suspended is still subject to application of certain Rules of Professional Conduct. If a suspended lawyer engages in unprofessional conduct, including the unauthorized practice of law, then a lawyer who knows of that misconduct has a duty to report.⁴¹ It is particularly important to report suspended lawyers who have engaged in misconduct because they may ultimately apply for reinstatement. One of the primary considerations on the application for reinstatement will be whether the suspended lawyer complied with the terms of suspension, and the rules during the period of suspension.

A disbarred lawyer is no longer a lawyer, and not subject to the Rules of Professional Conduct. Thus, there would generally be nothing to report. The Kentucky Bar Association has no authority over a disbarred lawyer's general conduct, but it does have the authority to investigate unauthorized practice and initiate proceedings.⁴² If a lawyer is involved in a matter in which a disbarred lawyer is engaged in the unauthorized practice of law, the failure to report the unauthorized practice of law could result in the lawyer's violation of SCR 3.470 and SCR 3.130 (5.5(a)), which prohibit a lawyer from

assisting another in the unauthorized practice of law. Good practice requires that lawyers not only disassociate themselves from the disbarred lawyer, but also report the unauthorized practice to the Executive Director of the Kentucky Bar Association.⁴³ The interests of both the public and the profession are best served by reporting the disbarred lawyer who is engaged in the unauthorized practice of law.

VIII. Does a prosecutor have additional responsibilities under Rule 8.3?

Rule 8.3 reinforces the responsibilities of prosecutors to report known violations. Rule 8.3 (f) provides: "As provided in SCR 3.166 (2), a lawyer prosecuting a case against any member of the Association to a plea of guilty, conviction by judge or jury or entry of judgment, should immediately notify the Director of such event."

Although 8.3 (f) says a prosecutor "should" report, SCR 3.166 (2) makes it clear that the obligation to report is mandatory. It provides: "The attorney prosecuting the case to a plea of guilty, conviction by judge or jury or entry of judgment, whichever occurs first, shall immediately notify the Director of the Kentucky Bar Association and the Clerk of the Supreme Court that such plea, finding or entry of judgment has been made."

IX. Is the reporting lawyer immune from civil or criminal liability?

A lawyer who makes a report in good faith is immune from civil or criminal liability or disciplinary action by the bar, except for conduct prohibited by SCR 3.130 (3.4(f)). Rule 3.4 prohibits a lawyer from filing or threatening to file a disciplinary charge "solely" to gain an advantage in a civil or criminal matter.⁴⁴

X. What are the procedures for reporting a violation and when must the report be made?

Reports of lawyer misconduct must

be made to the Association's Bar Counsel, 514 West Main Street, Frankfort, Kentucky 40601. Reports of judicial misconduct must be made to the Judicial Conduct Commission, P. O. Box 21868, Lexington, Kentucky, 40522. The purpose of the rule is to permit Bar Counsel or the Judicial Conduct Commission to begin an inquiry into the alleged misconduct. Thus, the reporting lawyer should report the facts underlying the belief that there is a substantial question as to the reported lawyer's honesty, trustworthiness or fitness as a lawyer or the reported judge's fitness for office. Reporting the facts underlying the belief further demonstrates the reporting lawyer's good faith basis for making the report.

The Rules of Professional Conduct do not address the form of the communication to Bar Counsel or the Judicial Conduct Commission. There is nothing to prohibit the reporting lawyer from contacting Bar Counsel or the Judicial Conduct Commission by telephone in order to discuss the matter initially. However, SCR 4.170 requires a complaint against a judge to be in writing⁴⁵ and good practice dictates that all reports be reduced to writing. A written report eliminates any question as to what the reporting lawyer said or that the reporting lawyer satisfied the obligation to report imposed by Rule 8.3. It is clear that an anonymous report does not comply with the rule and affords no protection to the reporting lawyer.

The rule does not address the question of when one must make the report. Because the purpose of the rule is to protect the public, under most circumstances the report should be made within a reasonable time after discovery. There may be cases in which a report might have a detrimental impact on the reporting lawyer's client. This might be the case where there are ongoing relationships between the client and the lawyer who has engaged in misconduct. Assuming that the information came to the reporting lawyer in the course of the representation of the client, it would be protected by Rule 1.6; absent client consent, the lawyer

could not report. To the extent that the client's interests are not protected by the Rule 1.6 exception, it is the view of the Committee that where an immediate report would have a detrimental impact on the client, the lawyer may delay reporting to protect the client's interests. The lawyer would be well served to document any discussions with the client and the reasons for delaying the reporting.

The amendments to Rule 8.3 became effective on July 15, 2009. If, before the effective date, a lawyer knew that another had committed a violation of the Rules of Professional Conduct which raised a substantial question as to the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects, the lawyer is not required to report the misconduct. However, if the lawyer knows that the conduct has continued after the effective date of the amended Rule, the lawyer must report it. The same would be true if the misconduct involved a judge. A lawyer may, of course, make a report even if not required to do so.

Conclusion

Under amended Rule 8.3, a lawyer does not have a duty to report every known violation of the rules, but must report those that underlie the core values of the profession: honesty, trustworthiness and fitness. It would be impossible to list all the cases in which a reporting duty arises. However, when lawyers know that another lawyer or judge has violated the applicable rules, they must critically evaluate the conduct to determine if it is sufficiently serious to require reporting. Lawyers who are unable to decide whether they must report may contact the Hotline Member in the appropriate judicial district for advice. It is not easy to file a report against a fellow lawyer or judge, particularly if the reporting lawyer has a personal relationship with the lawyer or judge or knows of some unfortunate circumstances involving either. Nevertheless, the Rules require lawyers to report lawyers and judges who have engaged in serious misconduct. A lawyer's obligation to the profession

and to the public outweighs any personal reservations the lawyer may have about reporting another lawyer or judge. Again, it is not the lawyer's duty to determine another lawyer's or judge's guilt, but merely to make the report so that the appropriate disciplinary authorities can make that determination.

ENDNOTES

1. Kentucky Supreme Court Order Amending Rules of the Supreme Court 2009-5, issued April 16, 2009, made substantial changes in the Kentucky Rules of Professional Conduct, SCR 3.130. The Rule changes became effective July 15, 2009.
2. Hereinafter referred to as "Rule 8.3."
3. ABA Formal Op. 04-433 (2004).
4. SCR 3.130 (Preamble).
5. See discussion in Section VI.
6. See discussion in Section VIII.
7. *In re Riehlmann*, 891 So.2d 1239, 1247 (La. 2005).
8. *Id.* See also Oh. Adv. Op. 2007-1 (2007), S.C. Adv. Op. 05-21 (2005), Or. Eth. Op. 2005-95(2005) and Pa. Eth. Op. 99-53 (1999), all concluding that suspicion is insufficient to trigger reporting requirement.
9. Rule 8.3, Comment [2].
10. Oh. Adv. Op. 2007-1 (2007).
11. *Kentucky Bar Ass'n v. Hawkins*, 260 S.W.3d 337 (Ky. 2008).
12. *Kentucky Bar Ass'n v. Layton*, 97 S.W.3d 452 (Ky. 2003).
13. *Kentucky Bar Ass'n v. Hall*, 173 S.W.3d 621 (Ky. 2005).
14. *Kentucky Bar Ass'n v. Rice*, 229 S.W.3d 903 (Ky. 2007).
15. *Radolovich v. Kentucky Bar Ass'n*, 282 S.W.3d 327 (Ky. 2009).
16. *Kentucky Bar Ass'n v. Vanmeter*, 176 S.W.3d 692 (Ky. 2005).
17. *Kentucky Bar Ass'n v. Matthews*, 291 S.W.3d 236 (Ky. 2009).
18. *Clay v. Kentucky Bar Ass'n*, 290 S.W.3d 652 (Ky. 2009).
19. *Kentucky Bar Ass'n v. Hammond*, 241 S.W.3d 310 (Ky. 2007).

20. *Kentucky Bar Ass'n v. Marcum*, 292 S.W.3d 317 (Ky. 2009).
21. *Kentucky Bar Ass'n v. Bierbauer*, 282 S.W.3d 318 (Ky. 2009).
22. *Kentucky Bar Ass'n v. Hammond*, *supra* note 19.
23. Ct. Eth. Op. 00-01 (2000).
24. Ct. Eth. Op. 01-04 (2001).
25. Ct. Eth. Op. 97-30 (1997).
26. Ct. Eth. Op. 96-20 (1996).
27. *In re Riehlmann*, 891 So.2d 1239 (La. 2005).
28. S.C. Adv. Op. 02-15 (2002).
29. S.C. Adv. Op. 02-14 (2002).
30. *In re Rivers*, 331 S.E.2d 332 (S.C. 1984).
31. *In the Matter of Galmore*, 530 S.E.2d 378 (S.C. 2000).
32. ABA Formal Op. 03-431 (2003).
33. Hereinafter referred to as "Rule 8.4."
34. See *KBA v. Matthews*, 131 S.W.3d 744 (Ky. 2004), holding that bank fraud, unrelated to the representation of a client, is a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects under Rule 8.4.
35. ABA Formal Op. 04-433 (2004).
36. Hereinafter referred to as "Rule 1.6."
37. For examples of opinions discussing confidentiality and informed consent, see ABA Formal Op.04-433 (2004); Pa. Eth. Op. 2008-12(2008); Pa. Eth. Op. 99-53 (1999).
38. Information obtained while participating in lawyer assistance program support group is confidential and falls within exception to reporting rule. N.C. Eth. Op. 5 (2001).
39. Ct. Eth. Op. 89-23 (1989).
40. S.C. Adv. Op. 05-21; Ct. Eth. Op. 89-23 (1989).
41. Mich. Eth. Op. RI-101 (1991).
42. SCR 3.460.
43. *Id.*
44. See KBA E-265 (1982) for a discussion of the prohibition under the former Code of Professional Responsibility.
45. A reporting form is available at www.court.ky.gov/jcc.

ETHICS AND THE NEW RULES — ADDITIONAL RESOURCES

Supreme Court of Kentucky – Order 2009-05 – Effective July 15, 2009
Bench & Bar, May 2009, pages 22-67:
www.kybar.org/documents/benchbar/2009/bb_0509_9.pdf

Supreme Court of Kentucky – Order 2009-12 – Effective January 1, 2010
Bench & Bar, November 2009, pages 34-39.

"The Supreme Court of Kentucky Adopts Mandatory IOLTA,"
Bench & Bar, November 2009, pages 50-51:
www.kybar.org/documents/benchbar/2009/bb_1109_14.pdf

"A Quick Reference Guide to the 2009 Kentucky Rules of Professional Conduct" by Del O'Roark,
Bench & Bar, September 2009, pages 29-35:
www.kybar.org/documents/benchbar/2009/bb_0909_10.pdf

"A Lawyer's Duty to Report under New Rule 8.3 of the Kentucky Rules of Professional Conduct" by Linda Sorenson Ewald,
Bench & Bar, November 2009, pages 5-6:
www.kybar.org/documents/benchbar/2009/bb_1109_6.pdf

"Money is the Root of All Fees - Risk Managing the Evil" by Del O'Roark,
Bench & Bar, November 2009, pages 8-16:
www.kybar.org/documents/benchbar/2009/bb_1109_1.pdf

"Fees in the Discipline Arena" by Jane H. Herrick & Sarah V. Coker,
Bench & Bar, November 2009, pages 17-21:
www.kybar.org/documents/benchbar/2009/bb_1109_2.pdf

"Legal Fee Arbitration at the KBA SCR 3.810" by Frank Burnette,
Bench & Bar, November 2009, page 20:
www.kybar.org/documents/benchbar/2009/bb_1109_3.pdf

"Alternative Fee Arrangements: An Impending Revolution in the Pricing of Legal Services?" by J. David Smith, Jr.,
Bench & Bar, November 2009, pages 22-25:
www.kybar.org/documents/benchbar/2009/bb_1109_4.pdf

Nonprofit Organization Law Can Be Complex

My Practice Is Limited to Advising Nonprofits and
 The Attorneys Who Represent Them

Assistance Provided With

- Organizational Formation
- Organizational Policies & Procedures
- Continuous Improvement Systems (Quality)
- Board Governance Issues
- Complex Tax Matters
- For-Profit Subsidiaries and Joint Ventures
- Attorney General Compliance Procedures
- Merger or Consolidation of Nonprofits
- Foundation Operational Issues



Conley Salyer, Attorney, J.D., LL.M.; Examiner, Malcolm Baldrige National Quality Award (MBNQA). csalyer@nonprofitattorney.net, (859) 281-1171, 444 E. Main Street, Lexington, KY 40507. This is an advertisement.

ATTENTION:
NEW REGULATION OF THE ATTORNEYS' ADVERTISING COMMISSION

Supreme Court Rule (SCR) 3.130 contains the Kentucky Rules of Professional Conduct. SCR 3.130-7.03 establishes an Attorneys' Advertising Commission (AAC) with general responsibilities for implementing the lawyer advertising rules. In discharging its responsibilities, the AAC is given authority to issue and promulgate regulations subject to prior approval by the Kentucky Bar Association Board of Governors. When regulations are proposed and issued, members of the KBA are entitled to at least 60 days advance notice and an opportunity to comment. The AAC, with approval of the Board, has promulgated the following new Regulation 13. The Board approved the proposed regulation for publication on July 23, 2009. The Regulation was published for comment in the September 2009 issue of the *Bench & Bar*. On January 22, 2010 the Commission reviewed and revised Regulation 13. On March 19, 2010 the Board approved Regulation 13 to be implemented.

The following Regulation will be effective June 1, 2010.

The full Regulations of the AAC may be viewed at www.kybar.org, along with Frequently Asked Questions.

AAC REGULATION NO. 13:
DEFINITION OF AN ADVERTISEMENT
NOT TO INCLUDE CO-COUNSEL OFFERS

SCR 3.130-7.01 states, "Rule 7 shall apply to advertisements of legal services directed to residents of the Commonwealth of Kentucky or which originate in the Commonwealth of Kentucky."

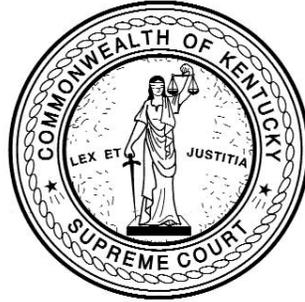
SCR 3.130-7.02(1) defines the word "advertise" or "advertisement," as "to furnish any information or communication concerning a lawyer's name or other identifying information." SCR 3.130-7.02(2) states: "legal services" means the practice of law as defined in SCR 3.020."

SCR 3.020 provides: "The practice of law is any service rendered involving legal knowledge or legal advice, whether of representation, counsel or advocacy in or out of court, rendered in respect to the rights, duties, obligations, liabilities, or business relations of one requiring the services. ..."

The definition of "advertise" or "advertisement" does not include a communication if the communication meets the following criteria:

- a) It is a lawyer-to-lawyer contact communicated solely to other lawyers or law firms, and
- b) It is in the nature of providing information concerning fields of practice, or availability to be employed as co-counsel, or to receive referrals not prohibited by the Rules of Professional Conduct (See SCR 3.130(1.5)(e)), and
- c) It is **not** a solicitation prohibited by SCR 3.130-7.09(1) to a potential client, even if the potential client is a lawyer, nor is it a communication that requires compliance with SCR 3.130-7.09(3).

Supreme Court of Kentucky



PROPOSED AMENDMENTS TO:

The Rules of Criminal Procedure	page 29
The Rules of Civil Procedure	page 30

PROPOSED NEW FAMILY COURT RULES OF PROCEDURE AND PRACTICE:

page 36

The following Proposed Rules Amendments and Proposed New Family Court Rules of Procedure and Practice will be considered in an open session beginning at 8:30 a.m. on Friday, June 18, 2010. The hearing will be conducted in the Bluegrass Ballroom at the Lexington Convention Center in Lexington.

A. PROPOSED AMENDMENTS FOR THE RULES OF CRIMINAL PROCEDURE

I. RCr 5.22(2) Procedure upon failure to indict

The proposed amendments to section (2) of RCr 5.22 are:

(2) Final adjournment of a grand jury without its having indicted a defendant who has been held to answer, pursuant to RCr 3.14(1), shall effect the defendant's discharge from custody or, if the defendant is free on bail that has not been forfeited, shall exonerate the bail unless the grand jury refers the matter to the next grand jury, which referral must be in writing to the circuit court. Money or bonds deposited in lieu of bail shall be refunded upon such discharge. In any event, a defendant who has been held to answer, pursuant to RCr 3.14(1), for longer than 60 days without having been indicted shall be entitled to a discharge from custody.

Commentary:

The reason for the proposed amendment is that there appears to be some disagreement among the Bar as to the meaning of the term "held to answer." By tying the term directly to RCr 3.14(1), the Committee felt that the change sufficiently defined the term and would solve existing disputes among various attorneys as to when the timing for release begins. The Committee feels that the language employed properly reflects the consensus that the timing for the sixty-day release should begin either with the waiver of the preliminary hearing or a finding of probable cause in the district court.

II. RCr 7.24(1) and (3)(A)(i) Discovery and inspection

The proposed amendments to sections (1) and (3)(A)(i) to RCr 7.24 are:

(1) Upon written request by the defense, the attorney for the Commonwealth shall disclose the substance, including time, date, and place, of any oral incriminating statement known by the attorney for the Commonwealth to have been made by a defendant to any witness, and to permit the defendant to inspect and copy or photograph any relevant (a) written or recorded statements or confessions made by the defendant, or copies thereof, that are known by the attorney for the Commonwealth to be in the possession, custody, or control of the Commonwealth, and (b) results or reports of physical or mental examinations, and of scientific tests or experiments made in connection with the particular case, or copies thereof, that are known by the attorney for the Commonwealth to be in the possession, custody or control of the Commonwealth, and (c) upon written request by the defense, the attorney for the Commonwealth shall furnish to the defendant a written summary of any expert testimony that the Commonwealth intends to introduce at trial. This summary must identify the witness and describe the witnesses' opinions, the bases and reasons for those opinions, and the witnesses' qualifications.

(3)(A)(i) If the defendant requests disclosure under Rule 7.24(1), upon compliance to such request by the Commonwealth, and upon written request of the Commonwealth, the defendant, subject to objection for cause, shall permit the Commonwealth to inspect, copy, or photograph any results or reports of physical or mental examinations and of scientific tests or experiments made in connection with the particular case, or copies thereof, within the possession, custody, or control of the defendant, which the defendant intends to introduce as evidence or which were prepared by a witness whom the defendant intends to call at trial when the results or reports relate to the witness's testimony. If the defendant requests disclosure of the Commonwealth's experts under 7.24(1), upon written request by the attorney for the Common-

wealth, the defense shall furnish the attorney for the Commonwealth a written summary of any expert testimony that the defense intends to introduce at trial. This summary must identify the witness and describe the witnesses' opinions, the bases and reasons for those opinions, and the witnesses' qualifications.

III. New Rule RCr 9.32 Alternate Jurors

The proposed new rule RCr 9.32 shall read:

(1) In General. The court may impanel alternate jurors to hear a case. Should it become necessary to excuse a juror, the trial shall continue unless the number of jurors is reduced below the number required by law. If the membership of the jury exceeds the number required by law, the alternate juror or jurors may be designated by agreement of the parties and the Court, otherwise immediately before the jury retires to consider its verdict, the clerk, in open court, shall by random selection reduce the jury to the number required by law.

(2) Recalling Alternate Jurors. The court may require alternate jurors to remain sworn and subject to recall after the jury retires to deliberate provided they have been properly admonished. If recalled, the court must ensure that an alternate has complied with the admonition. If an alternate is recalled after deliberations have begun, the court must instruct the jury to begin its deliberations anew. Alternate jurors shall be recalled in the same sequence in which they were excused.

Commentary:

This new rule would address the problems considered by the Court in *Crossland v. Commonwealth*, 291 S.W.3d 223 (Ky. 2009). *Crossland* dealt with a similar problem where an alternate juror was re-called for deliberation without having been reexamined as to whether he was still qualified to sit.

IV. RCr 9.50 Exclusion of infants from courtroom

The proposed amendments to RCr 9.50 are:

In any criminal trial in which there will be evidence or testimony presented of a violent or sexual nature, [trial for rape, attempted rape, seduction, unlawfully detaining a woman and similar offenses] the judge may exclude from the courtroom, and from the hearing of the testimony and arguments, any or all children under the age of sixteen years [infants under the age of sixteen years except those who are witnesses in the case or kin to one of the parties].

V. RCr 12.04(3) When and how taken

The proposed amendments to section (3) RCr 12.04 are:

(3) The time within which an appeal may be taken shall be thirty (30) days after the date of entry of the judgment or order from which it is taken, subject to Rule 12.06, but if a timely motion has been made for a new trial an appeal from a judgment of conviction may be taken within thirty (30) days after the date of entry of the order denying the motion; provided, however, that in the case of a motion for new trial made later than five (5) days after return of the verdict, the appeal must be from the order overruling or denying the motion, and the review on appeal shall be limited to the grounds timely raised by the motion as provided by Rule 10.06. If a motion to proceed in forma pauperis is denied, the party shall have thirty (30) days within which to pay the filing fee or to appeal the denial to the appropriate appellate court.

VI. RCr 12.04(5) When and how taken

The proposed new section (5) of RCr 12.04 shall read:

(5) If an inmate files a notice of appeal in a criminal case, the notice shall be considered filed if its envelope is officially marked as having been deposited in the institution's internal mail system on or before the last day for filing with sufficient First Class postage prepaid.

Commentary:

This proposed new sub-part of RCr 12.04 was approved unanimously by the Committee and is consistent with the United States Supreme Court's adoption of a rule, in certain circumstances, that treated a prisoner's mailing of a notice of appeal as the equivalent of "filing" the notice. Houston v. Lack, 487 U.S. 266 (1988); see also Fallen v. United States 378 U.S. 139 (1964). In Houston, the Court noted:

The situation of prisoners seeking to appeal without the aid of counsel is unique. Such prisoners cannot take the steps other litigants can take to monitor the processing of their notices of appeal and to ensure that the court clerk receives and stamps their notices of appeal before the 30-day deadline. Unlike other litigants, pro se prisoners cannot personally travel to the courthouse to see that the notice is stamped "filed" or to establish the date on which the court received the notice. Other litigants may choose to entrust their appeals to the vagaries of the mail and the clerk's process for stamping incoming papers, but only the pro se prisoner is forced to do so by his situation. And if other litigants do choose to use the mail, they can at least place the notice directly into the hands of the United States Postal Service (or a private express carrier); and they can follow its progress by calling the court to determine whether the notice has been received and stamped, knowing that if the mail goes awry they can personally deliver notice at the last moment or that their monitoring will provide them with evidence to demonstrate either excusable neglect or that the notice was not stamped on the date the court received it. Pro se prisoners cannot take any of these precautions; nor, by definition, do they have lawyers who can take these precautions for them. Worse, the pro se prisoner has no choice but to entrust the forwarding of his notice of appeal to prison authorities whom he cannot control or supervise and who may have every incentive to delay.

Id. at 270-71.

It should be noted, however, that the "Mailbox Rule" proposed herein, would apply to *all* penal institutions, whether jails, regional jails, or penitentiaries, and thus, is much more expansive than that adopted in Houston, however, the rationale and disabilities of inmates seems to be the same, whatever the institution.

At least 20 states have adopted a prisoner mailbox rule that has as its essential element that a *pro se* notice of appeal by a prisoner is deemed to be filed once it is delivered to prison authorities for mailing (Alabama, Arizona, California, Florida, Georgia, Hawaii, Idaho, Kansas, Louisiana, Massachusetts, Mississippi, Nevada, Ohio, Oklahoma, Oregon, Pennsylvania, Tennessee, Texas, Utah and Wisconsin). Some states have enacted a procedural rule that expressly provides for a mailbox rule. Other states have adopted a mailbox rule by judicial interpretation of the existing rule or by reliance on the reasoning in Fallen or the state constitution regarding equal protection and access to the courts (e.g. Okla.). Some states have case law that approved the mailbox rule to allow filing of notices of appeal in specific situations, i.e. post-conviction or state habeas (Ala., Ariz., Fla., Ga., Idaho, Kan. Miss., Ohio, Pa., Tenn., Wis.); motions to modify or

correct judgment (Fla., Nev., Pa.), criminal cases (conviction or sentence - Cal., La., Mass., Miss., Ohio, Pa.). Other states have extended the mailbox rule to cover all appeals or even all legal pleadings filed by an inmate (Pa.). Some limit it to *pro se* litigants and there is a split among the circuits as to whether the federal mailbox rule applies if the inmate has counsel.

B. PROPOSED AMENDMENTS TO THE RULES OF CIVIL PROCEDURE

I. CR 5.02 Service; how made

The proposed amendments to CR 5.02 are:

Whenever under these rules service is required or permitted to be made upon a party represented by an attorney, which shall not include a warning order attorney, the service shall be made upon the attorney unless service upon the party [himself] is ordered by the court. Service upon the attorney or upon a party shall be made by delivering a copy to him or by mailing it to him at his last known address or, if no address is known, by leaving it with the clerk of the court. Delivery of a copy within this rule means handing it to the attorney or to a [the] party; or leaving it at his office with the person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the office is closed or the person to be served has no office, leaving it at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein [.] ; or sending it by electronic means if the attorney or a party consents in writing. The attorney or a party consents to accept electronic service by filing and serving a notice that the attorney or party accepts electronic service. The notice must include the electronic notification address at which the attorney or party agrees to accept service. Service [by mail] is complete upon mailing or electronic transmission, but electronic transmission is not effective if the serving party learns that it did not reach the person to be served.

II. CR 5.03 Service; proof of

The proposed amendments to CR 5.03 are:

Whenever any pleading or other paper is served under Rules 5.01 and 5.02, proof of the time and manner of such service shall be filed before action is to be taken thereon by the court or the parties. Proof may be by certificate or a member of the bar of the court or by affidavit of the person who served the papers, or by any other proof satisfactory to the court. Such certificate or affidavit shall identify by name the persons so served. Proof of electronic service must state the electronic notification address of the person served and that the document was served electronically.

III. CR 5.05 (4) Filing

The proposed amendments to section (4) of CR 5.05 are:

(4) If accompanied by a motion for leave to proceed in forma pauperis and a supporting affidavit, and made in good faith, any matter to be filed under these rules, including appeals, shall be considered filed on the date it is tendered. If the motion to proceed in forma pauperis is denied [overruled], the moving party shall then have thirty (30) [ten] days to pay any required fees or costs or to appeal the decision. If the moving party fails to pay the required fees or costs, or to seek review, the matter shall be treated as though not timely filed. The time for certifying the record on appeal under CR 73.08 shall run from the date the motion to proceed in forma pauperis is granted.

IV. CR 7.03(1)(b) Privacy Protection for Filings Made with the Court

The proposed amendments sub-section (b) of section (1) to rule CR 7.03 shall read:

(1) Unless the court orders otherwise, in a civil filing with the court

that contains certain personal data identifiers, including an individual's social-security number or taxpayer-identification number, or birth date, or a financial-account number, an attorney or party making the filing must redact the document so the following information cannot be read:

- (a) the digits of the social-security number or taxpayer-identification number;
- (b) [except in criminal cases,] the month and day of the individual's birth; and
- (c) the digits of the financial-account number.

Redaction may be made by any method, including but not limited to replacing the identifiers with neutral placeholders or covering the identifiers with an indelible mark, that so obscures the identifiers that they cannot be read.

V. New Rule CR 7.04 Disclosure of parent corporations.

The proposed new rule CR 7.04 shall read:

(1) Who Must File; Contents.

A nongovernmental corporate party must file a disclosure statement that:

- (a) identifies any parent corporation and any publicly held corporation owning 10% or more of its stock; or
- (b) states that there is no such corporation.

(2) Time to Filing; Supplemental Filing.

A party must:

- (a) file the disclosure statement with its first appearance, pleading, petition,
- (b) promptly file a supplemental statement if any required information changes.

VI. New Rule CR 23.03 Determination by order whether class action to be maintained; notice; judgment; actions conducted partially as class actions

The proposed new Rule CR 23.03 shall read:

(1) At an early practicable time after a person sues or is sued as a class representative, the court must determine by order whether to certify the action as a class action.

(2) An order that certifies a class action must define the class and the class claims, issues, or defenses, and must appoint class counsel under CR 23.07.

(3) An order that grants or denies class certification may be altered or amended before final judgment.

(4) If an appeal is taken from the Certification Order, as authorized by CR 23.06, notice shall not be given until a final non-appealable order has decided the issue. If no appeal is taken the court, after 11 days from the entry of its Certification Order, shall give notice as follows:

(a) For any class certified under CR 23.02(a) or 23.02(b), the court may direct appropriate notice to the class.

(b) For any class certified under CR 23.02(c), the court must direct to class members the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort. The notice must clearly and concisely state in plain, easily understood language:

- (i) the nature of the action;
- (ii) the definition of the class certified;
- (iii) the class claims, issues, or defenses;
- (iv) that a class member may enter an appearance through an attorney if the member so desires;
- (v) that the court will exclude from the class any member who requests exclusion by a specified date;
- (vi) the time and manner for requesting exclusion; and
- (vii) the binding effect of a class judgment, whether favorable or not, on members under CR 23.03.

(5) Whether or not favorable to the class, the judgment in a class action must:

(a) for any class certified under CR 23.02(a) or (b) include and describe those whom the court finds to be class members; and

(b) for any class certified under CR 23.02(c) include and specify or describe those to whom the CR 23.02(c) notice was directed, who have not requested exclusion, and whom the court finds to be class members.

(6) When appropriate, an action may be brought or maintained as a class action with respect to particular issues.

(7) When appropriate, a class may be divided into subclasses that are each treated as a class under this rule.

Delete Current Rule CR 23.03

[As soon as practicable after the commencement of an action brought as a class action, the court shall determine by order whether it is to be so maintained. An order under this rule may be conditional, and may be altered or amended before the decision on the merits.

(2) In any class action maintained under Rule 23.02(c), the court shall direct to the members of the class the best notice practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort. The notice shall advise each member that (a) the court will exclude him from the class if he so requests by a specified date; (b) the judgment, whether favorable or not, will include all members who do not request exclusion; and (c) any member who does not request exclusion may, if he desires, enter an appearance through his counsel.

(3) The judgment in an action maintained as a class action under paragraphs (a) or (b) of Rule 23.02, whether or not favorable to the class, shall include and describe those whom the court finds to be members of the class. The judgment in an action maintained as a class action under Rule 23.02(c), whether or not favorable to the class, shall include and specify or describe those to whom the notice provided in Rule 23.03(b) was directed, and who have not requested exclusion, and whom the court finds to be members of the class.

(4) When appropriate (a) an action may be brought or maintained as a class action with respect to particular issues, or (b) a class may be divided into subclasses and each subclass treated as a class, and the provisions of Rule 23 shall then be construed and applied accordingly.]

VII. New Rule CR 23.04 Orders in conduct of actions

The proposed new Rule CR 23.04 shall read:

(1) In conducting an action under this rule, the court may issue orders that:

(a) determine the course of proceedings or prescribe measures to prevent undue repetition or complication in presenting evidence or argument;

(b) require – to protect certified class members and fairly conduct the action – giving appropriate notice to some or all class members of:

- (i) any step in the action
- (ii) the proposed extent of the judgment; or
- (iii) the members' opportunity to signify whether they consider the representation fair and adequate, to intervene and present claims or defenses, or to otherwise come into this action.

(c) impose conditions on the representative parties or on intervenors;

(d) require that the pleadings be amended to eliminate allegations about representation of absent persons and that the action proceed accordingly; or

(e) deal with similar procedural matters.

(2) An order under CR 23.04(1) may be altered or amended from time to time and may be combined with an order under Rule 16.

Delete Current Rule CR 23.04

[In the conduct of actions to which Rule 23 applies, the court may make appropriate orders: (a) determining the course of proceedings or prescribing measures to prevent undue repetition or complication in the presentation of evidence or argument; (b) requiring, for the protection of the members of the class or otherwise for the fair conduct of the action, that notice be given in such manner as the court may direct to some or all of the members of any step in the action, or of the proposed extent of the judgment, or of the opportunity of members to signify whether they consider the representation fair and adequate, to intervene and present claims or defenses, or otherwise to come into the action; (c) imposing conditions on the representative parties or on intervenors; (d) requiring that the pleadings be amended to eliminate therefrom allegations as to representation of absent persons, and that the action proceed accordingly; (e) dealing with similar procedural matters. The orders may be combined with an order under Rule 16, and may be altered or amended as may be desirable from time to time.]

VIII. New Rule CR 23.05 Dismissal or compromise

The proposed new Rule CR 23.05 shall read:

The claims, issues, or defenses of a certified class may be settled, or defenses of a certified class may be settled, voluntarily dismissed, or compromised only with the court's approval. The following procedures apply to a proposed settlement, voluntary dismissal, or compromise:

(1) The court must direct notice in a reasonable manner to all class members who would be bound by the proposal.

(2) If the proposal would bind class members, the court may approve it only after a hearing and on finding that it is fair, reasonable, and adequate.

(3) The parties seeking approval must file a statement identifying any agreement made in connection with the proposal.

(4) If the class action was previously certified under CR 23.02(c), the court may refuse to approve a settlement unless it affords a new opportunity to request exclusion to individual class members who had an earlier opportunity to request exclusion but did not do so.

(5) Any class member may object to the proposal if it requires court approval under this subdivision (5); the objection may be withdrawn only with the court's approval upon a showing of good cause.

Delete Current Rule CR 23.05

[A class action shall not be dismissed or compromised without the approval of the court, and notice of the proposed dismissal or compromise shall be given to all members of the class in such manner as the court directs.]

IX. New Rule CR 23.06 Appeals

The proposed new Rule CR 23.06 shall read:

An order granting or denying class action certification is appealable within 10 days after the order is entered. An appeal does not stay proceedings in the circuit court unless the circuit judge or the Court of Appeals so orders. The matter shall be expedited in the appellate courts.

X. New Rule CR 23.07 Class counsel

The proposed new Rule CR 23.07 shall read:

(1) Appointing Class Counsel. Unless a statute provides otherwise, a court that certifies a class must appoint class counsel. In appointing class counsel, the court:

(a) must consider:

- (i) the work counsel has done in identifying or investigating potential claims in the action;
- (ii) counsel's experience in handling class actions, other complex litigation, and the types of claims asserted in the action;
- (iii) counsel's knowledge of the applicable law; and
- (iv) the resources that counsel will commit to representing the class;

(b) may consider any other matter pertinent to counsel's ability to fairly and adequately represent the interests of the class;

(c) may order potential class counsel to provide information on any subject pertinent to the appointment and to propose terms for attorney's fees and nontaxable costs;

(d) may include in the appointing order provisions about the award of attorney's fees or nontaxable costs under CR 23.08; and

(e) may make further orders in connection with the appointment.

(2) When one applicant seeks appointment as class counsel, the court may appoint that applicant only if the applicant is adequate under CR 23.07(1) and (4). If more than one adequate applicant seeks appointment, the court must appoint the applicant best able to represent the interests of the class.

(3) The court may designate interim counsel to act on behalf of a putative class before determining whether to certify the action as a class action.

(4) Class counsel must fairly and adequately represent the interests of the class.

XI. New Rule CR 23.08 Attorney's fees and nontaxable costs

The proposed new Rule CR 23.08 shall read:

In a certified class action the court shall approve or award reasonable attorney's fees and nontaxable costs that are authorized by law or by the parties' agreement. The following procedures apply:

(1) A claim for an award must be made by motion to be heard at a time the court sets. Notice of the motion must be served on all parties and, for motions by class counsel, directed to class members in a reasonable manner.

(2) A class member, or a party from whom payment is sought, may object to the motion.

(3) The court may hold a hearing and must find the facts and state its legal conclusions under CR 52.01.

(4) The court may refer issues related to the amount of the award to a Commissioner, as provided in CR 53.

XII. CR 26.03 (2) Protective orders

The proposed amendments to section (2) of CR 26.03 are:

(2) If the motion for a protective order is denied in whole or in part, the court may, on such terms and conditions as are just, order that any party or person provide or permit discovery. The provisions of Rule 37.01 (d) [(4)] apply to the award of expenses incurred in relation to the motion.

XIII. CR 53 Master Commissioners of Circuit Courts

The proposed amendment to CR 53 is:

Master Commissioners of Circuit Courts

XIV. CR 53.01 Appointments; deputies

The proposed amendments to CR 53.01 are:

Each circuit court may appoint a master commissioner and a receiver as authorized by statute. Other master commissioners, deputy master commissioners, receivers, and their assistants may be appointed only upon express authority of the Chief Justice. A master commissioner or deputy master commissioner shall hold no other public office of the Court of Justice except a master commissioner or deputy master commissioner may also serve as a trial commissioner for the district court pursuant to SCR 5.010. Master Commissioners appointed after January 1, 1989, shall be qualified as attorneys.

XV. CR 53.02 Judicial sales; settlements; receiverships; qualifications of commissioner

The proposed amendments to CR 53.02 are:

(1) Judicial sales under order or judgment of the circuit court may be executed and accounts of estates may be settled by a master commissioner under such terms and conditions as are specified by the circuit court either in its order or judgment or by rule. A master commissioner may act as a receiver under terms and conditions likewise specified by the circuit court. A master commissioner may draft and execute such instruments as are necessary to complete any responsibility. A master commissioner performing any of these functions and appointed after December 31, 1977, shall be qualified as an attorney or experienced as a fiduciary. The master commissioner shall serve notice of the date, time and place of the judicial sale upon every party who is not in default for failure to appear.

(2) Civil matters pertaining to bills of discovery of assets of judgment debtors and claim and delivery may be referred to a master commissioner who shall be qualified as an attorney.

(3) All other references to master commissioners shall be warranted only in special cases. Cases may be regarded as special due to complexity of issues, damages which are difficult to calculate, a multiplicity of claims the priority of which must be established, matters of account involving complex or numerous transactions, or similar exceptional circumstances. A master commissioner performing this function shall be qualified as an attorney.

XVI. New Rule CR 53.03 [4] Powers

The proposed new rule CR 53.03 shall read:

An order of reference to a master commissioner or local rules of court may specify or limit his or her powers and may direct him or her to report only upon particular issues or to do or perform particular acts or to receive and report evidence only and may fix the time and place for beginning and closing the hearings and for the filing of the master commissioner's report. Subject to the specifications and limitations stated in the order or local rules of court, the master commissioner has and shall exercise the power to regulate all proceedings in every hearing before him or her and to do all acts and take all measures necessary or proper for the efficient performance of his or her duties under the order or local rules of court. He or she may require the production before him of evidence upon all matters embraced in the reference, including the production of all books, papers, vouchers, documents, and writings applicable thereto. He or she may rule upon the admissibility of evidence unless otherwise directed by the order of reference and has the authority to put witnesses on oath and may himself or herself examine them and may call the parties to the action and examine them upon oath. When a party so requests, the master commissioner shall make a record of the evidence offered and excluded in the same manner and subject to the same limitations as provided in Rule 43.10 for a court sitting without a jury.

[Delete Current Rule CR 53.03 Domestic relations commissioners

(1) A domestic relations commissioner may be appointed for each circuit by the chief circuit judge. If qualified and available one person should be the master commissioner for a county and the domestic relations commissioner for the circuit. Other commissioners, deputies and assistants may be appointed only upon express authority of the Chief Justice.

(2) Each domestic relations commissioner and deputy shall have been licensed to practice law for at least eight years at the time of appointment unless otherwise authorized by the Chief Justice and shall satisfy the annual continuing legal education minimum requirement with domestic relations law education. Additionally, each domestic relations commissioner shall attend, at least once every two years, a training program which focuses on the dynamics and effects of domestic violence including the availability of community resources, victims' services and reporting requirements. Part time domestic relations commissioners and deputies shall not otherwise engage in the practice of domestic relations law. Full time domestic relations commissioners and deputies shall not otherwise engage in the practice of law.

(3) The local rules of each circuit court may provide for the referral to the domestic relations commissioner of domestic relations matters, including: contested and uncontested matters arising from actions for the dissolution of marriage, child custody, support and maintenance under KRS Chapter 403, except that incarceration resulting from a finding of contempt shall be imposed only after a hearing before the court, at which time the court shall permit additional evidence and shall give the party charged with contempt an opportunity to purge himself of such contempt. Proceedings for restraining orders and injunctions shall be heard only by the court. Local Rules providing for the referral of domestic relations matters to the domestic relations commissioner shall include specific standards for the prompt disposition of all matters before the commissioner.

(4) The domestic relations commissioner shall have the authority to make recommendations to the judge regarding motions for temporary orders of custody, support and maintenance. All temporary and final decrees and orders shall be entered by the court upon review of the report of the domestic relations commissioner.

(5) The domestic relations commissioner shall hear all matters

promptly. Testimony may be heard orally before the commissioner or by deposition or interrogatory. All actions involving indigents shall be heard by the commissioner without fee. Proceedings before the commissioner shall be reported, or recorded by audio or video.

(6) Local rules relating to domestic relations commissioners shall be approved by the Chief Justice and uniform in all divisions of circuit court within each county of each circuit.]

XVII. New Rule CR 53.04 [5] Proceedings

The proposed new rule CR 53.04 shall read:

(1) Meetings.

When a reference is made other than automatic references provided by local rules of court, the clerk shall forthwith furnish the master commissioner with a copy of the order of reference. Upon receipt thereof unless he or she otherwise provides, the master commissioner shall forthwith set a time and place for the first meeting of the parties or their attorneys to be held within 20 days after the date of the order of reference and shall notify the parties or their attorneys. It is the duty of the master commissioner to proceed with all reasonable diligence. Either party, on notice to the parties and master commissioner, may apply to the court for an order requiring the commissioner to speed the proceedings and to make his report. If a party fails to appear at the time and place appointed, the master commissioner may proceed ex parte or, in his discretion, adjourn the proceedings to a future day, giving notice to the absent party of the adjournment.

(2) Witnesses.

The parties may procure the attendance of witnesses before the master commissioner by the issuance and service of subpoenas as provided in Rule 45. If without adequate excuse a witness fails to appear or give evidence, he may be punished as for a contempt and be subjected to the consequences, penalties, and remedies provided in Rules 37 and 45.

(3) Statement of accounts.

When matters of accounting are in issue before the master commissioner, he or she may prescribe the form in which the accounts shall be submitted and in any proper case may require or receive in evidence a statement by a certified public accountant who is called as a witness. Upon objection of a party to any of the items thus submitted or upon a showing that the form of statement is insufficient, the master commissioner may require a different form of statement to be furnished, or the accounts or specific items thereof to be proved by oral examination of the accounting parties or upon written interrogatories or in such other manner as he or she directs.

XVIII. New Rule CR 53.05[6] Report

The proposed new rule CR 53.05 shall read:

(1) Contents and filing.

The master commissioner shall prepare a report of recommendations to the court upon the matters submitted by the order of reference or local rules of court and, if required to make findings of fact and conclusions of law, the master commissioner shall set them forth in the report and shall file the report and sufficient copies for all parties with the clerk of the court. The clerk shall forthwith serve the report and notice of the filing upon all parties who have appeared in the action. A transcript of reported proceedings may be ordered by any party at that party's expense. In the case of proceedings recorded on video the untranscribed recording shall constitute the official record.

(2) Action on report.

Within 10 days after being served with notice of the filing of the report any party may serve written objections thereto upon the other parties. Application to the court for action upon the report and upon objections thereto shall be by motion and upon notice as prescribed in CR 6.04. The court after hearing may adopt the report, or may modify it, or may reject it in whole or in part, or may receive further evidence, or may recommit it with instructions.

(3) Stipulation as to findings.

The effect of a master commissioner's report is the same whether or not the parties have consented to the reference, but, when the parties stipulate that a master commissioner's findings of fact shall be final, only questions of law arising upon the report shall thereafter be considered.

(4) Draft report.

Before filing his report a master commissioner may submit a draft thereof to counsel for all parties for the purpose of receiving their suggestions.

(5) Report as security.

The master commissioner shall not retain his report as security for his compensation; but when the party ordered to pay the compensation allowed by the court does not pay it after notice and within the time prescribed by the court, the master commissioner is entitled to a writ of execution against the delinquent party.

(6) The report shall be promptly acted upon by the court.

XIX. New Rule CR 53.06[7] Compensation

The proposed new rule CR 53.06 shall read:

The compensation of master commissioners shall be by fee charged upon such of the parties or paid out of any fund or subject matter of the action which is in the custody or control of the circuit court. Deputies and other assistants of master commissioners shall be compensated and office expenses shall be paid from the fees of the office. Rates of compensation shall be in accordance with a schedule or schedules established by the Supreme Court.

XX. New CR 53.07[8] Limit on compensation

The proposed new rule CR 53.07 shall read:

All master commissioners shall be limited in their total personal compensation derived from fees to not more than \$48,000 per annum, unless approved by the Chief Justice. Fees in excess of the personal compensation of the commissioner and office expenses and salaries shall be remitted as provided in Rule 53.09, however, anticipated three (3) months expenses may be retained.

XXI. New Rule CR 53.08[9] Accounting

The proposed new rule CR 53.08 shall read:

(1) Each master commissioner shall account to the circuit judge under whose direction he or she is acting, for all amounts received and distributed, for all proceeds of sales disbursed, and for all fees collected. These accounts shall be in the manner directed by the circuit judge who shall approve the accounts by his or her signature. The master commissioner shall file the approved accounts with the circuit clerk who shall include them with the applicable case file. Each master commissioner shall maintain a current record, kept in the office of the circuit clerk, or in the office of the master commissioner if the Chief Circuit Judge so directs, of each case in which a fee has been received.

(2) Each master commissioner shall annually provide to the Administrative Office of the Courts [finance and administration cabinet] a complete accounting for all amounts received and distributed and for all fees collected in accordance with the Rules of Administrative Procedure of the Court of Justice, Part IV. Excess fees referred to in Rule 53.07 [8] shall be remitted with the report and may be added to the existing surplus. A copy of this report shall at the same time be provided to the finance and administration cabinet [Administrative Office of the Courts].

XXII. CR 73.02 (1)(b) When and how taken

The proposed amendments to sub-section (b) of section (1) of CR 73.02 are:

(1)(b) If an appeal or cross-appeal is from an order or judgment of the circuit court, the filing fee required by Rule 76.42(2)(a)(i) or (ii) shall be paid to the clerk of the circuit court at the time the notice of appeal or cross-appeal is tendered, and the notice shall not be docketed or noted as filed until such payment is made. Motions to proceed in forma pauperis on such an appeal or cross-appeal must be addressed to the circuit court. If timely tendered and accompanied by a motion to proceed in forma pauperis supported by an affidavit, a notice of appeal or cross-appeal shall be considered timely but shall not be filed until the motion to proceed in forma pauperis is granted or, if denied, the filing fee is paid. If the motion to proceed in forma pauperis is denied, the party shall have 30 [ten] days within which to pay the filing fee or to appeal the denial to the appropriate appellate court. Time for further steps in the appeal or cross-appeal shall run from the date that the notice of appeal is filed upon payment of the filing fee or the granting of the motion to proceed in forma pauperis.

XXIII. CR 75.07 (6) and (7) Record to be prepared and transmitted by clerk

The proposed amendments to sections (6) and (7) of CR 75.07 are:

(6) If the appeal is to the Court of Appeals or Supreme Court, the clerk of the circuit court or of the Court of Appeals in workers' compensation cases, or original proceedings pursuant to CR 76.36(7) shall immediately notify the clerk of the appellate court when the record has been completed and certified as required by this Rule, and shall simultaneously serve copies of such notification upon all parties to the appeal. Such notification shall indicate the name or names of counsel for the appellant. The clerk shall enter the fact and date of such notification in the docket of the case, and the date of such docket entry shall govern the time [allowed by Rule 76.04] for perfecting the appeal.

(7) The record on appeal shall be retained under the responsibility and control of the clerk of the trial court until it is transmitted to the clerk of the appellate court. [It will be made available first to counsel for the appellant and then to counsel for the appellee. If it is removed from the clerk's office, counsel for the appellant shall return it before submitting his or her brief to the appellate court in order that it may be available to counsel for the appellee. Counsel for the appellee shall return it before submitting his or her brief to the appellate court. If it is withdrawn by counsel for the appellant for the purpose of preparing a reply brief it shall be returned before such brief is submitted to the appellate court. In no event shall the original of an electronic recording be removed from the clerk's office, nor shall a record on appeal be retained by counsel beyond the filing date on which his or her appellate brief is due.]

XXIV. CR 76.02 (1) Perfecting appeals and cross-appeals

The proposed amendments to section (1) of CR 76.02 are:

(1) To perfect an appeal from the circuit court the appellant shall: (a)(i) cause the clerk's notice required by CR 75.07(6) [Rule 75.07(5)] to be transmitted to the clerk of the appellate court or (ii) if the appeal is

taken of a case recorded pursuant to CR 98(1), cause the clerk's notice required by paragraph CR 98(3)(c) to be transmitted to the clerk of the appellate court; and (b) file with the clerk of the appellate court the brief required by Rule 76.12.

XXV. CR 76.12 (4)(g) Briefs

The proposed amendments to sub-section (g) of section (4) of CR 76.12 are:

(g) *Form of citations.* All citations of Kentucky Statutes shall be made from the official edition of the Kentucky Revised Statutes and may be abbreviated "KRS." The citation of Kentucky cases reported after January 1, 1951, shall be in the following form for decisions of the Supreme Court and its predecessor court: Doe v. Roe, ___ S.W.2d ___ or ___ S.W.3d ___ (Ky. [date]), or for reported decisions of the present Court of Appeals, Doe v. Roe, ___ S.W.2d ___ or ___ S.W.3d ___ (Ky. App. [date]). Case names may be italicized or underlined. [For cases reported prior thereto both Kentucky Reports and Southwestern citations shall be given.]

XXVI. CR 76.36 (7)(d), (e), (f), (g), (h), (i) and (j) Original proceedings in appellate court

The proposed amendments to sub-sections (d), (e), (f), (g), (h), (i) and (j) of section (7) of CR 76.36 are:

(7) Appeals to the Supreme Court.

(d) [The statement of appeal shall be signed by counsel for the appellant, shall be served on all other parties to the appeal, and upon the clerk of the Court of Appeals, and shall set forth the following information:

(i) The names and addresses of each appellant, appellee, counsel for each appellant and appellee, and the trial judge.

(ii) The date the judgment or order appealed from was entered:

(iii) The date the notice of appeal was filed;

(iv) Whether a notice of cross-appeal has been filed; and

(v) Any exigent reasons that necessitate immediate consideration of the appeal.]

[(e)] When the appeal has been perfected and entered in the docket book the clerk of the Supreme Court shall forthwith mail notice of the date of such entry to the attorneys for the parties [as shown on the statement of appeal].

e [(f)] To perfect a cross-appeal, within 30 days after the mailing of the clerk's notice mentioned in the preceding subparagraph (d) [(e)] of this Rule 76.36(7), or within 30 days after expiration of the time allowed for the appellant to perfect the appeal, whichever is the sooner, the party taking the cross-appeal shall file with the clerk of the Supreme Court [a statement of cross-appeal and] a brief setting forth the arguments for reversal or modification of the judgment or order from which the cross-appeal is taken and against the relief sought by the appellant.

[(g)] The statement of cross-appeal shall be signed by counsel for the cross-appellant, shall be served on all other parties to the appeal and upon the clerk of the Court of Appeals, and shall set forth the following information:

(i) The names and addresses of each cross-appellant and cross-appellee and counsel for each cross-appellant and cross-appellee; and

(ii) The date the notice of cross-appeal was filed.]

f [(h)] Briefs in response to an appeal or cross-appeal shall be required. Such briefs shall be filed in accord with the provisions of CR 76.12(2)(a) and (b).

Where an appeal is taken against a judge in the Court of Justice and concerns performance of an official act, the party appealing shall

serve notice on the real party in interest as defined in this Rule, section (8), who shall then be required to file a brief on behalf of the judge against whom the appeal or cross-appeal is taken; provided, however, no attorney shall be required or permitted to file such a brief where to do so would conflict with the interest of his client.

g [i] Ten (10) copies of the briefs shall be filed. Briefs need not be printed.

h [j] The clerk of the Court of Appeals shall transmit all or any portion of the original record of the proceedings to the Supreme Court when so requested by the clerk of that court.

C. **PROPOSED NEW FAMILY COURT RULES OF PROCEDURE AND PRACTICE (FCRPP)**

I. **Title and Scope of Rules.**

FCRPP 1. Title and Scope.

The proposed new rule FCRPP 1 shall read:

(1) Pursuant to KRS 403.130, these rules constitute a separate section of the civil rules and shall be known as the Kentucky Family Court Rules of Procedure and Practice. They may be cited as such, or by the abbreviation "FCRPP."

(2) These Rules shall be applicable to the procedure and practice in all actions pertaining to dissolution of marriage; custody and support; visitation and timesharing; property division; maintenance; domestic violence; paternity; dependency; neglect or abuse; termination of parental rights; adoption; and status offenses, or any other matter exclusively within family law jurisdiction, except for any special statutory proceedings, which shall prevail over any inconsistent procedures set forth in these Rules. Regulations and manuals published by the Administrative Office of the Courts upon authorization of the Supreme Court relating to the subject matter of these Rules shall have the same effect as if incorporated in the Rules.

(3) Pro se litigants shall be held to knowledge of these rules the same as parties represented by counsel.

(4) The Rules of Civil and Criminal Procedure shall apply to family law matters to the extent they are not inconsistent with these Rules.

II. **Dissolutions and Property Division.**

FCRPP 2. Preliminary Matters.

The proposed new rule FCRPP 2 shall read:

(1) Original Pleadings.

All original pleadings; and exhibits in a dissolution action shall be filed with the clerk of the court, as allowed by law. All original pleadings, motions, orders and exhibits shall include, but not be limited to, the following, if applicable:

- (a) A signed copy of the petition;
- (b) Proof of service;
- (c) A signed copy of the entry of appearance signed by the respondent;
- (d) A signed copy of the separation agreement subject to KRS 403.180(4)(b);
- (e) The final verified mandatory case disclosure;
- (f) A waiver of notice of final hearing and further proceedings;
- (g) A notarized deposition or interrogatories for proof of the allegations of the petition if done without a hearing;
- (h) A copy of a divorce education certificate;
- (i) A copy of a child support work sheet; and
- (j) A proposed Findings of Fact, Conclusions of Law and Decree of Dissolution of Marriage.

Multiple Actions.

(2) When actions concerning the same subject matter are filed in different circuits, the first action filed shall be the controlling action, subject to transfer by the court of that circuit on a motion for forum non conveniens or other appropriate legal grounds. A motion for transfer shall be filed prior to or with the response. On notice to the parties, the courts in both circuits may confer concerning the proper venue.

(3) Preliminary Mandatory Disclosure.

AOC-238, Preliminary Verified Disclosure Statement, shall be exchanged between the parties within 45 days of filing of the petition, and objections thereto shall be exchanged 20 days thereafter and shall not be filed in the record unless ordered by the court.

(4) Exchange of Information and Documents.

The parties shall sign and return specific releases for relevant information and documents unless objected to in writing. Such releases shall contain a provision directing that any information and/or documents provided in writing to the requesting counsel or pro se party shall simultaneously be transmitted to the other counsel or pro se party, at requesting party's expense. Upon objection, the requesting party may file a motion to compel.

(5) Status Quo Orders.

At the initial appearance, the court may enter a standing order on AOC-237, Status Quo Order, which may include the following:

- (a) Neither party shall, except as necessary to pay reasonable living expenses, incur unreasonable debt, sell, encumber, gift, bequeath or in any manner transfer, convey or dissipate any property, cash, stocks or other assets currently in their possession or in the control of another person, company, legal entity or family member without permission of the court or an agreed order signed by both parties or their attorneys.
- (b) Neither party shall allow the cancellation or lapse of any health, life, automobile, casualty or disability insurance currently covering themselves or a family member or change the named beneficiaries on such policies prior to receiving permission of the court or filing an agreed order signed by both parties or their attorneys.

(6) Case Management Conference.

- (a) After the initial appearance and entry of any status quo or pendente lite order, or by agreement at any time, the parties may be ordered to mediate any issues before further proceedings.
- (b) If the parties have been unable to resolve all issues in mediation, they shall within 10 days obtain from the court a date for a case management conference.
- (c) If the case is not mediated or mediation is delayed for good cause shown, or mediation cannot be required due to domestic violence, the conference shall be scheduled within 60 days following service of the petition upon the respondent.
- (d) Both parties and their counsel shall attend the conference, unless otherwise ordered by the court.
- (e) Each party shall file the following documents at least seven days prior to the conference:
 - (i) Any pertinent motions; and
 - (ii) Any stipulations or agreements reached.
- (f) In the event of failure of a party or parties to appear at the conference, the court may, in accordance with its order, conduct a hearing in which proof may be taken or the case dismissed, as the court may determine appropriate.

(7) Trial.

The trial shall not be continued except as otherwise ordered for good cause shown on the record.

(8) Temporary Motions.

- (a) Any ex parte motion shall be accompanied by a supporting

affidavit sufficient to state grounds for injunctive relief and shall be set for hearing with all parties at the earliest available date.

- (b) Any pendente lite motions shall be served on the opposing party and set for a hearing before the court unless otherwise agreed to by the parties.

FCRPP 3. Obtaining a Decree of Dissolution.

The proposed new rule FCRPP 3 shall read:

(1) Matters Not Requiring a Hearing.

- (a) If parties reach an agreement on all issues, a decree of dissolution may be obtained without a hearing by filing a motion to submit for decree of dissolution of marriage.
- (i) The motion shall contain the following information and attachments:
- (A) The date of marriage and separation;
 - (B) The date the petition for dissolution was filed;
 - (C) The date the respondent was served or filed an entry of appearance;
 - (D) The dates the verified disclosures were filed unless otherwise waived by the court;
 - (E) If the parties have minor children of the marriage, copies of certificates of completion of divorce education/parenting class by each party, unless waived by the court;
 - (F) A copy of the separation agreement, if any;
 - (G) A written deposition executed under oath by either party setting forth testimony required at a hearing;
 - (H) A written waiver of the right to a hearing executed by both parties;
 - (I) An affidavit stating that the parties have lived apart for sixty (60) days, and that no material change in circumstances has occurred since the taking of the proof;
 - (J) A request for name restoration, if any, in writing;
- (ii) Original copies of (A) through (J) above shall be filed with the clerk in the county of origin, and a courtesy copy shall be submitted to the judge at his or her primary office if it is not located in the court facility where the case file is located; and,
- (iii) A decree shall not be final until the original is signed by the court and entered by the clerk.
- (b) If the parties reach an agreement on individual issues short of settling the entire case, the agreement, signed by both parties, may be submitted directly to the court.

(2) Default cases.

In all cases of default, all applicable requirements in paragraph (1)(a)(i) above, shall apply with the addition of an affidavit with the attorney's certificate that no answer or pleadings have been received by counsel.

(3) Matters Requiring a Hearing.

- (a) If the parties do not reach an agreement on any or all issues, a hearing shall be held, on motion, as set by the court.
- (b) No later than 10 days prior to the hearing, the parties shall file an AOC-239, Final Verified Disclosure Statement, in the record if property matters are in dispute at that hearing.
- (c) A copy of AOC-239, Final Verified Disclosure Statement, together with any supporting documentation, shall be provided to the opposing party's attorney or the pro se party within 30 days of the filing of the motion for hearing, unless the hearing date is set within 30 days of filing the motion for the hearing, upon which disclosure shall be at the order of the court.

(4) Evidence and Exhibits.

- (a) A court-appointed expert's report shall be in lieu of live testimony, unless either party subpoenas the expert to testify or

unless the court orders otherwise. The party who subpoenas the expert shall be responsible for paying the expert's fee for appearance at trial, unless otherwise ordered by the court.

- (b) In the trial order, the court shall order parties to exchange the list of exhibits to be submitted at trial. Absent good cause shown, failure to provide an exhibit list may result in the exclusion of such exhibit at trial.
- (c) Originals of depositions, interrogatories or requests for admissions, shall not be filed in the court record unless offered as proof. The attorney who noticed the taking of a deposition, or propounded the interrogatories or requests for admissions, shall be the custodian of the record for the originals, and shall present them when directed by the court or at the request of any party.

(5) Court Ordered Family Counseling or Education.

In all proceedings for the dissolution of marriage in which children of the marriage are minors, or in any custody proceeding, the court may order the parents or custodians and children to participate in counseling or divorce education, which shall be at the expense of the parties.

(6) Post-Decree Litigation.

A fee of \$50.00 shall be paid by the movant in domestic relations cases reopened after six months from the entry of the decree for the purpose of modifying the decree. The clerk shall collect the fee upon the filing of the motion, unless the movant is proceeding in forma pauperis.

FCRPP 4. Procedures Before the Domestic Relations Commissioner.

The proposed new rule FCRPP 4 shall read:

- (1) In jurisdictions having no family court, the circuit judge may appoint a domestic relations commissioner, who shall serve at the pleasure of the court. The court may refer domestic relations matters under KRS Chapter 403 to the domestic relations commissioner, except for domestic violence proceedings. Any local rules relating to domestic relations commissioners shall be approved by the Chief Justice and be uniform in all divisions of circuit court within each county of each circuit.
- (2) Each domestic relations commissioner shall have been licensed to practice law for at least eight years at the time of appointment unless otherwise authorized by the Chief Justice and shall satisfy the annual continuing legal education minimum requirement with domestic relations law education. Additionally, each domestic relations commissioner shall attend a training program, at least once every two years, which focuses on the dynamics and effects of domestic violence including the availability of community resources, victims' services and reporting requirements. Domestic relations commissioners shall not otherwise engage in the practice of domestic relations law.
- (3) The domestic relations commissioner shall hear all matters promptly. Testimony may be heard orally before the commissioner or by deposition or interrogatory. All actions involving indigents shall be heard by the commissioner without fee. Proceedings before the commissioner shall be reported, or recorded by audio or video. The domestic relations commissioner shall file the recorded hearings in the record with the clerk of the court.
- (4) The domestic relations commissioner shall have the authority to make recommendations to the judge regarding motions for temporary orders of custody, support and maintenance. All temporary and final decrees and orders shall be entered by the court upon review of the recommendations of the domestic relations commissioner.
- (a) Within 10 days after being served with a copy of the commissioner's recommendations, any party may file written objections thereto with the court. After hearing the court may adopt

the recommendations, modify them, or reject them in whole or in part, or may receive further evidence or may recommit them for further hearing.

- (b) The circuit court shall sign any recommended temporary or post-decree order within 10 days after the time for filing exceptions has run. All temporary recommendations of the domestic relations commissioner which become orders of the court shall be without prejudice and subject to the court's de novo review on final hearing.
- (c) If the parties stipulate that the commissioner's findings of fact shall be final, only questions of law arising upon the recommendations shall thereafter be considered.
- (d) All final decrees shall be entered by the court within 20 days of submission if no exceptions have been filed. If exceptions have been filed, entry of the final decree shall occur within 10 days of disposition of the exceptions.

(5) For any case assigned, the domestic relations commissioner shall receive a fee of \$60 per hour, assessed at a rate of \$15.00 for each quarter hour or part thereof. Such fees shall be paid through the office of circuit court clerk to the commissioner and shall be due on the fifth working day following the conclusion of the hearing. No more than \$600 shall be assessed in any case regardless of the number and length of hearings unless recommended by the circuit judge and approved by the Chief Justice for extraordinary circumstances shown. If a case is reopened additional fees totaling not more than \$200 may be assessed. No more than \$15 shall be assessed in any uncontested divorce. (Revise AP Part IV, Section 15)

(6) The compensation of domestic relations commissioners shall be by fee charged upon the parties, or paid out of any fund or subject matter of the action which is in the custody or control of the circuit court. This compensation shall be paid to the circuit court clerk, who shall issue payment to the commissioner.

(7) All domestic relations commissioners shall be limited in their total personal compensation derived from fees to not more than \$48,000 per annum unless approved by the Chief Justice. Fees in excess of the personal compensation of the commissioner shall be remitted to the Administrative Office of the Courts with the annual accounting for all amounts received.

(8) The Administrative Office of the Courts shall establish audit and accounting standards, prescribe bookkeeping and accounting practices and procedures, and otherwise perform audits and oversee the financial accounts of domestic relations commissioners. A copy of any audit shall be submitted by the Administrative Office of the Courts to the chief judge of the circuit. In the event that the audit reveals an accounting or other irregularity, a copy shall also be submitted to the Chief Justice.

(9) The commissioner shall not retain his or her recommendations as security for his or her compensation. When the party ordered to pay the compensation allowed by the court does not pay it after notice and within the time prescribed by the court, that party may be subject to civil contempt.

FRCPP 5. Maintenance.

The proposed new rule FCRPP 5 shall read:

- (1)** A motion for temporary maintenance shall be accompanied by copies of the movant's last three pay stubs or, if movant is self-employed, proof of the movant's current income, and by an affidavit setting forth movant's monthly expenses and income and the monthly income of the party from whom maintenance is sought.
- (2)** The notice of hearing accompanying a motion for temporary maintenance shall contain the following statement: "You must file with the Court, at least 24 hours prior to the time of the hearing, a

responsive affidavit setting forth your net monthly income and expenses and attach copies of your last three pay stubs or, if self-employed, proof of your current income."

(3) Motions to Modify Maintenance

(a) All motions to modify maintenance shall be accompanied by copies of the movant's last three pay stubs or, if movant is self-employed, proof of the movant's current income and by an affidavit setting forth movant's monthly expenses and income and the monthly income of the party against whom the motion is brought, if known.

(b) The notice of hearing accompanying a motion to modify maintenance shall contain the following statement: "You must file with the court, at least 24 hours prior to the time of the hearing, copies of your last three pay stubs, or if self-employed, proof of your current income and by an affidavit setting forth your monthly expenses and income."

(4) All post-decree matters regarding the maintenance issues shall be submitted with a statement of monthly living expenses, supporting documentation of all year to date gross income from all sources, and the most recently filed federal and state income tax returns. The responding party is to similarly file this financial information. All parties shall exchange said information 10 days prior to the hearing. In addition, counsel shall certify, prior to any hearing being held, that reasonable efforts were made to resolve the issues in dispute.

III. Custody, Shared Parenting, Visitation and Support.

FRCPP 6. General Provisions.

The proposed new rule FCRPP 6 shall read:

(1) If disputes regarding custody, shared parenting, visitation or support are properly before the court, a parent or custodian may move for, or the court may order, one or more of the following, which may be apportioned at the expense of the parents or custodians:

- (a) A custody evaluation;
- (b) Psychological evaluation(s) of a parent or parents or custodians, or child(ren);
- (c) Family counseling;
- (d) Mediation;
- (e) Appointment of a guardian *ad litem*;
- (f) Appointment of such other professional(s) for opinions or advice which the court deems appropriate; or
- (g) Such other action deemed appropriate by the court.

(2) The court or domestic relations commissioner shall conduct a hearing on any motion for temporary custody, time sharing, visitation or child support, within thirty (30) days of the filing of the motion except for good cause stated on the record. Nothing herein prevents the parties from entering into an agreement on these issues.

FRCPP 7. Custody.

The proposed new rule FCRPP 7 shall read:

(1) In any action in which the permanent custody of the child(ren) is in issue, each parent shall, not less than 14 days prior to the day set for hearing, provide the other parent with a list of the names and addresses of every person and a short statement of the subject of their testimony, other than a parent or the child(ren) of the parents, expected to be called as a witness, as well as a list of exhibits to be entered.

(2) Residency within Kentucky/Moving to Another Location.

- (a) If either parent intends to move with the child(ren) from the Commonwealth of Kentucky to another state, or more than 100 miles from the present residence of the child(ren), he or

she shall give notice to the other parent at least 90 days prior to such move. Either parent may file a motion for change of custody or time sharing if the other parent is not in agreement with the move, or an agreed order if they are in agreement. No relocation of the children shall occur unless the court enters an order modifying the status quo.

- (b) If a parent moves from the county where the initial decree or custody order is entered, the court shall apportion the cost of transportation of the child(ren) between the parents, or may assign the entirety of the costs to one parent, considering the economic circumstances of each parent and any other relevant factors.

FCRPP 8. Time-Sharing/Visitation.

The proposed new rule FCRPP 8 shall read:

- (1) A parent shall be entitled to time-sharing/visitation as ordered by the court, which may be in accordance with the Standard Time-Sharing/Visitation Guidelines, AOC-P-106, unless otherwise agreed to by the parties or ordered by the court.
- (2) Standard Time-Sharing/Visitation Guidelines are set forth in AOC-P-106, in Appendix A to these Rules.

FCRPP 9. Support.

The proposed new rule FCRPP 9 shall read:

- (1) Once support has been set by the court, it shall continue in full force and effect unless modified by the court.
- (2) An order directing the payment of child support shall be on form AOC-152, Uniform Child Support Order, and shall include the following:
- (a) The amount and frequency of the support payments;
- (b) That the payment shall be paid:
- (i) by wage withholding, on form AOC-151, Wage/Benefit Withholding Order for Kentucky Employers, if applicable;
or,
- (ii) if wage withholding is not applicable, as ordered by the court;
- (c) The party responsible for the medical expenses of the child(ren); and,
- (d) The social security numbers of the parties and child(ren), CR 7.03 notwithstanding.
- (3) If child support is paid by wage withholding, a copy of the wage withholding order shall be served upon the employer and the employee.
- (4) A motion for temporary support shall be accompanied by a completed child support guidelines worksheet and by copies of the movant's last three pay stubs or, if movant is self-employed, proof of the movant's current income. The notice of hearing accompanying a motion for temporary support shall contain the following statement: "You must file with the Court, at least 24 hours prior to the time of the hearing, a completed child support guidelines worksheet and copies of your last three pay stubs or, if self-employed, proof of your current income."

(5) Motions to Modify Support.

- (a) All motions to modify support shall set forth the current child support and shall be accompanied by a completed child support guidelines worksheet and by copies of the movant's last three pay stubs or, if movant is self-employed, proof of the movant's current income.
- (b) The notice of hearing accompanying a motion to modify child

support shall contain the following statement: "You must file with the court, at least 24 hours prior to the time of the hearing, a completed child support guidelines worksheet and copies of your last three pay stubs or, if self-employed, proof of your current income."

- (6) All post-decree matters regarding modification of child support shall be submitted with a child support worksheet, documentation of all year to date gross income from all sources, the most recently filed federal and state income tax returns, verification of the cost of health insurance for the child(ren) only, and verification of child care expenses. The responding party is to similarly file financial information. All parties shall exchange said information 10 days prior to the hearing. In addition counsel shall certify, prior to any hearing being held, that reasonable efforts were made to resolve the issues in dispute.

IV. Domestic Violence.

FCRPP 10. Issuance of Summons.

The proposed new rule FCRPP 10 shall read:

- (1) If an emergency protective order is not issued due to an insufficient relationship as identified in KRS 403.720(2) and (3), or for failure to state an act or threat of domestic violence between the parties, the finding of the insufficient relationship or failure to state an act or threat of domestic violence shall be noted on the petition by the judge, and no summons shall be issued.
- (2) If the relationship is one recognized under KRS 403.720(2) and (3) and there is a finding of domestic violence and abuse and a finding of immediate and present danger, an emergency protective order shall be issued.
- (3) If there is no finding of an immediate and present danger of domestic violence and abuse, when the relationship is one recognized under KRS 403.720(2) and (3), a summons shall be issued and a hearing shall be held to determine if a domestic violence order should be issued. Any finding at the hearing shall constitute an appealable order.

FCRPP 11. Contempt Proceedings.

The proposed new rule FCRPP 11 shall read:

- (1) No petitioner shall be held in contempt for failure to appear at a domestic violence hearing or for failing to prosecute a civil or criminal contempt violation of a protective order except for good cause shown on the record. Failure to appear may result in denial of the petition.
- (2) When the court conducts contempt proceedings in domestic violence actions, the party subject to contempt shall be represented by counsel and an attorney shall be appointed by the court if the party qualifies as an indigent.

FCRPP 12. Reissuance of Emergency Protective Order Upon Transfer to Another Circuit.

The proposed new rule FCRPP 12 shall read:

When the local domestic violence protocol requires that a case be transferred to another circuit due to a pending dissolution case, an emergency protective order shall be re-issued by the initiating court pursuant to KRS 403.740 (4), for a period not to exceed 14 days if service has not been made on the adverse party by the date of transfer, or as the court determines is necessary for the protection of the petitioner. Thereafter, reissuance shall occur as needed in the court of transfer.

FCRPP 13. Domestic Violence Protocols.

The proposed new rule FCRPP 13 shall read:

- (1) Domestic violence cases shall be conducted according to the local domestic violence protocol.
- (2) The court shall not limit or restrict a victim's access to seek a protective order for domestic violence.
- (3) The court shall provide 24-hour access to protection from domestic violence.
- (4) Domestic violence cases shall retain the domestic violence case file number even if heard with another matter.
- (5) The court shall establish schedules for domestic violence hearings and shall provide them to anyone authorized to verify domestic violence petitions.
- (6) The court shall inform the respondent regarding the purchase of a firearm, and the surrender of same, in compliance with 18 U.S.C. Section 922(g)(8), during the pendency of an emergency protective order or domestic violence order, and shall inform the respondent regarding the confiscation, retention and return of firearms.

V. Paternity Actions.

FCRPP 14. Paternity Reopenings.

The proposed new rule FCRPP 14 shall read:

- (1) A fee of \$50.00 shall be paid by the movant in paternity cases reopened after six (6) months from the entry of the paternity judgment for the purpose of modifying any support, custody or visitation ordered. The clerk shall collect the fee upon the filing of the motion, unless the movant is proceeding in forma pauperis.
- (2) Nothing in Rule 14(1) above shall preclude the district court from declining jurisdiction on custody, visitation or support and referring the action to the circuit court; or an action for custody, visitation or support from being filed by a party after a judgment of paternity in district court.
- (3) In family court jurisdictions nothing in Rule 14(1) above shall preclude the family court judge from transferring the custody, visitation and support matters in a paternity action to the custody, visitation and support docket. Such a transfer shall require the appropriate filing fee, unless the movant is proceeding in forma pauperis.

FCRPP 15. Genetic Testing.

The proposed new rule FCRPP 15 shall read:

In a paternity action, the court may order the mother, child and the putative father to submit to genetic tests as follows:

- (1) In a case in which paternity is denied or in which the parties request genetic testing, on motion made by any party, a pretrial order shall be entered by the court forthwith which requires both parties and the child to submit to genetic tests in accordance with KRS 406.081 and 406.091.
- (2) Within 30 days of receipt of the genetic report, the petitioner shall file the original report with the court in support of a motion to dismiss, a motion for trial or a motion for summary judgment.
- (3) In those cases in which the genetic test report excludes the defendant from the paternity of the child, the court, after the expiration of 30 days from the date of the filing of the exclusionary report, shall

enter an order of dismissal in favor of the defendant unless a motion for additional testing pursuant to KRS 406.091 is filed prior to the expiration of the 30 days.

VI. Dependency, Neglect or Abuse.

FCRPP 16. Orders in Dependency Neglect or Abuse Actions.

The proposed new rule FCRPP 16 shall read:

To the extent not otherwise specified, any order entered in a dependency or neglect or abuse action shall be on the appropriate Administrative Office of the Courts forms approved by the Supreme Court.

FCRPP 17. Judicial Deference.

The proposed new rule FCRPP 17 shall read:

In making any determinations with regard to a child in a dependency or neglect or abuse action, the court may consider the findings of fact and court orders from any other court proceeding in any other court file involving the child or the child's parents or the person exercising custodial control or supervision, if the court is aware of such proceedings.

FCRPP 18. Service.

The proposed new rule FCRPP 18 shall read:

- (1) A copy of the petition and summons, and an emergency custody order, if any, shall be served upon parents or persons exercising custodial control or supervision or who has been awarded legal custody by a court or claims a right to legal custody under the law of this state. It may be served by any person authorized to serve process except the state child protective service agency.
- (2) A notice and statement of the rights and a blank affidavit of indigency, utilizing AOC-DNA-2.2, Notice of Emergency Removal, and AOC-DNA-11, Financial Statement, Affidavit of Indigency, Request for Counsel and Order, shall be served with the emergency custody order.

FCRPP 19. Emergency Custody Orders.

The proposed new rule FCRPP 19 shall read:

- (1) Any request for an emergency custody order shall be in writing and shall be accompanied by an AOC-DNA-2.1, Affidavit for Emergency Custody Order, alleging dependency, or neglect or abuse, and shall be presented to the judge with any other documentation presented at the time of the filing of the request.
- (2) Any interested party shall indicate on the affidavit whether there are other proceedings pending, or any orders of custody, related to the child in the commonwealth or any other state.
- (3) The emergency custody order shall be on AOC-DNA-2, Emergency Custody Order. In no event shall a child be removed pursuant to KRS 620.060 only on a verbal order.
 - (a) Upon entry of an emergency custody order by the judge, any interested party shall file the emergency custody order and the affidavit with the clerk no later than the close of the next working day, excluding weekends and holidays, and the clerk shall assign a case number.
 - (b) If not filed with the emergency custody order, a petition shall be filed with the clerk within 72 hours of taking the child into custody in the same case file as the emergency custody order and affidavit.
 - (c) The court may, after issuing an emergency custody order, transfer the case for forum non conveniens to the county where the dependency, abuse or neglect is alleged to have

occurred and shall notify the court to which the case is being transferred, upon issuance of the transfer order.

FCRPP 20. Petition.

The proposed new rule FCRPP 20 shall read:

- (1) A petition pursuant to KRS Chapter 620 shall be filed on AOC-DNA-1, Dependency Neglect or Abuse Petition. In proceedings involving siblings, separate petitions shall be filed for each child and individual case numbers shall be assigned by the clerk of the court, but all siblings' files shall be assigned to the same judge.
- (2) When a petition is filed a copy shall be mailed or provided by the clerk to the parents or other person exercising custodial control or supervision, the state child protective service agency, the county attorney, the guardian *ad litem*, and any counsel of record, no later than the business day following the filing of the petition.

FCRPP 21. Notice of Temporary Removal Hearing.

The proposed new rule FCRPP 21 shall read:

- (1) The clerk shall provide notification of the temporary removal hearing to the parents or other person exercising custodial control or supervision, county attorney, the state child protective service agency and the guardian *ad litem* and any counsel of record.
- (2) The order entered at the hearing shall be on AOC-DNA-3, Order Temporary Removal Hearing.

FCRPP 22. Orders from Hearings.

The proposed new rule FCRPP 22 shall read:

- (1) Adjudication Hearing.
The order entered at the hearing shall be on AOC-DNA-4, Order Adjudication Hearing.
- (2) Disposition Hearing.
The order entered at the hearing shall be on AOC-DNA-5, Order Disposition Hearing.
- (3) Permanency Hearing.
The order entered at the hearing shall be on AOC-DNA-6, Order Disposition Hearing.
- (4) Permanent Custody Order.
Any order of permanent custody entered pursuant to KRS 620.027 shall be on AOC-DNA-9, Order Permanent Custody.

FCRPP 23. Continuances.

The proposed new rule FCRPP 23 shall read:

If the court grants an extension of time or a continuance it shall make written or oral findings on the record that the continuance is necessary in the best interest of the child, for accumulation or presentation of evidence or witnesses, to protect the rights of a party, or for other good cause shown.

FCRPP 24. Dismissal.

The proposed new rule FCRPP 24 shall read:

Once filed, a petition shall be dismissed only upon court order.

FCRPP 25. Transfer.

The proposed new rule FCRPP 25 shall read:

Cases shall not be transferred from one county to another prior to adjudication except on a specific finding of improper venue or forum non-conviens.

FCRPP 26. Appearances.

The proposed new rule FCRPP 26 shall read:

Any attorney appearing on behalf of a party shall file a written entry of appearance. An attorney shall not withdraw from representation except upon motion to withdraw granted by the court.

FCRPP 27. Records and Transcripts.

The proposed new rule FCRPP 27 shall read:

- (1) An electronic or stenographic record of interviews with children, including a recording of any in-chambers proceedings, shall be filed under seal with the clerk and may be made available to the parties or their counsel on motion and written order of the court.
- (2) In courts that have more than one county in their jurisdiction any recordings made in a county other than where the action is filed shall be delivered to the clerk of the county where the action is filed by the court ordering the hearing.

FCRPP 28. Reports.

The proposed new rule FCRPP 28 shall read:

The court shall require delivery of a dispositional report three days prior to a dispositional hearing which shall contain the information listed on AOC-DNA-12, Dependency Neglect or Abuse Dispositional Report.

FCRPP 29. Case Plan.

The proposed new rule FCRPP 29 shall read:

The court shall require the out-of-home case plan to be filed in the record for any child in the court record.

- (1) Visitation Agreements for Child.
The court shall require any visitation agreement set out in the state child protective agency case plan or the case permanency plan to be filed in the record and provided to all parties.
- (2) Prevention Plan.
The court shall require any prevention plan established by the state child protective service agency to be filed in the record and provided to all parties.

FCRPP 30. Permanent Placement Review.

The proposed new rule FCRPP 30 shall read:

The court shall conduct a permanency progress review for a child who is under 16 years of age at the time that a petition for dependency or neglect or abuse is filed, not later than six months after the child is placed in foster care, in the home of a non-custodial parent, or other person or agency.

FCRPP 31. New Action.

The proposed new rule FCRPP 31 shall read:

Any new allegation or request for removal after a child has achieved permanency shall be filed as a new action.

Adoption and Termination of Parental Rights.

FCRPP 32. Venue and Petition.

The proposed new rule FCRPP 32 shall read:

(1) Venue.

A proceeding under KRS Chapter 625 shall be filed in the same county, and shall be assigned to the same family court division, if any, which previously heard any action pursuant to KRS Chapter 620.

(2) Petition.

- (a) A separate petition shall be filed for each child and individual case numbers shall be assigned by the clerk of the court in proceedings filed pursuant to KRS Chapter 625, and in the case of siblings, shall be heard by the same judge.
- (b) Every petition in an adoption or termination of parental rights action shall include the case number of any underlying juvenile case, specifically dependency, neglect or abuse or termination of parental rights cases, and shall include the name of any guardian *ad litem* previously appointed.

FCRPP 33. Adoption.

The proposed new rule FCRPP 33 shall read:

- (1) No request for final hearing shall be made prior to the filing of the state child protective service agency report pursuant to KRS 199.510, and the guardian *ad litem* report, if any, pursuant to KRS 199.515.
- (2) In the event of an uncontested adoption, a hearing shall be held within 30 days of the filing of a request for a final hearing.
- (3) A continuance of any final hearing date shall not be granted except upon good cause shown.

FCRPP 34. Involuntary Termination.

The proposed new rule FCRPP 34 shall read:

- (1) Immediately upon the filing of any petition for involuntary termination of parental rights, the petitioner shall obtain a pretrial date. In the event the parents are not served prior to the pretrial date, the pretrial date shall be used as a case status review to expedite the proceeding.
- (2) A continuance of any final hearing date shall not be granted except upon good cause shown.

FCRPP 35. Orders Terminating Parental Rights.

The proposed new rule FCRPP 35 shall read:

The clerk of the court shall send two certified copies of the order terminating parental rights to the state child protective agency. The prospective adoptive parent or his or her attorney, if any, may obtain a certified copy of the order terminating parental rights from the state child protective agency to attach to the adoption petition.

FCRPP 36. Post-Termination of Parental Rights Review.

The proposed new rule FCRPP 36 shall read:

If an order terminating parental rights is entered, there shall be a review hearing conducted 90 days from the date of the entry of the order of termination of parental rights and at least annually thereafter for the purpose of reviewing progress toward finalization of placement or adoption for the child.

VIII. Status Offenders.

FCRPP 37. Review.

The proposed new rule FCRPP 37 shall read:

At any time during a status offense action, the court on its own motion, or on motion of any interested person, may determine whether a status matter is more appropriate as a KRS Chapter 620 proceeding. A referral may be made to the state child protective service agency, or upon motion, the court may amend the petition pursuant to KRS 610.010(13) and order it served, or a new petition may be filed.

FCRPP 38. Interstate Compact on Placement of Children.

The proposed new rule FCRPP 38 shall read:

Pursuant to KRS Chapter 615, the child shall be presented forthwith to the court without formal petition. The court shall utilize the forms provided pursuant to the Interstate Compact.

FCRPP 39. Diversion.

The proposed new rule FCRPP 39 shall read:

Pursuant to KRS 610.030, if the court designated worker determines that a status offense complaint meets the criteria for diversion and a diversion agreement is reached, a petition shall not be filed. The court on its own motion, should diversion fail, may order a petition to be filed; or upon written request, the county attorney may refer a complaint for formal hearing.

FCRPP 40. Petition.

The proposed new rule FCRPP 40 shall read:

- (1) Every petition shall be accompanied by the AOC-JW-40, Preliminary Inquiry Formal/Informal Processing Criteria and Recommendations; and where diversion has been attempted pursuant to KRS 630.050, shall also include an AOC-40.1, Unsuccessful Diversion Agreement, which includes preliminary intake inquiry findings.
- (2) A habitual truancy petition shall be accompanied by AOC-41, Affidavit and Truancy Evaluation Form in compliance with KRS 159.140.
- (3) A beyond control of school petition shall be accompanied by AOC-38.1, Affidavit and Beyond Control of School Evaluation Form.
- (4) A beyond control of parent petition shall be accompanied by AOC-38, Affidavit and Beyond Control of Parent Evaluation Form.
- (5) A habitual runaway petition shall be accompanied by the AOC-JW-39, Pre-Adjudicative Detention Criteria, with attachments.

FCRPP 41. Summons.

The proposed new rule FCRPP 41 shall read:

Upon the filing of the petition, the clerk shall issue a summons to the parent(s) or other person exercising custodial control or supervision of the child, setting a date for initial appearance as directed by the presiding judge.

FCRPP 42. Proceedings.

The proposed new rule FCRPP 42 shall read:

- (1) Pursuant to KRS 610.060, the judge shall explain to the child on the record his or her rights and the charge, and shall utilize AOC-49, Notice of Juvenile Rights and Consequences for Status Offenders.
- (2) A public advocate shall be appointed for the child unless otherwise waived on the record by obtaining private counsel. The court may

place the child on terms which address the child's alleged behavior(s), and may order participation in a service, program or local resource to address the problem.

- (3) For disposition, the court shall utilize, AOC-JV-36, Juvenile Status Offender Order, to order terms, services, programs and/or resources to address the needs of the child and family pursuant to KRS 630.120(5). These orders may not require an involuntary drug screen of the parent(s) or other person exercising custodial control or supervision in the status offense case. The court may also adopt recommendations in the dispositional report. For a child who is committed to the state child protective service agency, the court shall also utilize the AOC-JV-31, Juvenile Status or Delinquency Disposition.

FCRPP 43. Informal Adjustments.

The proposed new rule FCRPP 43 shall read:

- (1) For any status offender petition resolved by an informal adjustment as defined by KRS 600.020(31), unless explicitly stated otherwise, the terms of the informal adjustment shall remain in effect for a period not to exceed one year or until the child's eighteenth birthday, whichever comes first.
- (2) On notice of a violation of the terms of an informal adjustment to the county attorney, and motion filed with the court and noticed to the interested parties, the court shall re-docket the case, set aside the informal adjustment, and reinstate the original petition upon a showing that the violation could not be remedied without court intervention.
- (3) In the event that the alleged violation of the terms of the informal adjustment would constitute grounds for an original petition the county attorney may move to file an amended petition or file a new petition after consulting with the case worker and the family involved.

FCRPP 44. Detention of Status Offenders.

The proposed new rule FCRPP 44 shall read:

- (1) Pursuant to KRS 630.100, no status offender shall be placed in secure detention unless:
- The offender is alleged to be an habitual runaway; or
 - The offender is alleged to be in contempt of a valid court order entered on AOC-JV-36, Juvenile Status Offender Order; or a finding of contempt of court has been entered in a formal court proceeding and a valid court order has been entered on AOC-JV-36, Juvenile Status Offender Order.
- (2) Any status offender appearing before the court shall be provided a public advocate or shall be provided the opportunity to retain private counsel.
- (3) Release of a child in detention to non-secure alternatives may be to:
- The child's parents or legal guardians; or
 - The state child protective service agency if the child is committed to that agency; or
 - The state juvenile justice agency for alternative detention services, if the child qualifies for such a placement; or
 - A non-secure crisis or other mental health unit/facility.
- (4) If the parents or legal guardians are unavailable or unwilling to accept the child and there is no other alternative under Section C. above:
- Another responsible adult relative or other interested adult with an established relationship with the child, including the person who may have been exercising custodial control or supervision but does not have actual legal custody, shall be

contacted as directed by the presiding judge and the child released to his/her care; or

- The child shall be placed in an alternative placement, with possible referral to the state child protective service agency.

- (5) No child shall be detained for more than twenty-four (24) hours in secure detention without a hearing before the court within that twenty-four (24) hour period of the detainment, exclusive of weekends and holidays. Each court shall establish a local protocol to assure that the hearing is scheduled within twenty-four (24) hours, exclusive of weekends and holidays.
- (6) A judge shall conduct a due process hearing prior to detaining a child in a secure detention facility for contempt and shall consider any alternatives to a secure detention placement, and other alternatives identified in agency reports submitted within 48 hours pursuant to KRS 610.265(3)(d)(3). If the court has determined by findings on the record that no less restrictive alternatives are available or appropriate, then the child may be securely detained. Any such court order shall indicate the length of detainment.

IX. Appendix A Standard Time-Sharing/Visitation Guidelines

The proposed new Appendix A shall read:

Appendix A

Standard Time-Sharing/Visitation Guidelines

The following schedules are suggested as **guidelines** for the parents and the court in establishing time-sharing/visitation schedules. Each case will present unique facts or circumstances which shall be considered by the court in establishing a time-sharing/visitation schedule and **the final schedule established by the court or agreed to by the parents may or may not be what these guidelines suggest.**

- The time-sharing/visitation schedule set by the court for holidays, school breaks and summer break should control over regularly scheduled time-sharing/visitation time, even if this allows successive time-sharing/visitation periods.
- The parent exercising time-sharing/visitation should be responsible for timely picking up the child(ren) at the beginning of the time-sharing/visitation period and returning the child(ren) in a timely manner at the end of the time-sharing/visitation period.
- Times in a time-sharing/visitation schedule should be set in the time zone where the child primarily resides.
- For time-sharing/visitation times pertaining to school holidays, whether in a formal school or home-schooled, the school holidays where the child(ren) primarily resides should apply.
- Each parent should provide to the other parent contact numbers and addresses (unless a domestic violence order is in effect) where the child(ren) can be located during their scheduled time-sharing/visitation time.
- The parent exercising time-sharing/visitation should be given a minimum of every other weekend as time-sharing/visitation time with the child(ren) and one midweek overnight time-sharing/visitation. The parent having such time-sharing/visitation should be responsible for delivering the child(ren) to school, child care, or the other parent's home as specifically ordered by the court or agreed to by the parents.
- Holidays.
 - If a holiday is celebrated on a Monday following a parent's regularly scheduled time-sharing/visitation, then that parent should be permitted to extend parenting time until 6:00 p.m. on the holiday, unless the parents agree otherwise.
 - Other holidays.
 - Parent exercising time-sharing/visitation.
 - During the first full year after divorce/custody proceedings have been filed, the non-residential parent should have time-sharing/visitation scheduled as follows:

- a) New Year's Day and July 4th from 8:00 a.m. until 6:00 p.m.
 - b) Thanksgiving, beginning at 6:00 p.m. the day school ends until 3:00 p.m. Thanksgiving Day.
 - c) Christmas/Winter Break, beginning at 6:00 p.m. the day school ends until noon on December 25.
 - d) Holidays not listed that are of special interest to the family should be assigned to the non-residential parent in time amounts similar to those in a), b) and c) above.
- 2) Holiday time not scheduled above to the parent exercising time-sharing/visitation should be with the other parent.
 - 3) Mother's Day and Father's Day, regardless of any conflict with the above proposed schedule, should be spent with the appropriate parent from 8:00 a.m. until 6:00 p.m.
 - 4) Fall Break or Spring Break, as allowed by the child(ren)'s school calendar, should be scheduled for the parent with whom the child(ren) primarily resides in the first full year after the divorce/custody proceedings are filed from 6:00 p.m. the day school ends until 6:00 p.m. the following Friday. If school breaks are longer than one week due to the school schedule, the parent with whom the child(ren) primarily resides should be scheduled for the first half of the break and the other parent should be scheduled for the last half.
 - 5) Summer Break should be scheduled to allow the parent exercising time-sharing/visitation a minimum of two periods of two consecutive weeks during the Summer Break. Each parent should provide the time periods he or she desires to the other parent before the end of the school year, or at least 60 days in advance of the requested time. If a child(ren) must attend summer school in order to pass to the next grade, summer time-sharing/visitation should not prevent school time.
 - 6) Birthdays: Unless the birthday falls on a regularly scheduled time-sharing/visitation day, the parent exercising time-sharing/visitation should be scheduled for birthday time from 5:00 p.m. until 8:00 p.m. If it is a regular day of the parent exercising time-sharing/visitation where the child(ren) does not primarily reside, the other parent should have birthday time from 5:00 p.m. until 8:00 p.m.
- (ii) Alternating years: For each year thereafter, the time-sharing/visitation set out above should alternate between the parent with whom the child(ren) primarily resides and the parent exercising time-sharing/visitation.

8. Waiting/Tardiness/Cancellations.

- a. In the event either parent will be more than 30 minutes late, due to reasonable unforeseen circumstances, to pick up the child(ren), he or she should provide direct notice to the other parent or a designated third party and make suitable arrangements for exchange of the child(ren).
- b. If time-sharing/visitation is missed through no fault of the parent, and reasonable notice has been given, that time should be made up, if reasonable to do so.
- c. If the child(ren) is ill, the parent who has the child should give 24-hour notice, if possible, to allow for appropriate plans to be made.

9. Transportation: The parents should transport the child(ren) in a safe manner, which includes utilizing the appropriate child restraint systems and not driving under the influence of intoxicants.

X. Proposed New Forms Relating To New Family Court Rules of Procedure and Practice (FCRPP)

New Form AOC-237 Status Quo Orders

The proposed new form AOC-237 shall read:

See Attachment.

New Form AOC-238 Preliminary Verified Disclosure Statement

The proposed new form AOC-238 shall read:

See Attachment.

New Form AOC-239 Final Verified Disclosure Statement

The proposed new form AOC-239 shall read:

See Attachment.

New Form AOC-DNA-12 Dependency, Neglect or Abuse Pre-Dispositional Investigation Report

The proposed new form AOC-DNA-12 shall read:

See Attachment.

New Form AOC-JV-38 Affidavit and Beyond Control of Parent Evaluation

The proposed new form AOC-JV-38.1 shall read:

See Attachment.

New Form AOC-JV-38.1 Affidavit and Beyond Control of School Evaluation

The proposed new form AOC-JV-38.1 shall read:

See Attachment.

New Form AOC-JV-41 Affidavit and Truancy Evaluation

The proposed new form AOC-JV-41 shall read:

See Attachment.

New Form AOC-JV-49 Notice of Juvenile Rights and Consequences for Status Offenders

The proposed new form AOC-JV-49 shall read:

See Attachment.

New Form AOC-JW-40.1 Unsuccessful Diversion Agreement

The proposed new form AOC-JW-40.1 shall read:

See Attachment.

XI. Proposed Revised Forms Relating To New Family Court Rules of Procedure and Practice (FCRPP)

Revised Form AOC-275.1 Domestic Violence Petition/Motion

The proposed revised form AOC-275.1 shall read:

See Attachment.

Revised Form AOC-275.2 Emergency Order for Protection and Summons

The proposed revised form AOC-275.2 shall read:

See Attachment.

Revised Form AOC-275.3 Order of Protection (DVO/Amended DV Order)

The proposed revised form AOC-275.3 shall read:

See Attachment.

Revised Form AOC-JV-36 Juvenile Status Offender Order

The proposed revised form AOC-JV-36 shall read:

See Attachment.

Revised Form AOC-JW-39 Pre-Adjudicative Detention Criteria

The proposed revised form AOC-JW-39 shall read:

See Attachment.

XII. Forms Mandated by the New Family Court Rules of Procedure and Practice (FCRPP)

Mandated Form AOC-151 Wage/Benefit Withholding Order for Kentucky Employers

The mandated form AOC-151 shall read:

See Attachment.

Mandated Form AOC-152 Uniform Child Support Order

The mandated form AOC-152 shall read:

See Attachment.

Mandated Form AOC-DNA-1 Dependency, Neglect or Abuse Petition

The mandated form AOC-DNA-1 shall read:

See Attachment.

Mandated Form AOC-DNA-2 Emergency Custody Order

The mandated form AOC-DNA-2 shall read:

See Attachment.

Mandated Form AOC-DNA-2.1 Affidavit for Emergency Custody Order

The mandated form AOC-DNA-2.1 shall read:

See Attachment.

Mandated Form AOC-DNA-2.2 Notice of Emergency Removal

The mandated form AOC-DNA-2.2 shall read:

See Attachment.

Mandated Form AOC-DNA-3 Order Temporary Removal Hearing

The mandated form AOC-DNA-3 shall read:

See Attachment.

Mandated Form AOC-DNA-4 Order Adjudication Hearing

The mandated form AOC-DNA-4 shall read:

See Attachment.

Mandated Form AOC-DNA-5 Order Disposition Hearing

The mandated form AOC-DNA-5 shall read:

See Attachment.

Mandated Form AOC-DNA-6 Order Permanency Hearing

The mandated form AOC-DNA-6 shall read:

See Attachment.

Mandated Form AOC-DNA-9 Order Permanent Custody

The mandated form AOC-DNA-9 shall read:

See Attachment.

Mandated Form AOC-DNA-11 Financial Statement, Affidavit of Indigence, Request for Counsel and Other

The mandated form AOC-DNA-11 shall read:

See Attachment.

Mandated Form AOC-JV-31 Juvenile Status or Delinquency Disposition

The mandated form AOC-JV-31 shall read:

See Attachment.

Mandated Form AOC-JW-40 Preliminary Inquiry Formal/Informal Processing Criteria and Recommendations

The mandated form AOC-JW-4 shall read:

See Attachment.



Status Quo Order

Case No. _____
Court _____
County _____

Petitioner

vs.
Respondent

IT IS HEREBY ORDERED:

Except as shall be necessary to pay reasonable living expenses, neither party shall sell, encumber, gift, bequeath or in any manner transfer, convey or dissipate any property, cash, stocks or other assets currently in their possession or control of another person, company, legal entity or family member without an order of the Court or an agreed order signed by both parties or their attorneys.

Neither party shall cancel any health, life, automobile, casualty or disability insurance currently covering themselves or a family member or change the named beneficiaries on such policies prior to receiving permission of the court to do so or filing an agreed order signed by both parties or their attorneys.

Other Orders: _____

Date _____, 20____ Judge _____

**DRAFT
NOT APPROVED
FOR USE**

Distribution: Court File
Petitioner/Attorney for Petitioner
Respondent/Attorney for Respondent



**PRELIMINARY VERIFIED
DISCLOSURE STATEMENT**

Case No. _____
Court _____
County _____

IN RE THE MARRIAGE OF:

**DRAFT
NOT APPROVED
FOR USE**

PETITIONER

RESPONDENT

Petitioner Respondent submits under oath the following Preliminary Verified Disclosure Statement pursuant to _____ which requires full and prompt disclosure of the following information:

NOTE: A RESPONSE OF "SEE ATTACHED" IS NOT APPROPRIATE FOR ANY PORTION OF THIS STATEMENT. ATTACH DOCUMENTS REQUESTED HEREIN ONLY.

A. BACKGROUND INFORMATION:

1. Name: _____ Maiden Name: _____
2. Current Address: _____

3. Date of Birth: _____ State of Birth: _____
4. Number of Prior Marriages: _____ How Each Terminated: _____
5. Minor Children From Prior Marriages:
Name _____ Date of Birth _____ Residing With _____

6. Date of Marriage: _____ Where License Obtained: _____
7. Date of Separation: _____
8. Children of This Marriage: _____
Name _____ Date of Birth _____ Residing With _____

9. Have You Attended the Parents Education Clinic? _____ When: _____
10. Have Children in Grades 1-5 Attended Kids Time? _____ When: _____

D. CHILD SUPPORT GUIDELINE INFORMATION:

1. Medical Insurance:
Who pays: _____
How paid: _____
How Much for Child(ren) Only: _____
2. Dental Insurance:
Who pays: _____
How paid: _____
How Much for Child(ren) Only: _____
3. Child Care Costs:
Who Provides: _____
How Often is Provider Paid: _____
Name of Provider: _____
How Much Paid: _____
4. Amt. Paid for Court Ordered Child Support for Prior Born Child(ren): _____
5. Amt. Paid for Court Ordered Maintenance for Prior Marriage(s): _____
6. Imputed Child Support for Prior Born Child(ren): _____
7. Child Support Received for Child not of this Marriage: _____
8. Maintenance Received from Prior Marriage: _____

E. NONMARITAL PROPERTY CLAIMS:

List all property, real or personal, tangible or intangible, of greater than \$100.00 in value, which you claim to be either entirely or partially your nonmarital property.

Item 1--Specify item: _____

Fair Market Value at Date of Marriage: _____

Debt Balance on Item at Date of Marriage: _____

Current Debt Balance on Item: _____

Current Fair Market Value: _____

Basis for your Claim Item is Nonmarital: _____

Nonmarital Value of Item: _____

Item 2--Specify item _____

Fair Market Value at Date of Marriage: _____

Debt Balance on Item at Date of Marriage: _____

Current Debt Balance on Item: _____

Current Fair Market Value: _____

Basis for your Claim Item is Nonmarital: _____

Nonmarital Value of Item: _____

F. MARITAL PROPERTY:

1. Real Property:

Address	Fair Market Value	Mortgage(s) Balance	% Interest

2. Vehicles, Motorcycles, Boats, Trailers, Equipment, etc.:

Year/Make/Model/Type	Fair Market Value	Loan Balance

3. Bank Accounts*

Bank and Type of Account	Balance

4. Investments (Stocks, Bonds, Mutual Funds, Stock Options, etc.):*

Type and Location of Investment	# of shares	Fair Market Value

5. Life Insurance*:

Co. and Type of Policy	Insured	Cash Surrender Value	Loan Balance

* Bank statements, canceled checks, registers, carbon copies of checks, deposit tickets, periodic statements from investments, statements on life insurance, periodic statements from retirement plans, periodic statements reflecting assets held in name of or on behalf of children, and documents reflecting debits and credit card statements for past 12 months should be in possession of answering party or answering party's attorney when this statement is served on the opposing party.

6. Assets Held in Name of/on Behalf of Children*

Type & Name of Account	Balance or Value

7. Retirement Plans (Pensions, 401(k), Tax Deferred Savings, IRAs, etc.):*

Type and Name of Plan	Plan Administrator	Balance or Value

Interests in/Ownership of Business: Location of Business, Business Name & Address	% and Type of Business	Tax Returns & Financial Documents

Household Property in Dispute: Item	Location	Fair Market Value	Loan Balance

* Bank statements, canceled checks, registers, carbon copies of checks, deposit tickets, periodic statements from investments, statements on life insurance, periodic statements from retirement plans, periodic statements reflecting assets held in name of or on behalf of children, and documents reflecting debts and credit card statements for past 12 months should be in possession of answering party or answering party's attorney when this statement is served on the opposing party.

Safety Deposit Box?	Yes	No	Contents	Value	Date of Last Visit

11. Other Property - (specify item and value):
 Jewelry: _____
 Furs: _____
 Antiques: _____
 Art: _____
 Collections: _____
 Country Club Memberships: _____
 Season Tickets: _____
 Income Tax Refunds Expected: _____
 Frequent Flyer Miles: _____
 Accounts Receivables/Loans: _____
 Claims Against Others: _____
 Accrued Vacation Pay: _____
 Others: _____

G. DEBTS*:

Creditor	Purpose/Security	Balance	Monthly Pmt.

* Bank statements, canceled checks, registers, carbon copies of checks, deposit tickets, periodic statements from investments, statements on life insurance, periodic statements from retirement plans, periodic statements reflecting assets held in name of or on behalf of children, and documents reflecting debts and credit card statements for past 12 months should be in possession of answering party or answering party's attorney when this statement is served on the opposing party.

H. MONTHLY EXPENSES (Specify amounts):

	Actual	Anticipated
Rent:		
Mortgage:		
Property Tax:		
Homeowner's/Renter's Insurance:		
House Maintenance:		
Electric Utilities:		
Fuel, Oil, Gas Utilities:		
Telephone:		
Cellular Phone:		
Water and Sewer:		
Garbage Pickup:		
Yard Expense:		
Cleaning Service:		
Child Care/Babysitter:		
Cable Television:		
Car Payments/Lease Payments:		
Auto Gas and Oil:		
Car Maintenance and Repairs:		
Car Licenses/Taxes		
Car Insurance:		
Religious/Charitable Contributions:		
Clothing:		
Uniforms:		
Dry Cleaners:		
Entertainment:		
Gifts:		
Food:		
Doctor:		
Dentist:		
Orthodontist:		
Prescriptions/Drugs/Medicines:		
Optometrist/Ophthalmologist/Eyeglasses:		
Medical/Dental Insurance (not deducted from pay):		
Life Insurance (not deducted from pay):		
Disability Insurance (not deducted from pay):		
Newspaper:		
Magazine Subscriptions:		
Veterinarian/Pet Food:		

Professional Dues/Club Memberships:
Social Clubs:

Barber/Beauty Shop:
Tuition/School Expenses:

State/Federal/Local Taxes Not Withheld:
Child support paid for prior born child

Child support for child of marriage
Maintenance paid to prior spouse

Maintenance paid to current spouse
Athletic and Activity Fees (list)

Debit payments (list)

Other Monthly Expenses (list)

TOTAL MONTHLY EXPENSES

\$ _____ \$ _____

Petitioner Respondent states that the above information is true and correct to the best of my knowledge and belief, and that it results from a diligent, good faith effort to ascertain the information sought herein, based upon information and documents available to me and/or within my possession or control. All documents upon which this information is based and the documents requested herein have been produced and are currently in the office of my counsel.

Petitioner Respondent

STATE OF KENTUCKY }
COUNTY OF _____ } SCT.

Subscribed and sworn to before me by _____, on this the _____ day of _____, 20____.

My commission expires: _____
Notary Public, _____

CERTIFICATE OF SERVICE

This is to certify that the foregoing Preliminary Verified Disclosure Statement was mailed hand-delivered to counsel for Petitioner Respondent on this the _____ day of _____, and documents requested and supporting the information set forth herein are currently available at the undersigned's office or are in the undersigned's possession and are available for inspection and copying at the requesting party's expense.

ATTORNEY FOR PETITIONER RESPONDENT
or PETITIONER RESPONDENT

AOC-239 Doc. Code:
Rev. 4-10
Page 1 of 7
Commonwealth of Kentucky
Court of Justice www.courts.ky.gov



**FINAL VERIFIED
DISCLOSURE STATEMENT**

**DRAFT
NOT APPROVED
FOR USE**

IN RE THE MARRIAGE OF:

_____ PETITIONER

VS.

_____ RESPONDENT

Petitioner Respondent submits under oath the following Preliminary Verified Disclosure Statement pursuant to _____ which requires full and prompt disclosure of the following information:

A. EMPLOYMENT INFORMATION:

1. Current Employer: _____
Address: _____

Length of Employment: _____
Present Position: _____
How Often Paid: _____
Gross Pay Per Pay Period (including overtime): _____
Net Pay Per Pay Period (including overtime): _____

2. Other/Additional Employer: _____
Address: _____

Length of Employment: _____
Present Position: _____
How Often Paid: _____
Gross Pay Per Pay Period (including overtime): _____
Net Pay Per Pay Period (including overtime): _____

3. Self-Employment: _____
Name of Business: _____
Type of Business: _____
Address: _____

Length of Self-Employment: _____
Present Position: _____
Gross Income Year to Date: _____

Ordinary and Necessary Business Expenses Year to Date (list and give totals):

Gross Income Last Year from Self-Employment: _____

Net Income Last Year from Self-Employment: _____

ATTACH COPIES OF LAST THREE PAY STUBS FROM EACH EMPLOYER, LAST YEAR'S W-2(S) AND LAST THREE STATE AND FEDERAL TAX RETURNS.

B. ADDITIONAL INCOME RECEIVED IN LAST 12 MONTHS (Specify amounts):

	Amount
1. Employment Benefits:	
Commissions:	_____
Bonuses, incentives, etc.:	_____
Health insurance paid by employer	_____
Housing expenses:	_____
Automobile expenses:	_____
Payment/lease:	_____
Mileage:	_____
Repairs:	_____
Gas:	_____
Insurance:	_____
Phone/Mobile phone expenses:	_____
Meals or allowance:	_____
Club dues:	_____
Others (list all and specify amount or value):	_____
2. Interest and Dividends:	
Source	_____
_____	_____
_____	_____
3. Unemployment:	
4. Worker's Compensation:	
5. Social Security/SSI:	
6. AFDC:	
7. Child Support:	
8. Maintenance:	
9. Retirement Benefits:	
10. Others (list all and give amounts):	
_____	_____
_____	_____
_____	_____
_____	_____

C. CHILD SUPPORT GUIDELINE INFORMATION:

- Medical Insurance: _____
 Who pays: _____
 How paid: _____
 How Much for Child(ren) Only: _____
- Dental Insurance: _____
 Who pays: _____
 How paid: _____
 How Much for Child(ren) Only: _____
- Child Care Costs: _____
 Who Provides: _____
 How Often is Provider Paid: _____
 Name of Provider: _____
 How Much Paid: _____
 Amt. Paid for Court Ordered Child Support for Prior Born Child(ren): _____
 Amt. Paid for Court Ordered Maintenance for Prior Marriage(s): _____
 Imputed Child Support for Prior Born Child(ren): _____
 Child Support Received for Child not of this Marriage: _____
 Maintenance Received from Prior Marriage: _____

D. NONMARITAL PROPERTY CLAIMS:

List all property, real or personal, tangible or intangible, of greater than \$100.00 in value, which you claim to be either entirely or partially your nonmarital property.

Item 1--Specify item: _____

Fair Market Value at Date of Marriage: _____
 Debt Balance on Item at Date of Marriage: _____
 Current Debt Balance on Item: _____
 Current Fair Market Value: _____
 Basis for your Claim Item is Nonmarital: _____

Nonmarital Value of Item: _____

Item 2--Specify item _____

Fair Market Value at Date of Marriage: _____
 Debt Balance on Item at Date of Marriage: _____
 Current Debt Balance on Item: _____
 Current Fair Market Value: _____
 Basis for your Claim Item is Nonmarital: _____

Nonmarital Value of Item: _____

E. MARITAL PROPERTY:

1. Real Property:

Address	Fair Market Value	Mortgage(s) Balance	% Interest

2. Vehicles, Motorcycles, Boats, Trailers, Equipment, etc.:

Year/Make/Model/Type	Fair Market Value	Loan Balance

3. Bank Accounts*

Bank and Type of Account	Balance

4. Investments (Stocks, Bonds, Mutual Funds, Stock Options, etc.):*

Type and Location of Investment	# of shares	Fair Market Value

5. Life Insurance*:

Co. and Type of Policy	Insured	Cash Surrender Value	Loan Balance

* Bank statements, canceled checks, registers, carbon copies of checks, deposit tickets, periodic statements from investments, statements on life insurance, periodic statements from retirement plans, periodic statements reflecting assets held in name of or on behalf of children, and documents reflecting debts and credit card statements for past 12 months should be in possession of answering party or answering party's attorney when this statement is served on the opposing party.

6. Assets Held in Name of/on Behalf of Children*

Type & Name of Account	Balance or Value

7. Retirement Plans (Pensions, 401(k), Tax Deferred Savings, IRAs, etc.):*

Type and Name of Plan	Plan Administrator	Balance or Value

8. Interests In/Ownership of Business:

Location of Business: Business Name & Address	% and Type of Business	Tax Returns & Financial Documents

9. Household Property in Dispute:

Item	Location	Fair Market Value	Loan Balance

* Bank statements, canceled checks, registers, carbon copies of checks, deposit tickets, periodic statements from investments, statements on life insurance, periodic statements from retirement plans, periodic statements reflecting assets held in name of or on behalf of children, and documents reflecting debts and credit card statements for past 12 months should be in possession of answering party or answering party's attorney when this statement is served on the opposing party.

10. Safety Deposit Box? Yes No

Location	Contents	Value	Date of Last Visit

11. Other Property - (specify item and value):

Jewelry: _____

Furs: _____

Antiques: _____

Art: _____

Collections: _____

Country Club Memberships: _____

Season Tickets: _____

Income Tax Refunds Expected: _____

Frequent Flyer Miles: _____

Accounts Receivables/Loans: _____

Claims Against Others: _____

Accrued Vacation Pay: _____

Others: _____



**Dependency Neglect or Abuse
Dispositional Report**

Case No. _____
Court District Family
County _____
Division _____

Pursuant to KRS 620.140, KRS 610.110 and FCRRP VI.13, Rule 28, the Cabinet for Health and Family Services, Department for Community Based Services, submits the following Pre-dispositional Investigation Report. This report shall be submitted to the court no later than 72 hours prior to the dispositional hearing.

IN RE: Child's Name: _____
DOB: _____ SSN: _____
Address: _____

Parent(s): Mother's Name: _____
DOB: _____ SSN: _____
Address: _____

Father's Name: _____
DOB: _____ SSN: _____
Address: _____

**DRAFT
NOT APPROVED
FOR USE**

I. Present Situation:

II. Case History:

III. Current Status of the Case:

1. A description of the state child protective service agency's efforts to prevent removal of the child from home:

2. If the child is removed, a description of the state child protective service agency efforts to reunify the family:

3. If removal or continued placement out of the home is recommended by the state child protective agency, an explanation of why the child cannot safely be placed in the home:

4. A description of any efforts to notify and locate absent parents.

5. Identification of all relatives contacted for possible placement with child and why those relatives are not recommended for placement:

6. The recommended permanency goal and duration:

7. Information regarding placement of siblings and plan for sibling visitation:

8. A description of any variation between the state child protective agency's out of home case plan and the dispositional report.

9. Other current status issues: (Narrative) _____

IV. Professional Assessment:

Recommendations: _____

Children's Custody:

- Recommend that _____ (specific child's name) be committed to the Cabinet as a neglected child.
- Recommend that the case remain a non-removal.
- Recommend that temporary custody continue with _____ (specific name of a relative).

Parent's Recommendations:

Mother:

- Cooperate with the cabinet.
- Complete a substance abuse assessment and follow all recommendations by _____.
- Complete a parenting assessment and follow all recommendations by _____.
- Complete a domestic violence assessment, and follow all recommendations by _____.
- Other: _____

Father:

- Cooperate with the cabinet.
- Complete a substance abuse assessment and follow all recommendations by _____.
- Complete a parenting assessment and follow all recommendations by _____.
- Complete a domestic violence assessment, and follow all recommendations by _____.
- Other: _____

DCBS

Date

Approved By

Date

ORDER

- The above recommendations have been received and accepted and are now the ORDERS of the court.
- The recommendations are ORDERED as above.
- The recommendations are ORDERED as above with the exception, if any: _____

Other Orders: _____

JUDGE, FAMILY COURT

DATE

Distribution:



Date _____
DRAFT
NOT APPROVED
County _____
FOR USE

Affidavit and Beyond Control of Parent Evaluation Form

This Beyond Parental Control Evaluation Form and Affidavit is mandatory and shall accompany any complaint/petition of Beyond Parental Control submitted to the Court. No complaint/petition of Beyond Parental Control shall be filed with a Court Designated Worker unless accompanied by this form, completed in full, to the best of the petitioner's knowledge and ability. If the answer to a given section is "None", "Not applicable", "Unknown", that section shall be answered accordingly.

This form shall be typed or printed and shall be clearly legible. Please use additional sheets if more space than allotted is necessary to fully answer a question. Please attach any forms or documents relevant to this evaluation form. Please include letters from doctors, therapists or other agencies that you have used to try to resolve the problems you have had with your child.

1. Child's Information

Child's Name: _____ DOB: _____
SS#: _____ Gender: M F Race: _____
School: _____ Grade: _____ Special Education: _____
Name of Parent(s) or Guardian (including step-parents): _____
Address: _____
Home Phone: () _____ Work Phone: () _____
Child's Address: _____
Name(s), age(s) and relationship of other residents in the home: _____

Who is involved with the child? _____
Are both parents actively involved even if they live in separate homes? _____

2. Efforts Made by Parents/Guardians To Improve Beyond Control Behaviors

3. Which behavior(s) results in danger to the child or others (i.e. drugs, alcohol, tobacco, gang involvement, sexual activity, aggressive or violent behavior, destruction of property, self-harm (cutting or self-mutilation), physical violence, among others) _____

4. When did this behavior begin? _____

5. Why do you think the behavior(s) began? _____

6. Is your child under any new medications which may cause mood or personality changes? _____

7. Who is your child's doctor? Date of last visit? _____

8. What conversations have you had with your child regarding his/her behaviors? _____

9. What privileges have you taken away? _____

10. How have you attempted to structure your child's time (i.e. rules for after-school; set aside time for homework; bed time; meal time; other routines)? _____

11. Does your child have a curfew? If yes, time? _____

12. How many times per week does your child meet their curfew? _____

13. What is a typical consequence for missing curfew? _____

14. What time does your child regularly go to bed? _____

15. What time does your child regularly wake up? _____

16. How are you monitoring their influences? (Do you know who their friends are? Have you met their friends? What is their character? Are they older or younger than your child? List the ages of their friends, but not their names.) _____

17. List the places your child and his/her friends hang out. _____

18. Is your child employed? Where? How many hours per week? What times of day? _____

19. Does your child have a history of having trouble interacting with peers? If so give examples: _____

20. Is your child in school? If yes, name of school. If no, explain why. _____

21. Frequent suspensions? Saturday Schools? Discipline? If yes, what are the reasons given? _____

22. Has your child's grades changed? _____

23. Does your child have a school attendance problem? _____

24. How are other family members responding to the child's behaviors? _____

25. What major events have taken place within the last couple of years? Who? When?

Death in the Family _____
Divorce _____
Major Illness _____
Change of Residence _____
Lack of Permanent Residence _____
Friends Change _____
School Change _____
A change in the number of people in the household _____
Marriage _____
Change in parent's employment _____
Other _____

26. What forms of outside treatment have you tried? _____

27. Has your child ever been hospitalized for these behaviors? _____

28. Is someone always at home with your child or does he/she spend long periods of time alone? _____

29. Does your child have any criminal charges? (Pending or old) What are the charges? _____

30. Has the school taken out any charges against the child or the parent? If yes, when? What are the charges? _____

31. Does anyone in the child's family use drugs/alcohol/tobacco? If yes, please describe. _____

32. Is your child exposed to drug/alcohol/tobacco use in the home? _____

33. What would you like to see happen with your child? _____

34. What do you expect of the court? What do you want the court to do about the situation with your child? _____

35. Family Information

Marital Status: [] Single [] Married [] Divorced [] Widowed [] Other _____

Employment: _____

Active EPO/DVO: [] Yes [] No If yes, what county: _____

Domestic violence unreported: _____

Frequency of Displacement/Homelessness: _____

Child & Family medical conditions/illness: _____

Other: _____

36. Parenting issues:

Child refuses to follow house rules: _____
 Sibling relationships: _____
 Suspected gang involvement: _____
 Suspected drug involvement: _____
 Suspected alcohol use: _____
 Other: _____

37. Agencies Involved:

Mental Health Professional/Comp Care: _____
 Child Protective Services: _____
 Physician/Psychiatrist/Psychologist: _____
 Counseling: _____
 Family Intervention Services: _____
 Other: _____

This form was:

Prepared by: _____ Name _____ Relationship to Child _____
 Phone No. and Email _____ Date _____

Affidavit

I, _____, being first duly sworn, state that he/she has read the foregoing and that the matters stated herein are true to the best of his/her information, knowledge and belief.

 Signature
 Printed name _____

SUBSCRIBED AND SWORN to before me this _____ day of _____, 2_____.

 Notary
 My commission expires _____.



**Affidavit and Beyond Control of School
Evaluation Form**

**DRAFT
NOT APPROVED
FOR USE**

Name:	DOB:	Grade:	Race/Sex:
School:	Student ID#	Program:	
Mother:	Custodial Parent/Guardian:		
Father:			
Student's Address:	Zip:	Resides With:	Relationship:
Home Phone:	Work Phone:	Referral Source:	
Cell Phone:	Absences Unexcused:	Tardy:	
Accumulative Absences:	Suspensions:	Date of Referral:	
Days Not Enrolled:	Total Unexcused Absences: _____		

Schooled-Aged Siblings:

Name	DOB	School/Grade	Sibling ID#	#Days Absent

- PLEASE ATTACH ATTENDANCE RECORD OF UNEXCUSED ABSENCES AND TARDIES
- ATTACH DISCIPLINE REPORT
- ATTACH GRADE REPORT

FAMILY INFORMATION:

Marital Status: _____
 Employment: _____
 Domestic violence: _____
 Frequently displaced or homeless: _____
 Child & Family medical conditions or illness: _____
 Other: _____

SCHOOL ISSUES:

Skippping school/cutting classes: _____
 Referrals/discipline issues/suspensions: (See Attached Behavior Report, if applicable) _____
 Academic performance: (See Attached Grade Report) _____
 Lack of respect for authority: _____
 Bullying/safety concerns: _____
 Peer relationships: _____
 Problem with notes: _____
 Suspected gang involvement: _____
 Suspected drug involvement: _____
 Suspected alcohol use: _____
 Other: _____

This form was:

Prepared by: _____ Name _____ Relationship to Child _____
Phone No. and Email _____ Date _____

Affidavit

The affiant, _____, states that the foregoing allegations are true based upon information and belief.

Signature _____

Printed name _____

Address/Telephone of Affiant: _____

Sworn to before me this _____ day of _____, 2_____.

Name _____ Title _____

AGENCIES INVOLVED:

Mental Health Service Provider/Comp Care: _____
Child Protective Services: _____
Physician/Psychiatrist/Psychologist: _____
Counseling: _____
Family Intervention Services: _____
Other: _____

INTERVENTIONS BY LOCAL SCHOOL:

Phones Calls: _____
Letters Sent: _____
Parent conference: _____
Student conference: _____
Home visits: _____
Referral to Youth Services Coordinator/Family Resource Youth Services Coordinator: _____
Referral to Neighborhood Place: _____
Interventions Attempted: _____

Behavior Intervention Plan:

Special Education Services Offered? If so, was a manifestation hearing conducted with respect to violations?
If so, attach a copy of the hearing outcome. 504 plan?

ADDITIONAL PERTINENT INFORMATION for the court

What do you expect from the court? _____

List of Attachments:

- ARC Meeting Notes (if applicable)
- 504 plan (if applicable)
- Attendance Record of Unexcused Absences/Tardies
- Behavior Intervention Plan (if applicable)
- Manifestation Hearing (if applicable)
- Discipline Report
- Grade Report



**DRAFT
 NOT APPROVED
 FOR USE**

**AFFIDAVIT and TRUANCY
 EVALUATION FORM**

Name:	DOB:	Grade:	Race/Sex:
School:	Student ID#	Program:	
Mother:	Custodial Parent/Guardian:		
Father:	Resides With:	Relationship:	
Student's Address:	Zip:		
Home Phone:	Work Phone:	Referral Source:	
Cell Phone:	Absences Unexcused:	Tardy:	
Accumulative Absences:	Suspensions:	Date of Referral:	
Days Not Enrolled:	Total Unexcused Absences:		

Schooled-Aged Siblings:

Name	DOB	School/Grade	Sibling ID#	#Days Absent

- PLEASE ATTACH ATTENDANCE RECORD OF UNEXCUSED ABSENCES AND TARDIES
- ATTACH DISCIPLINE REPORT
- ATTACH GRADE REPORT

FAMILY HISTORY:

Previously/Currently active with Child Protective Services: _____

Siblings have had attendance issues in the past: _____

Siblings currently referred for truancy: _____

Other: _____

FAMILY INFORMATION:

Marital Status: _____

Employment: _____

Domestic violence: _____

Frequently displaced or homelessness: _____

Child & Family medical conditions or illness: _____

Other: _____

SCHOOL ISSUES:

Skipping school/cutting classes: _____

Referrals/discipline issues/suspensions: (See Attached Behavior Report, if applicable) _____

Academic performance: (See Attached Grade Report) _____

Lack of respect for authority: _____

Bullying/safety concerns: _____

Peer relationships: _____

Problem with notes: _____

Suspected gang involvement: _____

Suspected drug involvement: _____

Suspected alcohol use: _____

Other: _____

HOME CONDITIONS

CLOTHING NEEDS:

Uniforms: _____

Shoes: _____

Referral made to Program Specialist for assistance: _____

Referral to Youth Services Coordinator/Family Resource Youth Services Coordinator at local school: _____

Other: _____

AGENCIES INVOLVED:

Mental Health Service Provider/Comp Care: _____

Child Protective Services: _____

Physician/Psychiatrist/Psychologist: _____

Counseling: _____

Family Intervention Services: _____

Other: _____

INTERVENTIONS BY LOCAL SCHOOL:

Phones Calls (include dates): _____

Letters Sent (include dates): _____

Parent conference (include dates): _____

Student conference (include dates): _____

Home visits (include dates attempted): _____

Referral to Youth Services Coordinator/Family Resource Youth Services Coordinator: _____

Referral to Neighborhood Place: _____

Other: _____

Date of Final Notice: _____

Hand delivered/signed by: _____

Hand delivered/parent refused to sign: _____

Mail certified/green card signed: _____

Mail certified/returned unclaimed: _____

Other: _____

ADDITIONAL PERTINENT INFORMATION

This form was: _____

Prepared by: _____ Name _____ Title _____

Phone No. and Email _____ Date _____

Affidavit

I, _____ being first duly sworn, state that he/she has read the foregoing and that the matters stated herein are true to the best of his/her information, knowledge and belief.

Signature _____

Printed name _____

SUBSCRIBED AND SWORN to before me this _____ day of _____, 20____.

Notary _____

My commission expires _____

- List of Attachments:**
- ARC Meeting Notes (if applicable)
 - 504 plan (if applicable)
 - Attendance Record of Unexcused Absences/Tardies
 - Behavior Intervention Plan (if applicable)
 - Discipline Report
 - Grade Report



Notice of Juvenile Rights and Consequences for Status Offenders

Case No. _____

Court _____

County _____

Child's Name: _____

THESE RIGHTS BELONG TO YOU AND MAY NOT BE WAIVED BY YOUR PARENT OR OTHER PERSON EXERCISING CUSTODIAL CONTROL OR SUPERVISION.

1. You have the right to remain silent. Anything you say can and will be held against you in a court of law.
2. You have the right to an attorney. If you cannot afford an attorney, one will be assigned to you.
3. You have the right to refuse to answer any question or stop questioning at any time.
4. You have the right to admit to the charges after talking with your attorney.
5. You have the right to an adjudication hearing. An adjudication hearing is like an adult trial without a jury.

AFTER TALKING WITH YOUR ATTORNEY, IF YOU WANT TO PLEAD NOT GUILTY AND REQUEST AN ADJUDICATION HEARING:

6. You have the right to question any witness who testifies against you.
7. You have the right to bring witnesses to testify on your behalf. If your witness does not want to appear you should talk to your attorney.

IF THE COURT MAKES A FINDING OF GUILT:

8. You have the right to appeal any decision made by the court.

IF YOU ADMIT TO OR ARE FOUND GUILTY OF THE CHARGE(S), YOU ARE SUBJECT TO A RANGE OF POSSIBILITIES THAT MAY INCLUDE BUT ARE NOT LIMITED TO:

9. Following the rules and regulations of your parent(s) or guardian(s).
10. Following the rules and regulations of any treatment provider or agency.
11. Following the rules and regulations of your school.
12. Having no additional unexcused absences or tardies from school.
13. Attending an after-school program every weekday.
14. Community service.
15. Monitored curfews.
16. Being removed from your parent(s) or guardian's home.

**DRAFT
NOT APPROVED
FOR USE**

IF YOU VIOLATE AN ORDER OF THIS COURT, YOU ARE SUBJECT TO CONTEMPT OF COURT AND COULD FACE A VARIETY OF CONSEQUENCES, INCLUDING JAIL IN A JUVENILE FACILITY.

I UNDERSTAND THE ABOVE RIGHTS AND CONSEQUENCES. I HAVE EITHER READ THEM OR HAD THEM EXPLAINED TO ME.

Child's signature _____ Date _____

Child's counsel's signature _____ Date _____

Parent/Guardian/Witness signature _____ Date _____

Parent/Guardian/Witness signature _____ Date _____

Case No. _____

MOTION FOR RELIEF

[] Petitioner OR [] Respondent, on behalf of minor child(ren), requests that the Court:

- (1) **issue an emergency protective order** based on the presence of an immediate and present danger of domestic violence and abuse to:
 - [] **restrain Respondent** from committing any further acts of domestic violence and abuse; and/or
 - [] **restrain Respondent** from any contact or communication with Petitioner except as directed by the Court; and/or
 - [] **restrain Respondent** from disposing of, or damaging, any property of the parties; and/or
 - [] **direct Respondent to vacate** residence shared by the parties located at (specify address): _____

- [] **grant temporary custody** of minor child(ren);
- [] **award temporary child support** in accordance with KY Child Support Guidelines. I will, if possible, document income of both parents at the hearing by producing income tax returns, paystubs or employer statements. If either parent is self-employed I will, if possible, produce receipts and expense statements. I understand Respondent will also be notified by summons to produce these documents.
- [] **grant other relief** which would assist in stopping further domestic violence (describe): _____ and, _____

(2) **Cause a summons to be issued for Respondent**, setting a date, time and place for a hearing to consider all relief to which Petitioner may be entitled, including those matters contained in paragraph (1) on this page of this motion, and as appropriate, **mandatory counseling** for Respondent and other relief as may be authorized by statute. **Petitioner states the allegations contained herein are true on information and belief.**

Petitioner's / Movant's Signature

NOTICE: IF AN ORDER IS ISSUED WHICH SAYS NO CONTACT AND YOU DECIDE TO HAVE CONTACT WITH THE RESPONDENT WHILE THIS ORDER IS IN EFFECT, YOU MAY BE PLACING YOURSELF AT RISK. ADDITIONALLY, SUCH CONTACT MAY RESULT IN THE RESPONDENT BEING ARRESTED FOR VIOLATING THE ORDER.

Subscribed and sworn to before me on _____, 2____.

Date: _____, 2____. *Name _____ Title _____

**Must be signed my circuit clerk or other individual authorized by Court to provide and verify emergency petitions.*

EPO/Summons: [] Issued [] Denied because: _____

Summons: [] Issued [] Denied because: _____

Insufficient relationship: _____

Fails to state an act or threat of domestic violence: _____

Date: _____, 2____. Judge _____

COURT ACTION:

Case No. _____

1. Information about Petitioner or initials of any minor family member on whose behalf Petition is filed:

NAME: _____

Birthdate: _____ Age: _____

Usual Residence: _____

Directions for rural areas: _____

Current Residence (if different from above): _____ Length of residence there: _____

Length of residence there: _____

Occupation: _____

Employer Name: _____

Employer Address: _____

Directions for rural areas: _____

2. **Respondent's relationship to Petitioner:** [] spouse; [] former spouse; [] unmarried, with child in common; [] unmarried, currently or formerly living together; [] child; [] stepchild; [] parent; [] grandparent; [] other relative (specify) _____

3. If Respondent and Petitioner have minor children, complete the following:

Parent is (check one box or both boxes):

PET. / RESP. Child's Name

Birthdate (mm/dd/yyyy)

[] [] (1) _____

Child's Address: _____

[] [] (2) _____

Child's Address: _____

[] [] (3) _____

Child's Address: _____

[] [] (4) _____

Child's Address: _____



EMERGENCY ORDER OF PROTECTION AND SUMMONS

PETITIONER/PLAINTIFF

First [] Middle [] Last []
 Date of Birth of Petitioner []

And/or on behalf of minor family members(s): (list name(s))

DOB and relationships of Petitioner(s):

V. []

DRAFT NOT APPROVED FOR USE

RESPONDENT/DEFENDANT IDENTIFIERS

SEX	RACE	DOB	HT	WT
EYES	HAIR	Social Security #		
DRIVERS LICENSE #		STATE	EXP. DATE	

RESPONDENT/DEFENDANT

First [] Middle [] Last []

Relationship to Petitioner: spouse former spouse
 unmarried, child in common unmarried, currently
 or formerly living together child stepchild
 parent grandparent other relative (specify) _____

Respondent Address: _____
 Distinguishing Features _____

CAUTION: Weapon involved Armed and Dangerous Divorce/Custody/Visitation case pending

THE COURT HEREBY FINDS:
 That it has jurisdiction over the parties and subject matter, and Kentucky law providing Respondent notice and opportunity to be heard.

- Additional findings of this order are as set forth below.
- Insufficient relationship: _____
- Fails to state an act or threat of domestic violence: _____

THE COURT HEREBY ORDERS:

- That the above-named Respondent be restrained from committing further acts of abuse or threats of abuse.
- That the above-named Respondent be restrained from any contact with the Petitioner/Plaintiff.
- Additional terms of this order are as set forth below.

The terms of this order shall be effective until [] (not to exceed 14 days from date of issue. KRS 403.740(4)).

Case No. []

WARNING TO RESPONDENT:

This order shall be enforced, even without registration, by the courts of any state, the District of Columbia, any U.S. Territory, and may be enforced by Tribal Lands (18 U.S.C. Section 2265), Crossing state, territorial, or tribal boundaries to violate this order may result in federal imprisonment (18 U.S.C. Section 2262).

Only the Court can change this order.

ADDITIONAL FINDINGS: The Court, having reviewed the petition and being sufficiently advised, finds that the allegations indicate an immediate and present danger of domestic violence and abuse.

THEREFORE, IT IS FURTHER ORDERED:

- That the above-named Respondent be restrained from any communication with the above-named Petitioner.
- That the above-named Respondent remain at all times and places at least _____ feet away from Petitioner and Petitioner's family or household;
- except as follows: _____
- That the above-named Respondent be restrained from disposing of, or damaging, any property of the parties.
- That the above-named Respondent vacate the residence shared by the parties located at _____ (specific address)
- In accordance with the criteria of KRS 403.270, 403.320 and 403.822, temporary custody of _____ be awarded to _____
- In order to assist in eliminating future acts of domestic violence and abuse _____

SUMMONS

A hearing will be held on _____, 20____, at _____ m. in _____ Court located at _____ A legal action has been filed against you in this court, alleging facts and demanding relief as shown in the document(s) delivered to you herewith. You are summoned to appear on this date, time and place to respond to the allegations. You must produce at the above court appearance: income tax returns, paystubs, or employer statements to document your income in the event temporary child support is ordered. If you are self-employed, you must produce receipt and expense statements. **VIOLATION OF THIS ORDER SHALL CONSTITUTE CONTEMPT OF THIS COURT AND MAY RESULT IN CRIMINAL CHARGES. ANY PEACE OFFICER SHALL ARREST THE RESPONDENT WITHOUT A WARRANT UPON PROBABLE CAUSE THAT A VIOLATION OF THIS ORDER HAS OCCURRED.**

Agency Assigned Service _____ Date _____ Judge _____

PROOF OF SERVICE

These documents were served by delivering true copies to: _____ at _____ o'clock, _____ m. Ky. License to Carry surrendered. this _____, 20____.

Served By: _____ Copies to: Court file; Petitioner; Court Clerk in county of Petitioner's usual residence, if different; Law Enforcement Agency/dispatch center responsible for LINK entry; Law Enforcement Agency(ies) designated for service; Local Dept. for Community Based Services (CHFS). **Ensure entries in boxes are complete and legible. Without correct information in each box, Order MAY NOT be entered into LINK.**



ORDER OF PROTECTION
 DOMESTIC VIOLENCE ORDER
 AMENDED DOMESTIC VIOLENCE ORDER

AOC-275.3
 Rev. 3-10
 Doc. Code: ODV
 Page 1 of 3
 www.courts.ky.gov

Case No. _____
 Court _____
 County _____ State _____

PETITIONER/PLAINTIFF _____
 PETITIONER/PLAINTIFF IDENTIFIERS _____

First _____ Middle _____ Last _____
 Date of Birth of Petitioner _____
 And/or on behalf of minor family members(s); (list name(s) Other Protected Persons/DOB: _____)

**DRAFT
 NOT APPROVED
 FOR USE**

V. _____
 RESPONDENT/DEFENDANT _____
 RESPONDENT/DEFENDANT IDENTIFIERS _____

First _____	Middle _____	Last _____	SEX	RACE	DOB	HT	WT
Relationship to Petitioner: <input type="checkbox"/> spouse <input type="checkbox"/> former spouse <input type="checkbox"/> unmarried, child in common <input type="checkbox"/> unmarried, currently or formerly living together <input type="checkbox"/> child <input type="checkbox"/> stepchild <input type="checkbox"/> parent <input type="checkbox"/> grandparent <input type="checkbox"/> other relative (specify) _____			EYES	HAIR	Social Security # _____		
			DRIVERS LICENSE # _____	STATE _____	EXP. DATE _____		

Respondent Address: _____
 Distinguishing Features _____

CAUTION:
 Weapon involved Armed and Dangerous Divorce/Custody/Visitation case pending

THE COURT HEREBY FINDS:
 That it has jurisdiction over the parties and subject matter, and the Respondent has been provided with reasonable notice and opportunity to be heard.
 Additional findings of this order are as set forth below.

THE COURT HEREBY ORDERS:
 That the above-named Respondent be restrained from committing further acts of abuse or threats of abuse.
 That the above-named Respondent be restrained from any contact with the Petitioner/Plaintiff.
 Additional terms of this order are as set forth below.
 The terms of this order shall be effective until _____

WARNING TO RESPONDENT:
 This order shall be enforced, even without registration, by the courts of any state, the District of Columbia, any U.S. Territory, and may be enforced by Tribal Lands (18 U.S.C. Section 2265). Crossing state, territorial, or tribal boundaries to violate this order may result in federal imprisonment (18 U.S.C. Section 2262). Federal law provides penalties for possessing, transporting, shipping, or receiving any firearm or ammunition (18 U.S.C. Section 922(g)(8)).
 Only the Court can change this order.

AOC-275.3
 Rev. 3-10
 Page 2 of 3

Case No. _____

ADDITIONAL FINDINGS:

- For the Petitioner against the above-named Respondent in that it was established, by a preponderance of the evidence, that an act(s) of domestic violence or abuse has occurred and may again occur; or
- For the Respondent in that it was not established, by a preponderance of the evidence, that an act(s) of domestic violence or abuse has occurred and may again occur; or
- The Petitioner Respondent has filed a motion to amend the Domestic Violence Order dated _____

ADDITIONAL TERMS OF ORDER:

Pursuant to 18 U.S.C. Section 922(g)(8), the Respondent shall not possess or attempt to purchase a firearm. Any firearm owned or otherwise within the possession of the Respondent shall be surrendered to local law enforcement for the duration of this order.

- Respondent's firearms to be surrendered to law enforcement on _____, 2 _____.
- That the above-named Respondent surrender to the Court, or to the officer serving the order, Respondent's Kentucky license to carry concealed firearms or other deadly weapons pursuant to KRS 237.110(13)(k).
- Kentucky license to carry surrendered to Court.
- That the Petition/Motion to Amend be Dismissed Denied.

- That the motion to amend is sustained. That the prior order is amended pursuant to a show cause hearing. The prior order is amended and all prior inconsistent provisions of such prior order are superseded as follows: _____

- That the above-named Respondent is restrained from any contact or communication with the above-named Petitioner.
- That Respondent shall remain at all times and places at least _____ feet away from Petitioner and members of Petitioner's family or household;
- except as follows: _____
- That the above-named Respondent be restrained from disposing of, or damaging, any property of the parties.
- That the above-named Respondent vacate the residence shared by the parties located at _____ (specific address)

- In accordance with the criteria of KRS 403.270, 403.320, and 403.822, the Uniform Child Custody Jurisdiction and Enforcement Act and 28 U.S.C.A. Section 1738A, temporary custody of: _____

(List names, ages and sex of each child)

be awarded to _____

Case No. _____

[] That the above-named Respondent is ordered to pay temporary support in the amount of \$ _____ as set forth in form AOC 152 Kentucky Uniform Child Support Order.

(AOC 152 shall also be used if child support is ordered.)

[] That the above-named Respondent participate in available counseling services, described as _____

[] In order to assist in eliminating future acts of domestic violence and abuse, _____

[] (To be used only in dissolution or custody action)

That the court finds that the victim has requested mediation, and the victim's request is voluntary and not the result of coercion and that mediation is a realistic and viable alternative to or adjunct to the issuance of this order; therefore, available mediation services be ordered as follows: _____

The terms of this order shall not exceed three (3) years from date of issue pursuant to KRS 403.750(2). The Petitioner may return to the court, which issued this order, before expiration of this order to request that it be reissued for an additional period not to exceed three (3) years. The number of times this Order may be reissued shall not be limited. KRS 403.750(2).

Violation of this order shall constitute contempt of this Court and may result in criminal charges. Any peace officer shall arrest the Respondent without a warrant upon probable cause that a violation of this order has occurred. Pursuant to 18 U.S.C. Section 922(g)(8), it may be a federal violation to purchase, receive or possess a firearm or ammunition while subject to this order.

Date

Judge

Notice: If your Order prohibits contact, you can be arrested for having contact with the Petitioner, even if that person agrees to the contact.

- Copies to:
- _____ Court file
 - _____ Petitioner
 - _____ Respondent
 - _____ Court clerk in county of Petitioner's usual residence, if different.
 - _____ Law enforcement agency/dispatch center responsible for LINK entry.
 - _____ Law enforcement agency(ies) designated for service.
 - _____ Local Department for Social Services, Cabinet for Health and Family Services.
- Ensure entries in boxes are complete and legible. Without correct information in each box, order MAY NOT be entered into LINK.**



Case No. _____

- District Court
 Family Court

JUVENILE STATUS OFFENDER ORDER

IN Re: THE INTEREST OF _____, A CHILD

The above named child is alleged to be has been found to be a status offender relating to:

- Habitual Runaway. (KRS 600.020(27)).
- Habitual Truant. (KRS 600.020(28)).
- Beyond Control of Parents. (KRS 600.020(3)).
- Alcohol Offense. (KRS 244.085(9)).
- Tobacco Offense. (KRS 438.311(3)).

Based on the hearing held in this matter, the Court finds the following:

1. The child is subject to the jurisdiction of this court pursuant to KRS 630.020

2. The child appeared in this court on the _____ day of _____ with legal counsel, Hon. _____

3. As a result of this hearing, you are ordered as follows:

- Do not leave your home without custodial permission;
- Obey all rules of your home, including a curfew which is _____ p.m. to _____ a.m.
- Attend all school sessions on time, have no unexcused absences and no behavior problems at school;
- You are to violate no law;
- You are to attend and complete local _____ program;
- You are to maintain at least passing grades in school;
- You are not to consume, use or possess any alcoholic beverages, tobacco products or illegal drugs;
- You are to submit to random drug testing;
- Cooperate fully with your service providers of the Cabinet for Families & Children/Division of Youth Services.
- Other conditions and/or services: _____

DRAFT, 2
NOT APPROVED FOR USE

4. Parent or Guardian: You are ordered to see that the juvenile complies with all of the orders contained herein and you shall notify the Court of any violations. Failure to notify the Court of violations may result in the following: _____

5. Failure to abide by this Order may result in a finding of contempt being made against you by the Court. This could result in a variety of consequences which may include commitment to the Cabinet, being placed in secure detention or other alternative placement, and/or _____

SO ORDERED, this _____ day of _____, 20____.

Judge

I hereby certify that I have read and understand the foregoing Order as written and as explained to me in Court by _____ (Judge) and I have received a copy of said order.

Juvenile

Date

Parent or Legal Guardian

Date

Juvenile's Attorney

County Attorney

ADDITIONAL INFORMATION & INSTRUCTIONS

1. Pursuant to KRS 405.465 and 205.710, this Withholding Order is binding on any benefits provider and the sum ordered withheld shall be withheld from any commissions, earnings, salaries, and any other income, including but not limited to, social security benefits, unemployment benefits, workers' compensation, disability insurance benefits, supplemental employment benefits, severance benefits, retirement and pension benefits.
2. The maximum part of an individual's disposable earnings which is subject to wage withholding for child support is stated in 15 USC Sec 1673 as 60%, unless the individual is supporting a spouse or dependent child other than a spouse or child to which the wage withholding applies, in which case the maximum is 50%. To the extent such earnings are withheld for support more than 12 weeks in arrears, the maximum shall increase to 65% and 55% respectively. "Disposable Earnings" means that part of the earnings of any individual remaining after the deduction from those earnings of any amounts required by law to be withheld. Amounts required by law to be withheld include income taxes, occupational license taxes, social security, railroad retirement and retirement for teachers and State and county employees.
3. This Withholding Order shall be binding upon the employer until further orders of this Court. This Withholding Order shall have priority over any attachment, execution or other withholding, unless otherwise ordered by this Court.
4. This Withholding Order shall not constitute grounds for dismissal of the employee; refusal to employ the employee or any disciplinary action against the employee.
5. Any violation of this Withholding Order by the employer may be grounds for contempt and/or may subject the employer to civil liability. The employer may deduct and retain the additional sum of \$1.00 for administrative expenses for each payment made pursuant to this Withholding Order.
6. **The employee shall be responsible for making child support payments until such time as child support is withheld from the employee's paycheck.**

AOC-152 Doc. Code: OSUP
Rev. 3-03 OSUPW
Page 1 of 2 04/27/2010 02:12 pm
Commonwealth of Kentucky
Court of Justice Ver. 1.01
www.kycourts.net
* See Footnotes &
Additional Information

Case No.
Court

District	
Circuit	
Family	

UNIFORM CHILD SUPPORT ORDER

NEW ORDER AMENDED ORDER
 ORDER FOR WAGE/BENEFIT WITHHOLDING

County
IV-D Case No.

Plaintiff/Petitioner Name

Birthdate

SSN

Defendant/Respondent Name

Birthdate

SSN

IN Re: **Child's Name**

Social Security No. Birthdate

Child's Name

Social Security No. Birthdate

If there are more than two (2) children, attach separate sheet with identifying information and check here

IT IS HEREBY ORDERED AND ADJUDGED THAT: The Mother Father Other shall pay child support as follows:

1) \$ _____ per month as current child support effective _____, 2. _____ As determined by KY Child Support Guidelines; By written agreement of parties with knowledge of Guidelines; Upon a finding that application of Guidelines would be unjust or inappropriate because: _____

2) \$ _____ per month toward arrearage totaling \$ _____, calculated for period beginning _____ and ending _____, 2. _____

3) \$ _____ per month for medical support, effective _____, 2. _____; if not included in child support amount on line (1).

4) \$ _____ Other expenses:

5) \$ _____ TOTAL MONTHLY AMOUNT to be paid at: ¹ \$ _____ per week bi-weekly semi-monthly month

Wage withholding is NOT implemented immediately for good cause shown and child support shall be paid as follows: _____

Date: _____ 2 _____ Judge _____

DOMESTIC VIOLENCE PROTECTIVE ORDER ISSUED YES NO
PROTECTED PARTY: PETITIONER RESPONDENT

MUST BE COMPLETED² - Child Support Recipient's Name & Address

¹ If child support paid by wage withholding, job change may affect frequency and amount of wages to be withheld in order to meet monthly obligation amount.
² If domestic violence order in effect, child support recipient may elect not to complete this section **BUT MUST** immediately provide his/her mailing address to Cabinet for Families & Children local child support office.

NOTICE: FOR WAGE/BENEFIT WITHHOLDING, REQUESTING PARTY MUST MAIL COPY BY CERTIFIED MAIL TO EMPLOYER WITHIN 2 WORKING DAYS.

WAGE/BENEFIT WITHHOLDING ORDER FOR EMPLOYER OF

This order of wage withholding shall be effective _____, 2_____. Within 7 working days, employer shall pay withheld amount to: **Division of Child Support, P.O. Box 14059, Lexington, KY 40512-4059** (include SSN on payment). Amount withheld shall not exceed _____% of employee's disposable earnings. This sum shall be withheld in the following increments: \$ _____ per week if employee is paid weekly, \$ _____ bi-weekly if employee is paid every two weeks; \$ _____ semi-monthly if employee is paid twice per month; or \$ _____ per month if employee is paid monthly. **EMPLOYEE IS RESPONSIBLE FOR MAKING CHILD SUPPORT PAYMENTS TO RECIPIENT DIRECTLY OR THROUGH _____**

UNTIL SUCH TIME AS CHILD SUPPORT IS WITHHELD FROM EMPLOYEE'S PAYCHECK. THIS ORDER SHALL APPLY TO ANY SUBSEQUENT EMPLOYER.

EMPLOYER NAME: _____
ADDRESS: _____

DOCUMENT PREPARER: _____

Address: _____

Phone No. _____

INSTRUCTIONS TO PERSON ORDERED TO PAY CHILD SUPPORT ("OBLIGOR") & EMPLOYER

- A. Per KRS 405.465 & 205.710, this Withholding Order is binding on any benefits provider. The sum ordered withheld shall be withheld from commissions, earnings, salaries, & any other income, including but not limited to, benefits for social security, unemployment, workers' compensation, disability insurance, supplemental employment, severance, retirement and pension.
- B. The maximum part of an individual's disposable earnings which is subject to wage withholding for child support is stated in 15 USC Sec 1673 as follows: **50%** if obligor is supporting a second family; **60%** if obligor is NOT supporting a second family; **55%** if obligor is supporting a second family and owes an arrearage that is 12 weeks or more past due; OR **65%** if obligor is NOT supporting a second family and owes an arrearage that is 12 weeks or more past due. "Disposable Earnings" is that part of a person's earnings remaining after deduction from those earnings of amounts required by law to be withheld. Amounts required by law to be withheld include income taxes, occupational license taxes, social security, railroad retirement and retirement for teachers and state & county employees.
- C. This Withholding Order shall be **binding** on the employer **until further order** of this Court. This Withholding Order shall have priority over any attachment, execution or other withholding, unless otherwise ordered by this Court.
- D. This Withholding Order shall not constitute grounds for dismissal of the employee/obligor, refusal to employ the employee, or any disciplinary action against the employee.
- E. Any violation of this Withholding Order by the employer may be grounds for contempt and/or may subject employer to civil liability. Employer may deduct and retain the additional sum of \$1.00 for administrative expenses for each payment made pursuant to this Withholding Order. KRS 405.465.
- F. Employee/Obligor shall be responsible for making child support payments until such time as child support is withheld from the employee's/obligor's paycheck.
- G. **Obligor:** interest may be charged on any delinquent child support payments. KRS 360.040 and 405.467(2).
- H. This order reflects statutory provisions of KRS 403.211-.212, 405.467, 360.040, 405.465, 205.710, 205.712, 403.215, 403.750, and 610.170.

Distribution: Court File - Original CFC (place in Contracting Official's basket) Petitioner Respondent

Commonwealth of Kentucky
Court of Justice www.courts.ky.gov
KRS 610.010, 620.023, .027, .050,
.060, .070, .080



**JUVENILE
DEPENDENCY, NEGLECT AND ABUSE
PETITION**

Case No. _____
Court District Family
County _____
Division _____

Hearing Date _____, 2_____. Clerk's USE ONLY
Hearing Location _____ Hearing Time _____ [] a.m. [] p.m.

IN THE INTEREST OF: _____, A CHILD

Birthdate	Sex	Race	SSN

Affiant, _____, says that on _____, 2_____, in _____ County, Kentucky, the above-named juvenile was/is dependent (UOR Code - 002813) neglected (UOR Code - 002814) abused (UOR Code - 002815) pursuant to KRS Chapter 620 et seq and within the scope of KRS 610.010(2)(d); Affiant's grounds of belief are: _____

Name of person believed responsible for neglect and/or abuse _____

Juvenile's Address: _____

Juvenile attends school at _____ Telephone No. _____

Affiant's Name (print) _____

Affiant's Address _____

Telephone No. _____

Distribution: Court File Parent or other person exercising custodial control or supervision (sheriff to serve)
Local DCBS Local CASA Project Director upon Court referral

Case No. _____

Juvenile's Legal Mother: _____
Address: _____

Phone No. _____ SSN _____ Legal Custodian? Yes No

Name of Other(s) Living in Mother's Home and relationship to Child:

- Stepfather _____
- Sibling(s) _____
- Other _____

Juvenile's Legal Father: _____
Address: _____

Phone No. _____ SSN _____ Legal Custodian? Yes No

Name of Other(s) Living in Father's Home and relationship to Child:

- Stepmother _____
- Sibling(s) _____
- Other _____

Name and relation of other person exercising custody or control of child _____

Name and address of nearest known adult relative if no parent or person exercising custodial control or supervision (PECC) is located: _____

Affiant states the foregoing allegations are true based upon information and belief.

Affiant's Signature _____

Sworn to before me on _____, 20____. My Commission expires: _____, 20____.

Name _____

Title _____

Commonwealth of Kentucky
Court of Justice www.courts.ky.gov
KRS 610.010, .050 620.023, .027,
.050, .060, .080, .220



EMERGENCY CUSTODY ORDER

Case No. _____
Court District Family
County _____
Division _____

IN THE INTEREST OF: _____, A CHILD

Birthdate	Sex	Race	SSN

ORDER

WHEREAS, the above-named child has been brought before this Court pursuant to KRS 610.010, the Court finds its jurisdiction has been properly sought, and based upon the Findings of Fact and Conclusions of Law which follow, **IT IS HEREBY ORDERED THAT THIS CHILD SHALL BE:**

Doc. Code: _____

OTC Placed in emergency custody of the Cabinet for Health & Family Services (CHFS).

OTR Placed out of home in emergency custody of relatives or other appropriate person or agency.

Name and address of person to whom custody is granted (if other than CFC):

Name: _____
Address: _____

Person(s) with Custody PRIOR to entry of this ORDER:

Name: _____
Address: _____

Relationship: _____

FINDINGS OF FACT / CONCLUSIONS OF LAW

WHEREAS: _____, having testified by affidavit or sworn testimony that the following facts are true:

THE COURT FINDS:

Reasonable efforts were made to prevent the child's removal from the home.

Reasonable efforts to prevent removal were not provided, but are being made to reunify the family.

Reasonable efforts to preserve or reunify the child with his/her family are not required pursuant to KRS 610.127.

Case No. _____

Juvenile's Legal Father: _____

Address: _____

Phone No. _____ SSN _____ Legal Custodian? Yes No

Name of Other(s) Living in Home and Relationship to Child:

Stepmother _____

Sibling(s) _____

Other _____

Subscribed and sworn to before me on _____, 2____, My Commission expires: _____, Clerk

_____, 2____, By: _____, D.C.

Commonwealth of Kentucky
Court of Justice
www.courts.ky.gov

Case No. _____

Court _____

County _____

Division _____



**NOTICE OF EMERGENCY REMOVAL
(DEPENDENCY/NEGLECT/ABUSE CASE)**

TO THE PARENTS OF _____

(Child/Children's Name)

NOTICE OF EMERGENCY REMOVAL

ATTENTION: THIS IS IMPORTANT

Your child/children have been taken into the custody of the state because it is believed he/she/they are dependent, neglected or abused. A **TEMPORARY REMOVAL HEARING** has been scheduled as directed in the **EMERGENCY CUSTODY ORDER** you have received with this NOTICE. You will receive, OR have already received, a **SUMMONS** explaining your rights and a **PETITION** describing the allegations leading to the removal.

If you or your lawyer do not appear in Court as directed, you may lose valuable rights or be subject to court sanction. **YOU COULD LOSE YOUR CHILDREN. YOU SHOULD HAVE A LAWYER.** If you want a lawyer but cannot afford one **contact the Court immediately about legal representation.**

You have the right to present evidence, to cross-examine witnesses, and to have proceedings placed on the record. You may bring witnesses with you. If your witnesses will not appear in court voluntarily, the court will subpoena witnesses for you. You have the right to appeal from a determination of the Court. You have the right to remain silent in court and in any meetings before going into court. If you talk about your case with a lawyer (other than your own), social workers, police, or officers of the court, anything you say may be used by the Court to decide your case. This case may be reviewed by a local Citizen Foster Care Review Board and the report of the board's review shall become part of the court record. This matter is based on the court's exercise of jurisdiction under KRS 610.010(2)(d) and may result in a formal juvenile court record for this child/these children.

Date: _____ Clerk _____

By: _____

PROOF OF SERVICE

[] This Notice was served by delivering a true copy of the Notice of Emergency Removal upon the (check one):
[] parent [] guardian [] custodian [] neighbor (if unable to locate parent) whose name is: _____

Method of Service: _____

[] This Notice was not served because: _____

Date: _____, 2____.

Signature of Serving Officer _____

Title of Serving Officer _____

4. OTHER ORDERS: _____

FINDINGS OF FACT / CONCLUSIONS OF LAW

1. Based upon these specific findings of fact, the Court concludes the following conditions pursuant to KRS 620.060 existed to justify issuance of an Emergency Custody Order:

2. Reasonable efforts:

- Reasonable efforts were made to prevent the child's removal from the home.
- Reasonable efforts to prevent removal were not provided, but are being made to reunify the family.
- Reasonable efforts to preserve or reunify child with his/her family are not required pursuant to KRS 610.127.

3. The Court finds:

- a) there are are no less restrictive alternatives available for the child than removal at this time.
- b) by a preponderance of the evidence, it has has not been proven that there are are no reasonable grounds to believe it would be contrary to the child's welfare in that the child would be dependent, neglected, or abused if returned to or left in the custody of his/her parent(s) or other person(s) exercising custodial control or supervision and said parent(s) is/are unable or unwilling to protect the child as supported by affidavit in-court testimony of _____

4. The Court makes the following specific findings of fact in support of continued removal of the child:



**ORDER
TEMPORARY REMOVAL HEARING**

IN THE INTEREST OF: _____, A CHILD

Birthdate	Sex	Race	SSN

The following persons were present at today's hearing:

- Mother Father Child County Attorney CHFS Worker GAL
- Stepparent PECCS
- Other _____
- CASA volunteer Other Family Member _____
- Parent's Attorney(s) _____

ORDER

WHEREAS, the above-named child has been brought before this Court pursuant to KRS 610.010, the Court finds its jurisdiction has been properly sought and based upon the findings of fact and conclusions of law which follow this ORDER, **IT IS HEREBY ORDERED THAT THIS CHILD SHALL BE:**

Doc. Code:

- 1. **OTC** Placed in temporary custody of Cabinet for Families & Children (CHFS). Advisory recommendations for placement, if any, are:

- OTR** Placed in temporary custody of relatives of other appropriate person or agency
- ORC** Returned /Released to home of removal
- OREM** Remain in the home

Name and address of person(s) to whom temporary custody is granted (if other than CHFS):

Name: _____
Address: _____

Relationship:

- 2. Child Support Ordered (Use **AOC-152 Uniform Child Support Order**)
- 3. Any parent, guardian or person(s) exercising custodial control or supervision of the child shall cooperate and actively participate in treatment or a social service program. KRS 610.160

Case No. _____

APPOINTMENT OF COUNSEL

Counsel, as provided for in KRS 620.100(1)(a)-(c), is HEREBY APPOINTED as follows:

_____ is appointed to represent the interest of _____ the above-named child.

_____ is appointed as counsel for the **mother**.
 _____ is appointed as counsel for the **father**.

In the interest of justice,
 _____ is appointed as counsel for the **non-parent** who exercises custodial control or supervision, since the non-parent is unable to afford counsel.

NEXT HEARING WILL BE HELD _____, 2____, at _____ a.m. p.m. at this location: _____

Hearing Type: Pretrial (PC) Adjudication (AH)

The following persons shall be present:

Mother Father Child County Attorney CHFS Worker GAL

Stepparent PECCS _____

Other _____

CASA volunteer Other Family Member _____

Parent's Attorney(s) _____

Any peace officer serving a copy of this ORDER, along with a summons, upon the child's parent, guardian, or other person exercising custodial control or supervision as required by KRS 610.050, is hereby authorized to take the child into custody and place the child as specified in this ORDER.

Date: _____, 2____, _____ Judge _____

Copies to: Cabinet for Health & Family Services or facility or agency where child is placed.
AOC, Citizen Foster Care Review Board, 100 Millcreek Park, Frankfort, KY 40601.
All counsel of record and/or parents/custodians of child not represented by counsel.

Commonwealth of Kentucky
Court of Justice www.courts.ky.gov
KRS 610.010, 050, 070, 080, 110
KRS 610.160, 170
KRS 620.023, 027, 100, 140, 220



**ORDER
ADJUDICATION HEARING**

Case No. _____
County _____ District Family
County _____
Division _____
Hearing Type: Adjudication (AH)

IN THE INTEREST OF: _____, A CHILD

Birthdate	Sex	Race	SSN

The following persons were present at today's hearing:

Mother Father Child County Attorney CHFS Worker GAL

Stepparent _____ PECCS _____

Other _____

CASA volunteer Other Family Member _____

Parent's Attorney(s) _____

ORDER

WHEREAS, the above-named child has been brought before this Court pursuant to KRS 610.010, the Court finds its jurisdiction has been properly sought and based upon the findings of fact and conclusions of law which follow this ORDER, **IT IS HEREBY ORDERED THAT:**

this child, having been found NOT to be dependent, neglected or abused, is hereby:

Doc. Code: _____

ORC Returned/Released to home of removal with no further disposition being required.

OREM Remain in the home with no further disposition being required.

pending disposition of this matter, this child, having been found to be dependent, neglected or abused, shall:

Doc. Code: _____

OTC Be placed, or continue to remain, in temporary custody of the Cabinet for Health & Family Services (CHFS);

OTR Be placed, or continue to remain, out of home of removal w/relatives or other appropriate person or agency as follows (give name, address and relation to child): _____

OREM Remain in the home.

At least 72 hours prior to the disposition hearing, the Cabinet for Health & Family Services shall prepare and submit to the Court and all parties a predispositional investigation report of recommendations concerning disposition of the child.

OTHER ORDERS: _____

FINDINGS OF FACT / CONCLUSIONS OF LAW

The Court, having considered the sworn testimony and evidence, and being otherwise sufficiently advised, hereby finds and concludes the rights provided in KRS 620.100 have been extended to the child and the adult(s) responsible for the child; and all due process rights have been observed, and further finds:

Case No. _____

1. The allegations contained in the Petition have have **not** been proven by a preponderance of the evidence, and hereby makes the following specific findings of fact: _____

2. The Court concludes, based on the foregoing specific findings of fact, the above-named child is is **not** dependent neglected abused.

NOTE: A child cannot be dependent AND neglected or abused. KRS 600.020(19).

REASONABLE EFFORTS:

- 3. Reasonable efforts were made to prevent the child's removal from the home.
- Reasonable efforts to prevent removal were not provided, but are being made to reunify the family.
- Reasonable efforts to preserve or reunify child with his/her family are not required pursuant to KRS 610.127.
- 4. The child's best interests require do not require the Court to change custody of him/her. Continuation in the home is is not contrary to the welfare of the child.
- 5. There are are no less restrictive alternatives than removal from the home.

APPOINTMENT OF COUNSEL

Counsel, as provided for in KRS 620.100(1)(a)-(c), is HEREBY APPOINTED as follows:

_____ is appointed to represent the interest of the above-named child.

_____ is appointed as counsel for the mother.

_____ is appointed as counsel for the father.

In the interest of justice, _____ is appointed as counsel for the non-parent exercising custodial control or supervision, since the non-parent is unable to afford counsel.

A Disposition Hearing (D) will be held on _____, 2____, at _____ a.m. a.m. p.m. at the following location: _____

The following persons shall be present:

- Mother Father Child County Attorney CHFS Worker GAL
- Stepparent PECCS _____
- Other _____
- CASA volunteer Other Family Member _____
- Parent's Attorney(s) _____

DATE: _____, 2____, _____ Judge _____

Distribution: Cabinet for Health & Family Services or facility or agency where child is placed.
All counsel of record and/or parents/custodians of child not represented by counsel.



**ORDER
DISPOSITION HEARING**

Case No. _____
Court _____ District Family
County _____
Division _____
Hearing Type: Disposition (D)

IN THE INTEREST OF: _____ A CHILD

Birthdate	Sex	Race	SSN

The following persons were present at today's hearing:

- Mother Father Child County Attorney CHFS Worker GAL
- Stepparent PECCS _____
- Other _____
- CASA volunteer Other Family Member _____
- Parent's Attorney(s) _____

ORDER

WHEREAS, the above-named child has been brought before this Court pursuant to KRS 610.010, the Court finds its jurisdiction has been properly sought and based upon the findings of fact and conclusions of law which follow this **ORDER**, **IT IS HEREBY ORDERED THE ABOVE-NAMED CHILD SHALL:**

Doc. Code:

- 1. **OCOM** Be committed, or remain committed, to the Cabinet for Families & Children (CHFS);
 - OTR** Be placed or continue remaining out of home of removal with relatives or other appropriate person(s) or agency;
 - ORC** Be returned/released to home of removal;
 - OREM** Remain in the home.
- NOTE: An Order of Temporary Custody to CHFS IS NOT a permissible dispositional alternative. KRS 620.140(2).

Name and address of person(s) to whom custody is granted (if other than CHFS):

Name: _____
Address: _____

2. It is further ORDERED that parents, guardians or other person(s) exercising custodial control or supervision cooperate with the Cabinet for Health and Family Services and actively participate in any treatment or social service program. (KRS 610.160).

3. Child Support ORDERED. (Use AOC-152 Uniform Child Support Order).

4. OTHER ORDERS:

Case No. _____

FINDINGS OF FACT / CONCLUSIONS OF LAW

The Court having previously made a Finding of Dependency, Neglect or Abuse, the Court further Finds:

- The Court has has not received from CHFS a predispositional investigation report of recommendations concerning disposition of the child.
- Child's best interests require do not require the Court to take custody of him/her. Continuation in the home is is not contrary to the welfare of the child.
- REASONABLE EFFORTS:**
 Reasonable efforts were made to prevent the child's removal from the home.
 Reasonable efforts to prevent removal were not provided, but are being made to reunify the family.
 Reasonable efforts to preserve or reunify child with his/her family are not required pursuant to KRS 610.127.
 There are no less restrictive alternatives to removal of the child from the home in that:

- For commitment under KRS 620.140: Child needs protection extraordinary services KRS 600.050

APPOINTMENT OF COUNSEL

Counsel, as provided for in KRS 620.100(1)(a)-(c), is HEREBY APPOINTED as follows:

- _____ of the above-named child, _____ is appointed to represent the interest of _____.
- _____ is appointed as counsel for the mother.
- _____ is appointed as counsel for the father.
- In the interest of justice, _____ is appointed as counsel for the non-parent who exercises custodial control or supervision, since the non-parent is unable to afford counsel.

NEXT HEARING will be _____, 2. _____, at _____, _____ a. m. p. m. at this location:

NEXT HEARING TYPE: Review (REV) Permanency Hearing (APR)

The following persons were present at today's hearing:

- Mother Father Child County Attorney CHFS Worker GAL
 Stepparent _____ PECCS _____
 Other _____
 CASA volunteer Other Family Member _____
 Parent's Attorney(s) _____

Any peace officer serving a copy of this ORDER, along with a Summons, upon child's parent, guardian, or other person exercising custodial control or supervision as required by KRS 610.050, is hereby authorized to take the child into custody and place the child as specified in this ORDER.

DATE: _____, 2. _____, _____ Judge _____

Copies to: **Certified copy** to Cabinet for Health and Family Services or facility or agency where child is committed or placed, AOC, Citizen Foster Care Review Board, 100 Millcreek Park, Frankfort, KY 40601. KRS 620.220
 All counsel of record and/or parents/custodians of child not represented by counsel.



**ORDER
PERMANENCY HEARING**

Case No. _____
 Court _____ District Family
 County _____
 Division _____
 Hearing Type: Permanency (APR)

IN THE INTEREST OF: _____, A CHILD

Birthdate	Sex	Race	SSN

The following persons were present at today's hearing:

- Mother Father Child County Attorney CHFS Worker GAL
 Stepparent _____ PECCS _____
 Other _____
 CASA volunteer Other Family Member _____
 Parent's Attorney(s) _____

ORDER

WHEREAS, the above-named child was brought before this Court for a permanency hearing (APR) pursuant to KRS 610.125, the Court finds its jurisdiction has been properly sought and based upon the findings of fact and conclusions of law which follow this ORDER, IT IS HEREBY ORDERED:

- The PERMANENCY PLAN shall be:
 Return to Parent
 Adoption
 Placed with a permanent custodian
 Placed in another planned permanent living arrangement
 Other _____
- The Court further ORDERS that the above-named child shall:
 Doc. Code:
 OCOM Be committed, or remain committed, to the Cabinet for Health and Family Services (CHFS) or the Department of Juvenile Justice (DJJ);
 OTR Be placed, or continue to remain, out of home of removal with relatives or other appropriate person/agency;
 ORC Returned/Released to home of removal;
 OREM Remain in the home.
 Discharge from custody of DJJ: custody returned to CHFS pursuant to prior disposition and commitment order dated _____ which remains in effect. KRS Ch. 620

Name and address of person(s) to whom custody is granted (if other than CHFS or DJJ):

Name: _____
 Address: _____

Relationship: _____

- Child Support ordered. (Use AOC-152, Uniform Child Support Order).

Case No. _____

4. Parents, guardians or other person(s) exercising custodial control or supervision shall cooperate with the Cabinet for Health and Family Services and/or the Department of Juvenile Justice and actively participate in any treatment or social service program.

5. It is further ORDERED and ADJUDGED: _____

6. The Court's advisory recommendations, if any, regarding this child are: _____

FINDINGS OF FACT / CONCLUSIONS OF LAW

1. This child has been in foster care for 15 of the last 22 months, and:
 The child is being cared for by a relative.
 The Agency has documented the following compelling reason as to why filing a TPR petition would not be in the best interest of the child: _____

The Agency has not provided services consistent with the case plan that the agency deems necessary for the safe return of the child to his/her home.

2. The child's parents and/or other appropriate persons were were not notified of this hearing by the Court. Notice was not given because: _____

3. CHFS DJJ has has not presented evidence to the Court concerning the case and progress of the child since the last permanency hearing in accordance with KRS 610.125(4).

4. CHFS DJJ has made a recommendation as to the permanency goals of the child as follows:
a. Child should be returned to parent(s)
b. Child should be placed for adoption
c. Child should be placed with a permanent custodian
d. CHFS DJJ has documented a compelling reason that it is in the child's best interest to be placed in another planned permanent living arrangement other than those listed above.

CHFS DJJ has not made a recommendation as to the permanency goals of the child.
5. The Court has has not found that reasonable efforts have/are being made to finalize the permanency plan for the child. [Checking this box is mandatory for federal reimbursement].

6. Having considered the evidence presented at the hearing relevant to determination of the permanency goal for the child, the Court has has not found the child's best interests are served by CHFS's DJJ's recommendation.

7. On _____, 20____, this matter shall be redocketed for further review of the progress toward implementation of the permanency plan established at this hearing.

Case No. _____

APPOINTMENT OF COUNSEL
Counsel, as provided for in KRS 620.100(1)(a)-(c), is HEREBY APPOINTED as follows:

_____ is appointed to represent the interest of this child.
 _____ is appointed as counsel for the mother.
 _____ is appointed as counsel for the father.

In the interest of justice, _____
is appointed as counsel for the non-parent who exercises custodial control or supervision, since the non-parent is unable to afford counsel.

NEXT HEARING on this matter will be _____, 20____, at _____, _____ a.m. p.m. at this location: _____

NEXT HEARING TYPE: Review (REV) Permanency Hearing (APR)

The following persons shall be present:

- Mother Father Child County Attorney CHFS Worker GAL DJJ Worker
- Stepparent PECCS _____
- Other _____
- CASA volunteer Other Family Member _____
- Parent's Attorney(s) _____

DATE: _____, 20____, _____ Judge _____

Copies to:

- Cabinet for Health and Family Services
- Department of Juvenile Justice
- Facility or agency where child is committed or placed
- AOC, Citizen Foster Care Review Board, 100 Millcreek Park, Frankfort, KY 40601. KRS 620.220
- All counsel of record and/or parents/custodians of child not represented by counsel.



ORDER
PERMANENT CUSTODY
PURSUANT TO KRS 620.027

This form is NOT to be used in place of the Permanency Hearing Order (DNA-6)

IN THE INTEREST OF: _____, A CHILD

Birthdate	Sex	Race	SSN

The following persons were present at today's hearing:

- Mother Father Child County Attorney CFC Worker GAL
- Stepparent PECCS _____
- Other _____
- CASA volunteer Other Family Member _____
- Parent's Attorney(s) _____

The child's parents and other appropriate persons were were not notified of this hearing by the Court. Notice was not provided because: _____

ORDER

WHEREAS, the above-named child, having need for a permanent placement and custody order, was brought before this Court pursuant to KRS 620.027, the Court finds its jurisdiction has been properly sought and based upon the findings of fact and conclusions of law, **IT IS HEREBY ORDERED:**

FINDINGS OF FACT

The Court having jurisdiction of this matter has considered: the length of time the child has been in the care of _____, existence of a stable custodial relationship; current ability of the parent(s) to provide for the child; need for permanency for the child, and the following factors required by KRS 403.270 (check all that apply):

- wishes of child's parent or parents as to his/her custody;
- wishes of child as to his/her custodian;
- interaction and interrelationship of child with parent(s), siblings, and anyone else who may significantly affect the child's best interests;
- child's adjustment to his/her home, school and community;
- mental and physical health of all individuals involved;
- information, records and evidence of domestic violence as defined in KRS 403.720;

The Court makes the following additional specific findings (separate page may be attached for lengthier findings): _____

To consider these findings, KRS 403.270 requires a prior independent finding that a de facto custodian exists.
 wishes of child's de facto custodian, if any, as to his/her custody;
 extent to which child has been cared for, nurtured, and supported by any de facto custodian;
 intent of parent(s) in placing child with a de facto custodian; and
 circumstances under which child was placed or allowed to remain in custody of de facto custodian, including whether parent now seeking custody was previously prevented from doing so as a result of domestic violence as defined in KRS 403.720 and whether child was placed with a de facto custodian to allow parent now seeking custody to seek employment, work or attend school.

Case No. _____

IN THE INTEREST OF: _____, A CHILD

CONCLUSIONS OF LAW

Pursuant to KRS 620.027 and the above findings, the Court has determined it would be contrary to the welfare and best interests of the child to return him/her to parental custody. Reasonable efforts were made to prevent removal of child from parental care or were not required by KRS 610.127. The court finds it is in the best interest of the child that permanent custody be granted to:

Name _____ Relation to child _____

ORDER

WHEREFORE, IT IS HEREBY ORDERED THAT:

Doc. Code: _____

OCHR If child is committed to the Cabinet for Families & Children (CFC), child is hereby discharged from his/her commitment and placed in permanent custody of person(s) listed below.

OTR Placed in permanent custody of person(s) listed below.

Name and address of person to whom custody is granted (if other than CFC):

Name: _____
 Address: _____

Child Support ORDERED. (Use AOC-152, Uniform Child Support Order).

NOTE: For the purpose of proving custody (e.g. when required by a school, physician, etc.) providing Page 2 of this ORDER shall be sufficient.

Date: _____, 20____ Judge _____

Copies to:
 Counsel for Petitioner
 Counsel for Parents/Custodians of Child
 AOC, Citizen Foster Care Review Boards, 100 Millcreek Park, Frankfort, KY 40601
 Cabinet for Families & Children

DNA-11 Doc. Code: AICO
 Rev. 5-05 04/27/2010 02:12 pm
 Page 1 of 2 Ver. 1.01
 Commonwealth of Kentucky
 Court of Justice www.kycourts.net
 KRS Chapter 31, KRS 620.100, KRS
 625.0405, KRS 625.080


**FINANCIAL STATEMENT,
 AFFIDAVIT OF INDIGENCE,
 REQUEST FOR COUNSEL
 AND ORDER
 (DNA/TPR Cases)**

Case No. _____
 Court _____
 District Circuit
 County _____
 Division _____

IN THE INTEREST OF: _____, **A CHILD**

PARENT OR PERSON EXERCISING CUSTODIAL CONTROL MUST PROVIDE THE FOLLOWING INFORMATION:

NAME: _____
 ADDRESS: _____

SSN: _____ DOB: _____ Telephone: (_____) _____ Area code + number _____

The above-named parent is an unemancipated minor (under the age of 18) and I am his/her parent or legal guardian. _____
 (Name of Parent or Legal Guardian of Minor Parent)

FINANCIAL STATEMENT (This information should be provided by the parent or person exercising custodial control of the above-named child, OR if the child's parent is an unemancipated minor, the adult parent or legal guardian of the unemancipated minor should provide the information)

1. Are you employed? Yes No 2. If "Yes," are you Full time; Part time; or Seasonal/Temporary _____
3. How many adults are living in your household? ____ 4. How many children are living in your household? ____
5. Total Household Income Per Month: \$ _____
6. Available Cash from ALL SOURCES (bank accts, TANF, SSD, W/C, etc.) \$ _____
7. Cash value of other resources (food stamps, WIC, etc.) \$ _____
8. Property Ownership: Yes No Property Value: \$ _____
9. Number of autos you own that are in working order: ____ Total Value: \$ _____
10. Total Value of All Other Assets: \$ _____
11. Total Debts: \$ _____
12. Child support obligation? Yes No Monthly Total: \$ _____
13. Other obligations _____
14. Number of dependents: _____
15. _____

REQUEST FOR THE APPOINTMENT OF LEGAL COUNSEL:

I state to the court that:

- (1) I am a parent who exercises custodial control or supervision of the above-named child;
 I am a nonparent who exercises custodial control or supervision, of the above-named child;
 I am a parent who is a party to a termination of parental rights action.
- (2) I am not now represented by legal counsel; and
- (3) I am without sufficient monetary means or assets to afford private legal representation.

DNA-11
 Rev. 5-05
 Page 2 of 2

**AFFIDAVIT OF INDIGENCE
 PERJURY WARNING**

I understand that making a false statement in the Financial Statement, Affidavit of Indigence and Request for Appointment of Counsel may subject me to the penalties for perjury as contained in KRS Chapter 532. **The maximum sentence for perjury is five (5) years imprisonment.** I declare under the penalty of perjury that I have read or have had read to me the information contained on this form and that the statements provided here are true, complete and accurate to the best of my personal knowledge.

Date _____ Affiant's Signature _____

_____ Affiant's Name (Print or Type)

SUBSCRIBED AND SWORN TO before me this ____ day of _____, 20____.

My Commission Expires: _____ Attesting Officer or Notary's Signature _____

ORDER

Based on this application/motion, **IT IS HEREBY ORDERED:**

1. The applicant, or legal guardian/parent of the applicant:
 is NOT deemed indigent under KRS Chapter 31.
 IS found to be indigent under KRS Chapter 31.

2. APPOINTMENT OF COUNSEL

- is DENIED.
 is GRANTED.

The Court, having determined that the applicant is a needy person as defined in KRS 31.110 and that, pursuant to KRS Chapter 620, further proceedings regarding the above-named child are required, **or** that the applicant is a party to a termination of parental rights proceeding, **DOES HEREBY APPOINT** the Hon. _____ to represent the applicant. Counsel's fee, fixed by the Court at the appropriate statutory amount, shall be paid by the Finance and Administration Cabinet pursuant to KRS 620.100.

_____ Date _____ Judge's Signature _____

_____ Judge's Name (print or type)

Copy Distribution: Court File, Applicant, Appointed Counsel



**JUVENILE STATUS
OR DELINQUENCY DISPOSITION**

That Court costs in the amount of \$ _____ are assessed against the child the child's parent / legal guardian whose name / address is _____

IN THE INTEREST OF _____, A CHILD:

STATEMENT OF JURISDICTION

Said child has been brought before this Court on a verified petition pursuant to KRS 610.020 seeking this Court's exercise of jurisdiction pursuant to KRS 610.010. A copy of the petition is attached hereto. This Court finds that its jurisdiction has been properly sought, and bases its exercise of jurisdiction upon the following findings of fact and conclusions of law.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

- (1) The child was present in and properly before this Court pursuant to KRS 610.010 and 610.020.
- (2) The child was represented by counsel whose name is _____.
- (3) The Court has found, beyond a reasonable doubt, that the child has committed acts in violation of the following KRS: _____

- (4) The court has has not received recommendations pursuant to KRS 610.100 concerning disposition of the case.
- (5) The Court finds that:
 Reasonable efforts were made to prevent the child's removal from the home; Lack of preventive services was reasonable; Reasonable efforts to prevent removal were not provided, but reasonable efforts are being made to reunify the family; Continuation in the home is contrary to the welfare of the child or removal from the home is in the best interest of the child.

ORDER

The Court, verifying that its jurisdiction has been established, that the rights provided in KRS 610.030, 610.060, 610.070, and 610.080 have been extended to the child and the adult responsible for the child, that due process has been observed, that the allegations have been proved beyond a reasonable doubt, and that the Court has been sufficiently advised, IT IS HEREBY ORDERED AND ADJUDGED:

- Adopt Recommendations in dispositional report (see attached).
- That continuation in the home is contrary to the welfare of the child, and/or removal from the home is in the best interest of the child and that the child be, and hereby is, committed to: the Cabinet for Health and Family Services; the Department of Juvenile Justice; a child-caring facility or child placing agency as a status public offender, pursuant to KRS 630.120 or 635.060. The Court's advisory recommendations, if any, with regard to this child are: _____

That the superintendent/principal of _____ school at the following address _____ attended by the child, be given notice of the petition, if appropriate, and this disposition. (KRS 610.345).

- (not to be assessed if parent / guardian is victim or complainant) to be paid, if assessed against the child alone:
- in full;
 - in installments as follows: _____; or
 - by community labor as follows: _____
- That legal aid fees are assessed in the amount of \$ _____ and are due on or before _____
- That **CHILD SUPPORT is ordered as indicated on AOC-152, Uniform Child Support Order.**
- Other: _____

Date: _____ Judge _____

COPIES TO:

1. Child's Attorney
2. Pursuant to KRS 610.110, a certified copy of this order must be sent by the Clerk to the Cabinet for Health and Family Services, the Department for Juvenile Justice or the Facility or child-caring or child-placing agency to which the child is committed.
3. Superintendent/Principal, _____ School (if directed above)

ACCESS INFORMATION:

1. Victim / Family / Representative may access this document at any time.
2. This is a PUBLIC RECORD ONLY if case disposed as capital offense; class A, B, C Felony; or offense involving deadly weapon; or in which a deadly weapon is used or displayed. KRS 610.320(3).



**PRELIMINARY INQUIRY FORMAL/
INFORMAL PROCESSING CRITERIA
AND RECOMMENDATIONS**

Court Designated Workers must complete all applicable sections of this form.

following offense(s) as described in the attached complaint/petition: _____ a child, has been charged with the

A preliminary inquiry was conducted on _____ The following persons were present _____

If any of the following criteria apply to the above named child, the case is inappropriate for Informal Processing and must be referred for Formal Court Action. If none of the following criteria apply, proceed with informal action procedures.

1. The child is classified as a **Youthful Offender** under KRS 635.020 in that at least one of the following is applicable:
 - The child had attained age fourteen (14) at the time of the alleged commission of a **Capital Offense** or a **Class A** or **Class B Felony**. KRS 635.020(2).
 - The child had attained age sixteen (16) at the time of the alleged commission of a **Class C** or **Class D Felony** and has been previously adjudicated a Public Offender for a **Felony Offense** on one (1) prior separate occasion. KRS 635.020(3).
 - The child had attained the age of fourteen (14) at the time of the alleged commission of a **felony in which a firearm was used**. KRS 635.020(4).
 - The child is under eighteen (18), is presently charged with a **Felony Offense** and has been previously convicted as a **Youthful Offender**. KRS 635.020(5).
 - The person is eighteen (18) or older, is charged with a **Felony Offense** that occurred prior to age eighteen. KRS 635.020(7).
2. The child is presently charged with any of the following:
 - A **Capital, Class A, or Class B Felony Offense**.
 - A **"Sexual Offense,"** as defined by KRS Chapter 510.
 - Manslaughter**, First or Second Degree; **Reckless Homicide; Assault**, First or Second Degree; **Escape**, First or Second Degree.
 - Violation of probation.
 - Contempt of court.
3. In addition to the present offense(s) with which the child is charged, he/she has either:
 - Been previously adjudicated to have committed a Status or Public Offense or has had either such charge informally adjusted through the formal Court process, within the last twelve (12) months.
 - Been through the CDW Informal Process on at least two (2) prior, separate occasions.
4. Other:
 - The County Attorney has requested the case be referred for a Formal Hearing or Informal Process
 - The Court has moved that the case be referred for a Formal Hearing or Informal Process
 - The child has requested a Formal Court Hearing or chose not to attend.
 - Diversion was unsuccessful due to: unpaid restitution; balance due \$ _____; incomplete community service, hours due _____; seminar/workshop/counseling non-attendance; unexcused absences or tardies from school; and/or other _____

Based on the above criteria, the case is is not appropriate for Informal Processing. If the case is not appropriate for informal processing, it is recommended that this case be referred to court for a formal hearing or an informal adjustment.

Date _____ Court Designated Worker _____



By Amber Potter
Communications Coordinator

Gary D. Cohen '78 Serves as Distinguished Practitioner in Residence

Gary D. Cohen, NKU Chase College of Law class of 1978 and Chief Administrative Officer and Secretary of



Gary D. Cohen

The Finish Line, Inc., served as the Chase Transactional Law Practice Center's Distinguished Practitioner in Residence March 24-25.

Through the program, the Transactional Law Practice Center invites a distinguished practitioner to visit the College of Law to

interact with students, faculty, and alumni in a variety of settings. The program provides an opportunity for accomplished practitioners to share their experiences and insights about the realities of transactional law practice with the Chase community.

As a practitioner in residence, Cohen participated in featured lectures, regularly scheduled classes, special workshops, and small group discussions with students, faculty, and alumni. Topics included "The Role of General Counsel in a Publicly-Traded Company," "Collaboration Between In-House and Outside Counsel," "Effective Negotiation and Closing the Deal," and in an open forum, "Ask the General Counsel."

Cohen's primary responsibilities at The Finish Line, an Indianapolis-based athletic retailer that operates more than 700 stores in 47 states, include management and supervision of the corporation's initiatives in strategy and development. He is also responsible for the legal/lease administration, corporate governance and

compliance, and human resource and payroll departments.

Cohen is a national board member of the Association of Corporate Counsel and a member of its Indiana chapter. He has been a panelist or speaker at national retail and legal conferences, along with authoring numerous articles on different aspects of the in-house legal environment. Cohen is also a member of the Chase College of Law Board of Advisors and is a founding partner and advisory board member of the Transactional Law Practice Center.

Prior to joining The Finish Line, Cohen was the senior partner in the Indianapolis law firm of Cohen and Morelock, where his practice concentrated in the areas of commercial collection, corporate law, mediation, and real estate law. He still maintains an "of counsel" status with the firm Brand & Morelock.

Cohen's visit was sponsored by the Transactional Law Practice Center. The Center enables students to develop the practice skills they will need to become successful transactional lawyers.

Drawing on the resources and talents of a unique partnership of law students, faculty, practicing lawyers, and business leaders, the Center offers students innovative training in such fundamental transactional skills as interviewing, negotiation, drafting, business planning, and client counseling. The Center also offers specialized courses, workshops, and other programs in allied disciplines such as accounting and corporate finance that students will need to understand and appreciate the business aspects of commercial transactions.

NKU Chase National Trial Team Wins Regional Competition

NKU Chase College of Law's National Trial Team won the National Trial Competition Regionals for the second time in three years. The team of Lawrence Hilton, Joel King, Erin Melchior, Andrew Powell, and Meagan Lorenzen Tate was coached by Professor Kathleen Johnson with assistance from trial attorneys Bob Sanders and Tifanie McMillan. The students had to prepare and try both sides of a case

Forensic Psychiatry PLLC



Bobby A. Miller, M. D.

Providing Psychiatric & Neuropsychiatric Expertise To The Legal Community

919 Sixth Ave.
Huntington WV 25701
Office: 304-781-0228
Fax: 304-781-0229
Email: mdlaw@wvdsi.net
mdlaw@wvdsi.net
bobbymillermd.com

Forensic Fellowship Trained
with 23 years of clinical experience

TYPES OF SERVICES

- Board Certified Forensic Psychiatrist
- Board Certified Neuropsychiatrist
- Board Certified Psychiatrist
- Residency Trained Neurologist
- Interim Director of WVU Forensic Psychiatry Program

- Brain Injury • Civil Competency
- Criminal Competency • Emotional Damages
- Employment Dispute • Fitness for Duty
- Independent Medical Evaluation
- Medical Malpractice • Quality of Parenting
- Psychological & Neuropsychological Testing
- Sex Offender • Litigation Support Services
- Will Contest • Workers' Compensation



NKU Chase National Trial Team

including pre-trial motions and objections, voir dire of experts, and offers of proof. Twenty-eight teams representing 14 law schools from Kentucky, Ohio, and Michigan participated in the competition, which was held February 12-14.

The Trial Team's participation in state, regional, and national competitions is an integral part of the skills training provided by Chase's Center for Excellence in Advocacy. The Center's focus is to make students practice-ready at graduation, ensuring that they have not only the substantive knowledge but also the practical skills necessary for a successful law practice. ☺

UK University of Kentucky College of Law

By Bill Fortune

Robert G. Lawson Professor of Law

This issue of the *Bench & Bar* focuses on legal ethics and the 2009 amendments to Kentucky's Rules of Professional Conduct, and it is appropriate to comment on the process by which the rules were amended and the role UK law faculty and alumni played in that process.

Rick Underwood, a UK law professor since 1980, chaired the KBA ethics committee from 1984 to 1998; during this time, he proposed and implemented the highly popular ethics hot line system (now codified in SCR 3.530). In 1988, the KBA appointed a committee, chaired by Professor Underwood, to study the recently promulgated ABA Rules of Professional Conduct. The

ABA had proposed the Model Rules in a Restatement-like format to replace the Code of Professional Responsibility that had been adopted by most states, including Kentucky. The KBA committee, the "first" rules committee, proposed rules patterned on the ABA Model Rules and, with several changes, the Supreme Court adopted the rules effective January 1, 1990.

The ABA adopted major changes to the Model Rules in 2002 and 2003 and, on July 1, 2003, the KBA Board of Governors (Board), with the support and encouragement of the Kentucky Supreme Court, established a committee to study changes to the ABA Model Rules and make recommendations for changes to Kentucky's rules. Because the ABA's study committee had been formed in 2000 (and was called the Ethics 2000 Commission), the KBA committee took the name "KBA Ethics 2000 Committee." John Stevenson (UK 1972) was KBA president at the time of appointment.

UK law graduates on the committee

were: Del O'Roark (1960), who succeeded Ric Cusick as chair, Don Combs (1982), Jane Winkler Dyche (1995), Linda Gosnell (1976), Jane Graham (1976), Janet Jakubowicz (1982), Bill Johnson (1957), and Judge (later Justice) John Minton (1977). Linda Gosnell, Bar Counsel, provided the disciplinary prosecutor's perspective and Justice Minton provided the judicial perspective.

With significant contributions from all the members, Del O'Roark produced a remarkable document. For each rule of conduct, the KBA Ethics 2000 Committee Report contains the existing rule and comments, the proposed rule and comments, a comparison of the proposed rule with its ABA counterpart, an explanation of proposed changes to the existing Kentucky rule, and a detailed discussion of reasons for variance with the ABA Model Rule. The report includes written dissents and a helpful executive summary highlighting the most significant changes.

The committee sent the report to the Board on November 16, 2006. Over the

JOHN A WEST LLC

Experienced Mediation and ADR Solutions

Mediation requires patience and determination. Those are qualities I bring to mediation, along with an understanding of people and our justice system gained from long experience as a practicing attorney.

www.johnawest.com



250 East Fifth Street, Suite 1500
Cincinnati, OH 45202
E: john@johnawest.com

T: 513-878-2660
C: 513-910-8668
F: 513-878-2661

THIS IS AN ADVERTISEMENT

KENTUCKY BAR NEWS

winter, the KBA Rules Committee and the Board gave the report careful consideration, ultimately adopting the recommendations with four suggested changes. The Board submitted the report to the Supreme Court in the spring of 2007.

During the fall of 2007, Bill Fortune (UK Law 1964) presented the proposed rules to thousands of Kentucky lawyers at the Kentucky Law Updates, asking those with questions or comments to contact Justice John Minton, a committee member and the chair of the Supreme Court committee that would consider the rules.

The proposed rules were published for the Bar Convention in June 2007 and again in June 2008. The Court held a public hearing on the proposed rules at the June 2008 Bar Convention. At the hearing, the Supreme Court Justices and committee members engaged the audience in a spirited discussion, bringing out arguments for and against controversial proposals. That fall the Court considered the proposals, rule by rule. Justice Minton, by then Chief Justice, presided.

In the spring of 2009, the Court adopted changes to the rules with an effective date of July 15, 2009. While adopting most of the committee proposals, including (though in amended form) a reporting requirement, the Court made

several changes.

At the June 2009 Bar Convention, the rules were again on the agenda, this time in the form of a panel discussion by committee members to explain the changes that would become effective in July. To further inform the Bar, during the ensuing months, Bill Fortune, Linda Gosnell, Jane Graham and many others, both UK graduates and graduates of other schools, presented the rules in the "ethics portion" of continuing legal education programs. In addition to his article in this issue, Del O'Roark wrote about the rules in the September 2009 edition of the *Bench & Bar*.

Process is important. The KBA and the Supreme Court deserve high marks for the process through which Kentucky's rules of conduct were amended: 1) the committee produced a comprehensive report that was the basis for the ultimate changes; 2) the Board adopted the committee's recommendations with four carefully considered exceptions; 3) the KBA and Supreme Court submitted the proposed rules to the Bar in the fall 2007 Kentucky Law Updates; 4) the Court held a public hearing at which the issues were thoroughly aired; 5) in making changes the Court engaged in a careful analysis of the committee report and took comments

from the membership into account; 6) the KBA and Court informed the Bar of the changes through the *Bench & Bar*, the KBA website, the Kentucky Law Updates, and through many other presentations in the months surrounding the effective date of the changes. ☺



University of
Louisville
School of Law

By Jim Chen

Dean and Professor of Law

Present Tense

"Time is the longest distance between two places," wrote Tennessee Williams in *The Glass Menagerie*. So too is it in law. Among the law's many challenges, perhaps none is more daunting than the task of bridging past, present, and future in the governance of human affairs. The Supreme Court of the United States, for instance, has described the Constitution as a covenant running from the founding generation of Americans to our time and beyond. From constitutional interpretation to the everyday administration of firms, agencies, and schools, lawyers owe themselves, their clients, and the institution of the law itself a duty to guarantee fidelity across time.

I propose to unlock this puzzle with an intellectual tool that is at once a personal passion and the professional foundation of our shared craft: language.

I remember vividly and fondly my first encounters with the English language. My classmates in the public schools of Atlanta, Georgia, through the ebb and flow of children's conversation, immersed me in Black English Vernacular. Only later did I come to appreciate this linguistic gift. Black English Vernacular exhibits an extraordinary richness of ways to measure time. In formal terms, Black English Vernacular uses as many as eight distinct phases to express what standard English captures within three tenses. Even more distinctively, Black English Vernacular uses *be*, *been*, and *fixing to* as modal

Need help with a firearms collection?

Beginning our 36th year buying, selling and servicing all types of modern and collectable firearms. We are licensed, bonded and insured.



Charles B. Layson



T. Rees Day

APPRAISAL • ESTATE LIQUIDATION • CONSIGNMENT
EXPERT TESTIMONY • STORAGE



"Dealers in Quality
Arms Since 1974"

ANTIQUE & MODERN FIREARMS, INC.

2263 Nicholasville Road • Lexington, KY 40503

859.276-1419

email: sales@am-firearms.com

verbs to express habitual or continuative aspects of the present tense.

Listen to America singing today, in its rich linguistic diversity, and you will readily hear other ways of distinguishing between habitual action and its one-and-done counterpart. The difference between *she be here* and *she [is] here* in the present tense of Black English Vernacular is almost perfectly analogous to the difference between the imperfect and the preterite tenses of the Spanish language. And speaking of Spanish, few passages approach the sheer power of John 1:1 in Spanish translation: *En el principio existía el Verbo, y el Verbo estaba con Dios, y el Verbo era Dios*. Three distinct Spanish verbs express subtle variations on a theme that most English translations render simply as *was*.

Even standard English plays fun tricks with verb tenses. The present continuous – *I am writing about law and language* – performs work that German and Greek, despite those languages’ justifiable fame as instruments of science and philosophy, must handle with the simple present. Whatever our native sociolect as speakers of American English, all of us have the innate linguistic tools to divide, perchance to divine, the subtleties of present tense and current time.

Why does any of this matter to law and legal education? Our craft quite often looks backward – *tunc pro nunc*, as it were, in a perversion of the familiar remedial formula – in its quest for answers. Yet our profession, to its core, must serve the present, the here and now of life as the living alone know it.

Across a wide swath of legal doctrines, judges and lawyers routinely fix the answers to today’s legal problems according to yesterday’s beliefs. What was the original intent of the Constitution’s framers? What was the legislative intent underlying an ambiguous statute? Is there parol evidence shedding light on what the parties to a contract actually imagined? What are the steps a probate court might take to bring the dead hand of a bequest in line, *cy pres* or as close as possible, to current reality?

Legal education likewise looks back-

ward. The specific work of educational administration may be singularly vulnerable to the retrospective instinct. Nary a school neglects to mention its founding date. Here at the University of Louisville, the dates 1798 and 1846 figure prominently in our own historical narratives. The related imperatives of alumni relations and fundraising often stress a glorious past, from class reunions to naming opportunities and planned gifts commemorating brilliant careers and lives well lived.

The long look back, to be sure, serves important purposes in law and legal education. Fidelity across legal time surely includes founders as well as the future. Donors who look back for historical inspiration invariably look forward for opportunities to make a difference. The true challenge lies in remembering that law, for all of its reliance on linguistic and sociological archeology, remains at its core a strictly instrumental enterprise. We practice law, we promulgate law, we perform law *for a reason*. And those instrumental purposes focus on needs most

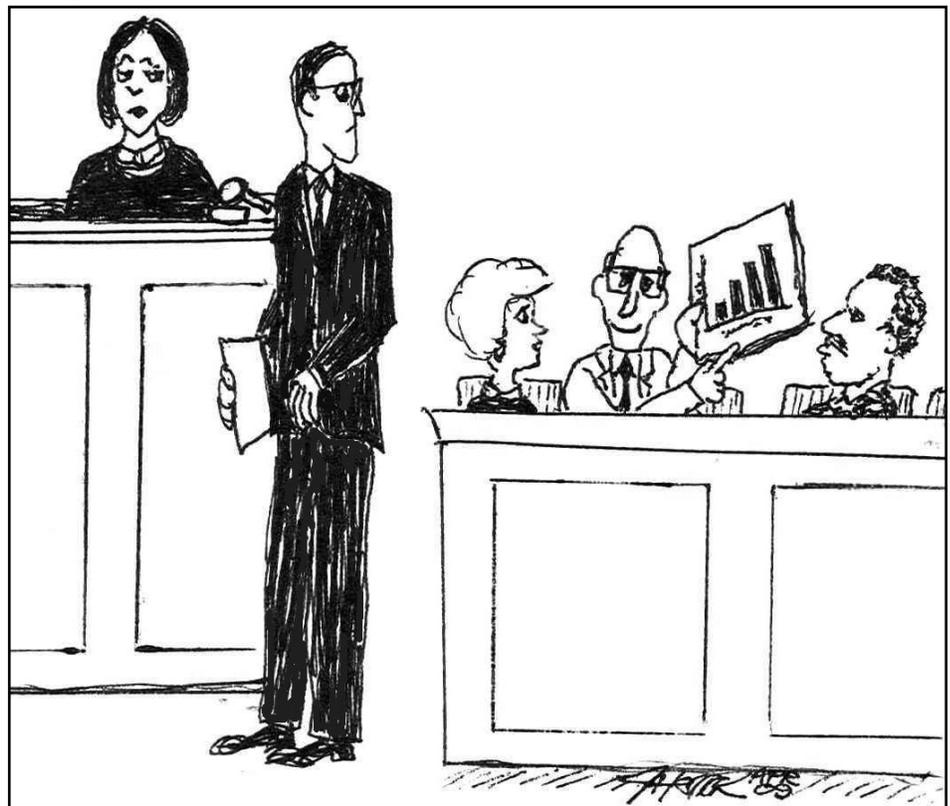
saliently felt today, or most vital to generations yet to come.

Language, that fundamental tool of the law, ultimately empowers us to discharge the awful responsibility of legal time. Fidelity to law across time above all demands attention to those interests and those constituents who stand before us. It is our charge, as lawyers and legal educators, to decipher those mysteries that have been hidden throughout past ages and generations and to translate them for the use and understanding of the living. Look back at the law as we must, but remember always to speak and to act in the present tense. ☺

■ In Memoriam

Stephen Gene Allen	Lexington
Lawrence Jude Clark, Jr.	Louisville
Michael J. Leatherman	Findlay, OH
Gentry E. McCauley, Jr.	Versailles
Jamieson G. McPherson	Louisville
Robert George Stallings	Louisville
Harold M. Streets	Greenville

Legally Insane by Jim Herrick



“Counsel, I believe your expert witness has invaded the province of the jury.”

KENTUCKY BAR NEWS

SUMMARY OF MINUTES KBA BOARD OF GOVERNORS MEETING JANUARY 15-16, 2010

The Board of Governors met on Friday and Saturday, January 15-16, 2010. Officers and Bar Governors in attendance were *President* C. English, Jr., *President-Elect* B. Davis, *Vice President* M. Keane, *Immediate Past President* B. Bonar, *Young Lawyers Section Chair* J. Moore, *Bar Governors 1st District* – D. Myers, J. Freed; *2nd District* – R. Sullivan, J. Harris; *3rd District* – R. Hay, G. Wilson; *4th District* – D. Ballantine, D. Farnsley, *5th District* – A. Britton, F. Fugazzi, Jr.; *6th District* – T. Rouse, D. Kramer; and *7th District* – B. Rowe, W. Wilhoit.

In Executive Session, the Board considered one (1) discipline case, three (3) discipline default cases, one (1) reinstatement case and one (1) restoration case. Malcolm Bryant of Owensboro, Roger Rolfes of Florence, and Dr. Robert Strode of Frankfort, non-lawyer members serving on the Board pursuant to SCR 3.375, participated in the deliberations.

In Regular Session, the Board of Governors conducted the following business:

- Heard a status report from the KYLAP, Rules Committee, and Office of Bar Counsel.
- Reviewed an appeal by Jerome Baker from a CLE Commission decision pursuant to SCR 3.670(3).
- Approved the appointment of Allison Fridy Arbuckle as a Trustee for the Clients' Security Fund to fill the remaining term of Tracy Wise expiring June 30, 2011.
- Young Lawyers Section Chair Jennifer H. Moore reviewed the YLS goals which include giving members more

opportunities to network, providing more programming, and increasing diversity in the profession. She also reported that the section is hosting a reception and showing of "WITNESS" at Stoll Keenon Ogden for the Voices Against Violence Project to raise money for the Bluegrass Domestic Violence Center on February 11th. A grant was received from the Kentucky Bar Foundation to reprint the U@18 pamphlets, and YLS has received a tremendous response from the schools for this project. Ms. Moore discussed a one day program "Why Choose Law: Diversity Matters" which is being offered in conjunction with the annual convention on Tuesday, June 15th. The Section would invite 20 high school seniors and college freshman from each district for the program which would include meeting with judges, visiting the federal and state courts, and attending a panel discussion composed of young lawyers and professionals regarding how to prepare for law school and encouraging them to stay in Kentucky to practice.

- President English requested Board members to sign up for taping segments for the Brief Insights website. Filming could be done anywhere in Lexington and it has been scheduled to have tapings at the March Board meeting. There will also be opportunities to do these tapings at the annual convention.
- Approved purchasing a table at the Louisville Bar Association Bench & Bar Dinner scheduled on Thursday, January 21. President English extended an invitation to any Bar Governors who wanted to attend.
- President English advised that the CLE Program and Convention Planning Committees would be meeting in the upcoming week. He stated that the Court has also agreed to re-schedule the Rules Hearing from the Wednesday morning to Friday morning. He

advised that the Wednesday morning programming will address the interests of lawyers and judges in the hope that more judges will be able to attend the convention. Commitments have been received from Morris Dees and Frank Abagnale, subject of the *Catch Me If You Can* movie, as featured speakers.

- Approved the reappointment of John G. Prather, Jr. of Somerset to the Audit Committee for a second three-year term ending on December 31, 2012.
- Approved a Media Policy for Public Oral Arguments.
- Approved the criteria for requests to keep address roster private.
- Approved the request of the KBA Real Property Section to make recommendations regarding real property law in Kentucky in the name of the section only and not in the name of the Board of Governors or the Kentucky Bar Association.
- Approved the adoption of KBA E-430 regarding a lawyer's duty to report professional misconduct of other lawyers and judges under the recent amendments to the Rules of Professional Conduct, SCR 3130(8.3) as a formal ethics opinion.
- Approved the 2010-2011 KBA Proposed Budget as amended to include adjustments to respective salary line items and related payroll taxes to be submitted to the Supreme Court for approval.

To KBA Members

Do you have a matter to discuss with the KBA's Board of Governors? Board meetings are scheduled on

June 15, 2010
July 30-31, 2010

To schedule a time on the Board's agenda at one of these meetings, please contact John Meyers or Melissa Blackwell at (502) 564-3795.

LOUISVILLE LAWYER SHAVES HEAD FOR CANCER RESEARCH

For the seventh year in a row, Joe Tucker, a partner in Dinsmore & Shohl's Louisville office, has participated in St. Baldrick's Day – held the Sunday before St. Patrick's Day – in order to raise money for childhood cancer research.



Since 2004, Tucker has raised more than \$70,000 by shaving his head in exchange for charitable donations to the St. Baldrick's Foundation. From 2005-2009, the foundation has provided more than \$41.7 million in grants for childhood cancer research.

Tucker has been one of the leading fundraisers in Louisville for the St. Baldrick's Foundation as a member of "Team Sammy." The team is named in memory of Sammy Pardue, the son of Brook and Tom Pardue of Louisville. Sam lost his fight against cancer "just shy of his fifth birthday," Tucker said.

"The Pardues are good friends and they got us involved in St. Baldrick's," Tucker said. "I have three daughters and it is very hard to imagine the pain and difficulty a parent must go through when they lose their child."

In 2005-2007, Tucker's middle daughter, Brennan (age 7 in this picture), joined her father and they both shaved their heads to show solidarity and sympathy for those young cancer patients who typically lose their hair during treatment.

"I have short hair, so it's not that big of a deal for me to shave my head," Tucker said, "but the amazing thing for me is the number of children, the number of young girls like my daughter, and the number of moms that shave their heads. To me, those are the real stars. Those are the ones that are sacrificing a great deal for a great cause."

For more information on St. Baldrick's, visit www.stbaldricks.org.

JAMES B. TODD RETIRES AFTER 16 YEARS AS U.S. MAGISTRATE JUDGE

U.S. Magistrate Judge James B. Todd retired on April 30, 2010 after serving the public and the Bar for 16 years in the Eastern District of Kentucky. Judge Todd is a 1966 graduate of the University of Kentucky College of Law and spent 26 years in private practice before his appointment to the federal bench on March 24, 1994. Originally hailing from Lexington, Judge Todd married a Pikeville native, the former Bonnie Wells,



James B. Todd

and began practicing law with attorney O.T. Hinton in Pikeville. Judge Todd concentrated on medical malpractice defense while a practicing attorney, and he and his long time law partner Neil Smith founded the firm of Todd and Smith.

As U.S. Magistrate Judge, Judge Todd presided over the voluminous discovery and pretrial motion practice in the civil litigation arising from the Comair Flight 5191 air disaster where 49 people perished in 2006 when their plane crashed at take-off at Bluegrass field. He recently joined the Lake Ellerslie Fishing Club and intends to renew his love of fishing, golf, and travel. Judge Todd does not plan to maintain an office.

CRAFT, NOBLE & COMPANY –The CPA firm that offers so much more.

PLLC

Certified Public Accountants
Post Office Box 827
Richmond, KY 40476
www.craftnoble.com

Business Valuation

- Business Sale
- Marital Dissolution
- Estate and Gift Tax
- ESOPS
- Professional Practice Sale
- Insurance Claims
- Family Limited Partnerships
- Damage Suits

Expert Witness Testimony

- Business Sale
- Marital Dissolution
- Estate Planning
- Lost Profit and Earning Insurance Claims
- Merger or Acquisition
- Bankruptcy
- Commercial Damage Suits

Arbitration and Mediation

- Insurance Claims
- Estate and Gift Tax
- Damage Suits
- Marital Dissolution
- ESOPS
- Family Limited Partnerships

Forensic Accounting

- Identify theft, fraud or illegal accounting practices

Call or visit our website to subscribe to our free Quarterly Newsletter with tax and business planning tips.

Contact John Craft • (859)623-4027 • www.craftnoble.com

Certified Public Accountants • Accredited Business Valuator





THE KENTUCKY BAR FOUNDATION SALUTES ALL FELLOWS



Thank you for the tremendous support you have provided toward our many programs and projects.

Arthur E. Abshire
Glenn Acree
Dick Adams*
John R. Adams
Edward C. Airhart
D. Paul Alagia, Jr.
Phillip E. Allen*
Sharon K. Allen
Stephen G. Amato
John E. Anderson
Kenneth L. Anderson
Mark G. Amzen
Kathryn R. Arterberry
William M. Arvin, Sr.
William M. Arvin, Jr.
Edward B. Atkins
William C. Ayer, Jr.
James W. Baechtold
Glen S. Bagby
Charles J. Baird
David L. Baird
John H. Baird
Virginia Baird
William J. Baird III
William J. Baird IV
Joseph L. Baker
Karen Burris Baker
Michael H. Baker
Robert R. Baker
Jeffrey Scott Bakst
Douglas C. Ballantine
John T. Ballantine
Joseph F. Bamberger
Uhel O. Barrickman*
Gregory M. Bartlett
Ruth H. Baxter
W. Robinson Beard
Winifred B. Becker
David L. Beckman, Jr.
J. David Bender
Ann K. Benfield
A. Stuart Bennett
R. Terry Bennett
Deedra Benthall
Perry M. Bentley
Howard C. Berry
William O. Bertelsman
G. Barry Bertram
Phil Allan Bertram
Robert L. Bertram
William H. Bixler*
Stacey Ann Blankenship
William A. Blodgett, Jr.
David L. Bohannon
Barbara D. Bonar
John A. Bonar
David C. Booth
Morris B. Borowitz*
J. David Boswell
Gorman Bradley, Jr.
Leonard H. Brashear
Robert G. Breetz
Thomas C. Britz
Anita Mae Britton
David F. Broderick
John R. S. Brooking*
Kevin C. Brooks
David C. Brown
Martha L. Brown
Robert J. Cowan
W. Rodes Brown
Elizabeth K. Broyles
Alan O. Bryant
James David Bryant*
Mark P. Bryant
Mark A. Bubenzer
Robert V. Bullock

W. Thomas Bunch
W. Thomas Bunch II
Virginia Collins Burbank
Stephen S. Burchett
Jeffrey T. Burdette
Thomas H. Burnett
J. Frank Burnette
John H. Burrus
Raymond M. Burse
Elizabeth W. Burt
Charles R. Burton
Morris E. Burton
Martin C. Butler
Karen Caldwell
J. Mel Camenisch, Jr.
Joe Bill Campbell
Rutheford B. Campbell, Jr.
Deno C. Capello, Jr.
Michael O. Caperton
Sam A. Carter
Keith M. Carwell
Christopher R. Cashen
J. Larry Cashen
Suzanne Cassidy
Charles H. Cassis
Charles S. Cassis
Joseph W. Castlen III
Robert E. Cato*
Robert L. Caummisar
Stanton L. Cave
Stephen C. Cawood
L. Stanley Chauvin, Jr.
James S. Chenaault
Masten Childers II
James D. Chittenden*
M. Ronald Christopher
L. Wayne Cisney*
L. Wayne Cisney, Jr.
Dennis M. Clare
Janis E. Clark
Merle C. Clark
R. David Clark
James Crayton Clay
Richard H. C. Clay
James E. Cleveland III
Carl R. Clontz
John E. Clontz
Michael E. Coen
Willis G. Coffey
John David Cole
Reford H. Coleman
Roy G. Collins
Guy R. Colson
William Colvin
C. Kilmer Combs*
Donald H. Combs
Robert P. Combs
Steven D. Combs
Robert H. Compton
Gary I. Conley
Allison I. Connelly
Luther C. Conner, Jr.
Stewart E. Conner
A. V. Conway II
F. Thomas Conway
Matthew P. Cook
Thomas M. Cooper
William S. Cooper
Nancy J. Cotton
Frederic J. Cowan, Jr.
Theodore E. Cowen
Benjamin Cowgill, Jr.
Donald L. Cox
Jerry J. Cox
Timothy Crawford
Roger L. Crittenden
Charles J. Cronan IV

Marie Alagia Cull
John R. Cummins
Robert I. Cusick, Jr.
Melinda Gillum Dalton
Jeffrey D. Damron
Laura D'Angelo
Marilyn S. Daniel
Barton D. Darrell
Samuel E. Davies
Benjamin K. Davis
Bruce K. Davis
Mark B. Davis, Jr.
Russell H. Davis, Jr.
William W. Davis
Sandra Mendez Dawahare
Joseph M. Day
William G. Deatherage, Jr.
James L. Deckard
Larry C. Deener
Charles David Deep
William M. Deep*
Laura Day DelCotto
Glenn W. Denham*
Glenn D. Denton
W. David Denton
William J. Deupree, Jr.*
William J. Deupree III
Henry H. Dickinson
C. Michael Dixon
Frank P. Doheny, Jr.
A. Robert Doll*
Thomas A. Donan
William P. Donan*
Herman G. Dotson*
Diana K. Douglas
Bridget L. Dunaway
Jacqueline S. Duncan
Michael A. Duncan
Robert F. Duncan
Henry Durham
Robert L. Durning, Jr.
Jane Winkler Dyche
R. W. Dyche III
Michael R. Eaves
Timothy L. Edelen
Barbara B. Edelman
James D. Elam
Marshall P. Eldred, Jr.
Robert L. Elliott
Sharon S. Elliston
Alison Lobb Emmons
Lisa H. Emmons
Candy Yarbray Englebert
Charles E. English
Charles E. English, Jr.
Michael F. Eubanks
Joe A. Evans III
Linda S. Ewald
Robert C. Ewald
Edward Lambert Farmer, Jr.
F. Preston Farmer
Douglass Farnsley
Thomas Wesley Faulkner
Thomas L. Feazell
Manley N. Feinberg
Thomas L. Ferreri
Lori Fields-Lee
Gordon B. Finley, Jr.
Christy Lynn Fiori
Jon L. Fleischaker
Ben S. Fletcher III
Frank Allen Fletcher
John W. Foote
W. Jeffery Foreman
William H. Fortune
William G. Francis
Larry B. Franklin

Steven J. Franzen
Jonathan Freed
Anthony W. Frohlich
Richard L. Frymire, Jr.
Gregory C. Fuchs
Fred E. Fugazzi, Jr.
Ronald L. Gaffney
James W. Gardner
William R. Garmer
Larry D. Garmon
E. Spivey Gault
George M. Geoghegan
Terry L. Geoghegan
Elmer J. George
Charles R. Geveden
James T. Gilbert
Jerry W. Gilbert
John Sanders Gillum
Robert E. Gillum*
Sheldon G. Gilman
Thomas B. Givhan
C. Edward Glasscock
Brian T. Goettl
Francis T. Goheen*
Julie Muth Goodman
Flem Gordon
M. Kirby Gordon II
Linda A. Gosnell
Douglas W. Gott
Jane E. Graham
William L. Graham
John W. Graves
Geoffrey B. Greenawalt
Glenn L. Greene, Jr.
Charles D. Greenwell
William D. Gregory
Richard G. Griffith
Kathie E. Grisham
Margo L. Grubbs
William D. Grubbs
Richard M. Guarnieri
Asa P. Gullett III
Anne Fowler Gwinn
Kevin J. Hable
Frank E. Haddad, Jr.*
Robert Haddad
Kenneth R. Haggard
Howard Keith Hall
Roger W. Hall
Benny E. Ham*
James L. Hamilton
John T. Hamilton
Glenn M. Hammond
Michael R. Hance
Robert E. Harding, Jr.*
Robert M. Hardy, Jr.
David L. Hargrove
James E. Hargrove
Norman E. Harned
Paul C. Harnice
James G. Harralson
William Stokes Harris, Jr.
William Guy Hart, Jr.
C. Edward Hastie
Frederick D. Hatmaker
David L. Hausrath
Albert C. Hawes, Jr.*
Michael L. Hawkins
Lionel A. Hawse
Richard W. Hay
Marian J. Hayden
K. Gregory Haynes
James D. Heiple
Joseph B. Helm
James W. Hendricks*
Dale W. Henley
G. Edward Henry II

Kevin G. Henry
Robert B. Hensley*
Betty R. Herbert
H. Jefferson Herbert, Jr.
Henry R. Heyburn*
John G. Heyburn II
Sheila P. Hiestand
Gary R. Hillerich
Ronald P. Hillerich
Frank Pryor Hilliard
William R. Hilliard, Jr.
Lisa English Hinkle
Paul C. Hobbs*
Robert C. Hobson*
Jeffrey C. Hoehler
Warren J. Hoffmann
Lanny R. Holbrook
Morton J. Holbrook, Jr.*
Jeffrey H. Hoover
Richard M. Hopgood
Eric S. Horstmeyer
Todd S. Horstmeyer
Elizabeth A. Horwitz
Martin J. Horwitz*
Glenn A. Hoskins
William A. Hoskins III
Robert F. Houlihan, Jr.
Brian C. House
Gary B. Houston
J. William Howerton
E. E. Hubbard*
John D. Hubbard
Harold K. Huddleston
Martin J. Huelsmann
Winter R. Huff
Catherine C. Hughes
Elizabeth S. Hughes
Theodore S. Hutchins
David R. Irvin
John G. Irvin, Jr.
Sheila R. Isaack
Sarah M. Jackson
Elizabeth McConahy Jenkins
William Baxter Jennings*
William T. Jennings
A. Thomas Johnson
Anita P. Johnson
Donald L. Johnson
E. Louis Johnson
Gary C. Johnson
J. B. Johnson, Jr.
Joseph Russell Johnson
Lisa Lee Johnson
William E. Johnson
R. Harvey Johnston III
Robert D. Johnston
E. Lee Jones
Ernest H. Jones II
Paul E. Jones
Thomas P. Jones
William H. Jones, Jr.
David B. Jorjani
Michael L. Judy*
Joseph J. Kaplan*
William J. Kathman, Jr.
Louis Kawaja
Margaret E. Keane
Charles Dant Kearns*
J. Clarke Keller
J. Warren Keller
Robert W. Kellerman
Harold E. Kelley*
David L. Kelly
J. Daniel Kemp
William S. Kendrick
James M. Kennedy
Carolyn L. Kenton

Ben L. Kessinger, Jr.
Thomas J. Keuler
L. Daniel Key
Gregory A. Keyser
Daniel King III
Edward M. King
Frank N. King, Jr.
Nicholas N. King
Shelby C. Kinkead, Jr.
Henry E. Kinsler
Charles L. Kirk*
William D. Kirkland
Lois A. Kitts
Mark D. Knight
William L. Knopf
David L. Knox
Robert A. Kohn
David V. Kramer
James Scott Kreuzer
James R. Kruer
John R. Kummer
Eric M. Lamb
Joseph E. Lambert
Charles Landrum, Jr.*
John E. Lange III
Kathleen S. Lape
Raymond E. Lape, Jr.
Scott D. Laufenberg
Paul T. Lawless
Meredith L. Lawrence
William Ward Lawrence
Robert G. Lawson
Virginia L. Lawson
Laramie L. Leatherman*
R. David Lester
Marc H. Levy
Anne Noyse Lewis
Barbara B. Lewis
Erwin W. "Ernie" Lewis
Rufus Lisle*
Jeremiah A. Lloyd*
David C. Long
George E. Long II
Jane Broadwater Long
John M. Longmeyer
Bernard F. Lovely, Jr.
Susan Dabney Luxon
Titus G. Lyle
D. G. Lynn*
Harry M. Mack*
R. Scott Madden
Allison J. Maggiolo
Armer H. Mahan, Jr.
Mary Kathryn Manis
Samuel Manly
Howard Oliver Mann
David Russell Marshall
David W. Martin
John R. Martin, Jr.
Richard W. Martin
Sheridan Martin
Lucinda C. Masterton
Joseph H. Mattingly III
Timothy L. Mauldin
Arloe W. Mayne*
William E. McNulty, Jr.*
Robert E. McBeath
William H. McCann
Denise H. McClelland
Thomas A. McConnell
R. Burl McCoy
Patrick S. McElhone
Kent McElwain*
John Scott McGaw*
John R. McGinnis
Earl M. "Mickey" McGuire
Scott D. McMurray
William F. McMurry
Sam G. McNamara
Jay D. McShurley
Douglas L. McSwain
Mark S. Medlin
Austin Mehr

Kurt J. Meier
Henry Meigs II
Francis J. Mellen, Jr.
J. Scott Mello
Elizabeth Ullmer Mendel
Creighton E. Mershon, Sr.
Paul S. Meyer
Thomas J. Meyer
John D. Meyers
Charles C. Mihalek
Daniel H. Miller
Ellen L. Miller
Margaret A. Miller
Mark T. Miller
Guy E. Millward, Jr.
Stephen D. Milner
John D. Minton, Jr.
Mary K. Molloy
Donald P. Moloney II
Phillip M. Moloney
Gregory L. Monge
David R. Monohan
Bruce W. Moore
Charles E. Moore
Frank Hampton Moore, Jr.
Robert C. Moore
Elmer E. Morgan
Jeffrey R. Morgan
Mark L. Morgan
McKinley Morgan
Leslie W. Morris II*
Gordon W. Moss
Jesse T. Mountjoy
Kevin L. Murphy
W. Douglas Myers
Gerald A. Neal
Gregg Y. Neal
Henry C. Neel*
Thomas R. Nienaber
James A. Nolan*
Eileen M. O'Brien
Stephen M. O'Brien III
Joe O'Bryan
Michael J. O'Connell
Len W. Ogden, Jr.
John J. O'Hara*
Michael J. O'Hara
Ann B. Oldfather
William C. Oldfield*
Dulaney L. O'Roark, Jr.
D. Bruce Orwin
John S. Osborn, Jr.
Thomas Lee Osborne
Peter L. Ostermiller
William Donald Overbey*
Jeanie Owen-Miller
Carol B. Paisley
Lewis Paisley
Charles E. Palmer, Jr.
Carol M. Palmore
John S. Palmore
William J. Parker*
Ron R. Parry
Gregory P. Parsons
John Judson Patterson
Peggy E. Patterson
W. R. Patterson, Jr.
Phillip R. Patton
L. Edwin Paulson, Jr.
J. Lewis Payne
Marshall S. Peace
H. Harris Pepper, Jr.
Peter Perlman
Edwin H. Perry
Roger L. Peterman
Eugene B. Pflughaupt
William E. Pinkston
R. Scott Plain
Debra S. Pleatman
Brenda Popplewell
J. David Porter
John G. Prather, Jr.
David F. Pratt

Glenn A. Price, Jr.
Wayne C. Priest, Jr.
Marvin C. Prince*
Gregory K. Puckett
William R. Pumphrey
J. Luke Quertermous
George F. Rabe
F. R. Radolovich
Marco M. Rajkovich, Jr.
Harry David Rankin
Maria Ransdell
James B. Ratliff
Leif C. Ratliff
Nancy T. Ray
Barbara S. Rea*
Carroll M. Redford, Jr.*
Carroll M. Redford III
Henry M. Reed III
John S. Reed II
Ryan C. Reed
Albert F. Reutlinger*
William D. Reynolds
Alice Graham Rhodes
John R. Rhorer, Jr.
W. Brent Rice
Hugh Montgomery Richards
Henry C. T. Richmond III
Charles E. Ricketts, Jr.
Marcia Milby Ridings
Debra S. Rigg
Ronald L. Rigg
Roger T. Rigney
Benita J. Riley
Michael D. Risley
Emily Roark
Larry S. Roberts
Richard C. Roberts
Phyllis L. Robinson
William T. Robinson III
John C. Rogers
John M. Rogers
Fran Gerald Rohlfing
John H. Rompf
E. P. Barlow Ropp
Jill Hall Rose
Robert L. Rose
Leslie Rosenbaum
John M. Rosenberg
Martha A. Rosenberg
Calvert T. Roszell
Laura Rothstein
Arthur A. Rouse
Arthur B. Rouse, Jr.*
Colvin P. Rouse, Sr.*
H. Douglas Rouse
James D. Rouse
Thomas L. Rouse
Robert Lowe, Jr.
Leonard G. Rowekamp
Lee W. Rowland
Donald J. Ruberg
Michael K. Ruberg
Robert E. Ruberg
William J. Rudloff
Stephen M. Ruschell
Thomas B. Russell
John C. Ryan
Kathryn Warnecke Ryan
William P. Ryan, Jr.
Charles A. Saladino*
George Salem, Jr.*
Robert E. Sanders
Joshua E. Santana
Joe C. Savage
William E. Savage II
Paul J. Schachter
Glenn L. Schilling
David A. Schneider
George D. Schrader
Wilfrid A. Schroder
Michael J. Schulte
David V. Scott
Joseph M. Scott, Jr.

Phillip D. Scott
Tasha K. Scott
Warren N. Scoville
John E. Selent
Gary J. Sergeant
William L. Shadoan
James M. Shake
James J. Shannon, Jr.
Wm. Kevin Shannon
Richard D. Shapero*
Billy Ray Shelton
Mark A. Shepherd
David C. Short
Weldon Shouse*
William C. Shouse
Daniel A. Simons
T. Bruce Simpson
W. Kennedy Simpson
Lee E. Sitlinger
Michael M. Sketch
Herbert D. Sledd
David B. Sloan
Alan T. Slyn
Bruce E. Smith
John L. "Jack" Smith
Neal Smith
Raymond G. Smith
S. Russell Smith, Jr.
Thomas C. Smith
Thomas M. Smith
M. Gene Snyder*
Sheryl G. Snyder
Perry N. Southard
Virginia J. Southgate
Elise Givhan Spainhour
John E. Spainhour
G. David Sparks
Richard W. Spears*
Robert E. Spurlin
Burl Wells Spurlock
Gerard A. St. Amand
J. Robert Stansbury
R. Lee Steers, Jr.
Andrew M. Stephens
Henry L. Stephens, Jr.
Robert F. Stephens*
James G. Stephenson
Donald L. Stepner
Jonah Lee Stevens
John W. Stevenson
Dennis J. Stilger
John H. Stites III
Joseph E. Stopher*
Beverly R. Storm
Daniel P. Stratton
David C. Stratton
R. James Straus
George E. Strickler, Jr.
R. Michael Sullivan
Ronald M. Sullivan
Robert L. Swisher
Larry F. Sword
Julia Kurtz Tackett
John S. Talbott
Philip Taliaferro III
Damon R. Talley
Jeff S. Taylor
Richard S. Taylor
Joseph H. Terry
George Thacker
Linda B. Thomas
Richard P. Thomas
James E. Thompson
Steven O. Thornton
William P. Thurman, Jr.
James M. Todd
R. William Tooms
John M. Tranter
Brent Travelsted
Penny Travelsted*
William Clifton Travis
Selden Y. Trimble IV*
J. Guthrie True

Jerry D. Truitt
Elizabeth J. Turley
Robert J. Turley
Job D. Turner III
Paul K. Turner
Ross T. Turner
Thomas E. Turner
Walter W. Turner
Richard H. Underwood
Howard VanAntwerp III
Paul C. Van Booven*
David H. Vance
Palmer G. Vance II
Dennis W. VanHouten*
Laurance B. VanMeter
Jim G. Vanover
Elizabeth E. Vaughn
Daniel J. Venters
Jane Adams Venters
David B. Vickery
Richard E. Vimont
Donald H. Vish
Michael S. Vitale
Leslie P. Vose
Donald D. Waggener
T. Cody Wales
H. Lawson Walker II
Reuben G. Walker, Jr.
Jeffrey E. Wallace
Terri Smith Walters
Dandridge F. Walton
Dana Walton-Macaulay
David L. Waterman*
Irwin G. Waterman
Robert M. Watt III
Alvin D. Wax
Lawrence R. Webster
Harold R. Weinberg
David O. Welch
C. Michael Weldon
Terry Wells
Richard E. Wentz
J. Quentin Wesley
Linsey W. West
B. M. Westberry*
R. Kent Westberry
Jay A. Wethington
Robert E. Wheeler
Jackson W. White
Joseph L. White
Frederick W. Whiteside, Jr.*
Henry O. Whitlow*
Mark C. Whitlow
Frank H. Wilcox, Jr.*
William H. Wilhoit
Fred G. Williams
Helene Gordon Williams
James W. Williams III*
Kenneth Williams, Jr.
Timothy C. Wills
Lively M. Wilson*
M. Gail Wilson
Natalie S. Wilson
William L. Wilson*
Thomas D. Wingate
Donald C. Wintersheimer
Jo Ann Wise
Stephen D. Wolnitzek
Clarence A. Woodall III
Catesby Woodford
Jeff A. Woods
Frank C. Woodside III
Ben B. Wright, Jr.
Melissa D. Yates
David L. Yewell
Daniel J. Zalla
Joseph J. Zaluski
Robert C. Ziegler
Wilbert L. Ziegler
Laurence J. Zielke

*Deceased Fellow

WHO, WHAT, WHEN & WHERE

ON THE MOVE



Julia R. McGuffey

Middleton Reutlinger is pleased to announce that **Julia Riehm McGuffey** has joined the Louisville law firm. McGuffey concentrates her practice in trademark prosecution and litigation and has a particular interest in protecting musician's rights with respect to copyright and licensing. She graduated from the University of Louisville School of Law.



Jonathan D. Gray

Reinhardt & Associates, PLLC is pleased to announce the addition of **Jonathan D. Gray** as an associate. Gray, a graduate of the University of Kentucky College of Law, concentrates his practice in the area of insurance defense, civil litigation, and criminal defense.



Elizabeth R. Seif

DeCamp & Talbot, PSC is pleased to announce the addition of **Elizabeth R. Seif** as a member. Seif, a 1998 graduate of the University of Kentucky College of Law, will focus her practice primarily on civil litigation, including medical malpractice, personal injury, employment discrimination, and small business litigation.



Jesse R. Hodgson

The Mt. Sterling law firm of **White Peck Carrington, LLP** announces that **Jesse R. Hodgson** has been named a partner in the firm. He has been an associate at the firm since October of 2007 and concentrates his practice in the transactions area. Hodgson earned his J.D. from the University of Louisville School of Law and was admitted to the Kentucky Bar in 2007.



Matthew H. Kleinert

The law firm of **McBrayer, McGinnis, Leslie & Kirkland** has announced the hiring of **Matthew Harold Kleinert** to become an associate attorney in the Frankfort office. Kleinert, a 2008 graduate of the University of Kentucky College of Law, will be working in the areas of litigation, bankruptcy, creditors' rights, and insurance defense.

Coleman Lochmiller & Bond, of Elizabethtown, is pleased to announce the addition of **Jonathan A. Rabinowitz** as partner. Rabinowitz is a graduate of the University of Louisville School of Law. His practice will focus on insurance litigation.



Valerie J. Himes

Frankie C. Blevins, Jr. and Tracy Todd Blevins are pleased to announce the **Valerie J. Himes** has joined them in practice at **Blevins Law** in Berea. Himes graduated from the University of Kentucky College of Law in 2000. Prior to moving to Blevins Law, she practiced for nine years at Sword, Floyd & Moody, PLLC in Richmond, concentrating in the areas of commercial transactions, real estate, corporate law, general business, and health care law.



Louis D. Kelly

The Covington law firm of **Adams, Stepner, Woltermann & Dusing, PLLC** is pleased to announce that **Louis D. Kelly** has joined the firm as an associate. Kelly graduated from the NKU Chase College of Law and was admitted to the Kentucky Bar in 2007. He practices in the firm's civil litigation and government practice groups.

Dinsmore & Shohl LLP is pleased to announce that **Chauncey S.R. Curtz** has been named the managing partner for Dinsmore & Shohl's Lexington



Chauncey S.R. Curtz

offices. In addition to serving in his new role, Curtz will continue to chair the firm's natural resources practice group.



Ellen Arvin Kennedy

Dinsmore & Shohl LLP is also pleased to announce that **Ellen Arvin Kennedy** has joined the firm as a partner in the corporate department. Kennedy, a graduate of the University of Kentucky College of Law, focuses her practice on commercial bankruptcy, insolvency, and creditors' rights. She moved from Fowler Measle & Bell PLLC to Dinsmore & Shohl's Lexington office.



Jeffrey Calabrese

Stoll Keenon Ogden PLLC is pleased to announce that attorneys **Jeffrey Calabrese, Angela Fetcher, Mark Franklin, Stephen Houston, and Mark Pfeifer** are now members of the firm.



Angela Fetcher

Calabrese, Fetcher, Franklin, and Houston are in the firm's Louisville office. Pfeifer is in the Henderson office.



Mark Franklin

Calabrese obtained his law degree in 2003 from the University of Georgia and practices in the area of labor and employment law. Fetcher practices in the area of business litigation, with particular emphasis on environmental law, planning and zoning, contract disputes, mechanic's and materialman's liens, and other corporate litigation. She earned her law degree in 2003 from the University of Louisville. Franklin focuses his practice on municipal

WHO, WHAT, WHEN & WHERE



Stephen Houston

finance and tax-exempt securities, employee benefits plans, and business entities. He obtained his law degree in 2001 from the University of Louisville. Houston earned his law degree in 2001 from the University of



Mark Pfeifer

from Vanderbilt University and focuses his practice on mineral and environmental law.



Steven S. Crone

Steven S. Crone and **A. Nikki Roby** are pleased to announce the opening of **Crone & Roby, LLP** located in Owensboro at 227 Saint Ann Street, Suite 420. Crone will continue to focus in the areas of real estate, probate, debtor/creditor law, civil litigation, and bankruptcy. He earned his J.D. from the University of Kentucky in 1981. Crone is licensed in Kentucky and Indiana. Roby has focused her practice in the areas of domestic relations,

including divorce and child custody, guardianship, and collections. She earned her J.D. from the College of William and Mary in 2003. Crone and Roby may be reached at (270) 689-1433.

The London law firm of **Kelley, Brown & Breeding** is pleased to announce that **Adam Towe** has joined the firm. Towe earned his J.D., with honors, from NKU Chase College of Law in 2009. He joined the firm as an associate attorney and concentrates his practice in civil litigation and workers' compensation.



Deanna M. Tucker

Deanna M. Tucker, **Carol S. Pettitt**, and **James R. Chadward Kessinger** were recently named partners in the Louisville law firm of **Schiller Osbourn Barnes & Maloney, PLLC**, and **Justin M. Schaefer** has become associated with the firm. Tucker joined the firm in 1999 and concentrates her practice in general insurance defense, products liability defense, professional negligence defense, automobile defense, premises liability defense, and first- and third-party insurance litigation. She earned her J.D. from the University of Dayton School of Law in 1998 and is admitted to practice in Kentucky and Indiana. Pettitt joined the firm in 2000 and concentrates her practice in



Carol S. Pettitt



James R.C. Kessinger

first- and third-party insurance defense with a concentration on public sector liability, civil rights litigation, employment litigation, and general insurance defense. She earned her J.D. from the



Justin M. Schaefer

University of Louisville School of Law in 1997. Kessinger joined the firm in 2001 and concentrates his practice in construction law, mining and blasting litigation, trucking negligence, products liability, professional negligence, bad faith liability, and commercial litigation. He earned his J.D. from the University of Kentucky College of Law in 1999. Pettitt and Kessinger are admitted to practice in Kentucky. Schaefer obtained his J.D. from the University of Kentucky and was admitted to practice in Kentucky in 2006. He joined the firm as an associate and will concentrate his practice in insurance defense.

Paducah & Louisville Railway, Inc. announced that **Tom Garrett** has been named president of the company. Garrett will also serve as president of the holding company, Four Rivers Transportation, Inc. and affiliate railroads Evansville Western Railway, Inc., which has operations in Indiana, Illinois, Ohio, and Florida, and the Appalachian and Ohio Railroad, Inc., which operates in West Virginia. Since 1995, he has served as the company's executive vice president and general counsel, and he has served as general counsel since 1987. Garrett earned his J.D. from the University of Kentucky.

RETIRED JUDGES & ASSOCIATES

Mediation & Arbitration Services

is pleased to announce the addition of

JOSEPH E. LAMBERT

to our group of excellent mediators and arbitrators

P. O. Box 70318
Louisville, KY 40270-0318

(502) 721-9900

email: Retiredjudges@insightbb.com
www.retiredjudgesmediation.com



WHO, WHAT, WHEN & WHERE



Rebecca A. Martin



Jennifer Hatcher



Matthew F. Coogle

The Louisville law firm of **Ackerson & Yann, PLLC** is pleased to announce that **Rebecca A. Martin, Jennifer Hatcher, and Matthew F. Coogle** have become partners of the firm. Martin concentrates her practice in estate and business planning. Hatcher and Coogle both concentrate their practice in business litigation.

Robert J. Busse has been re-elected vice chairman of the executive committee of **Jackson Kelly PLLC**. Members of the executive committee are charged with short-term and long-term strategic planning as well as implementation of the plans.



Chris Tanner

Chris Tanner has joined the **Itoh International Patent Law Firm** in Tokyo, Japan as a patent attorney. In addition, he recently had an article published in the *National Business*

Education Association's peer-reviewed journal, *Forum*. The title of his article is "Enron and Derivative Securities: A Lesson for Today's Business Students."

Effective immediately, the firm of **Phillips Parker Orberson & Moore PLC** will be known as **Phillips Parker Orberson & Arnett PLC**, with long-time partner **Martin Arnett** replacing founding partner **John Moore** in the firm's name. The firm has a new logo and has completely renovated its Louisville office. In addition, the firm opened an office in Lexington when **R. David Clark** joined the firm a little over a year ago.



Carrie A. Shufflebarger

Carrie A. Shufflebarger has joined the Cincinnati office of the law firm **Thompson Hine LLP** as a partner. In addition, she has been selected as a member of the 2010 class of *Leadership Kentucky*. **Shufflebarger** focuses her practice on intel-

lectual property counseling, prosecution and enforcement, with an emphasis on intellectual property litigation. She earned her J.D., *cum laude*, from Duke University and is admitted to practice in Ohio, Kentucky, the District of Columbia, and Virginia.

Renee Filiatraut has been named vice chair of **Thompson Hine LLP's** business litigation practice, and will also act as chair of the Cincinnati office's *Women's Initiative*. **Filiatraut** focuses her practice on commercial litigation, including contract disputes, real estate litigation, insurance coverage issues, software licensing, health care litigation, and environmental disputes. She earned her J.D. from State University of New York at Buffalo School of Law.

Weltman, Weinberg & Reis Co., LPA, is pleased to welcome new associate **Jason A. Mosbaugh**. **Mosbaugh** will be working in the civil litigation/collections department of the Cincinnati office. He earned his J.D. from the NKU College of Law in 2003 and is licensed in Ohio, Kentucky, and Indiana. **Mosbaugh** may be reached at (513) 723-2212 or via email at jmosbaugh@weltman.com.

The Cincinnati law firm of **Rendigs, Fry, Kiely & Dennis, LLP** is pleased to announce that **Robert F. Brown** has rejoined the firm. **Brown's** telephone number is (513) 381-9360 and his email address is rbrown@rendigs.com.



Matthew T. Lockaby

Reminger Co., LPA is pleased to announce the addition of attorneys **Matthew T. Lockaby** and **Justin N. Rost** to their expanding Ft. Mitchell, Lexington, and Louisville offices. **Lockaby** defends insurers against extra-con-

Landex Research Inc.

PROBATE RESEARCH



**Missing and Unknown Heirs
Located
with No Expense to the Estate**

Domestic and International Service for:
Courts
Lawyers
Trust Officers
Administrators/Executors

Two North La Salle Street, Chicago, Illinois 60602
Telephone: 312-726-6778 Fax: 312-726-6990
Toll-free: 800-844-6778
www.landexresearch.com



Justin N. Rost

tractual claims and general casualty lawsuits. In addition, he has experience defending employers and state administrative agencies in connection with a wide variety of workplace issues. Rost focuses his practice on civil defense litigation.

He served as a felony public defender in the Miami and Jacksonville, Florida Circuit Courts before concentrating full-time on civil litigation at the firm of St. Denis & Davey, PA in Jacksonville.



Andrew M. Fleischman

Miller Wells PLLC is pleased to announce the addition of three new partners, **Andrew M. Fleischman**, **David S. Kaplan**, and **Alex L. Scutchfield**, as well as the opening of the firm's Louisville office.

Fleischman, a graduate of the University of Virginia School of Law, is a member in the firm's Louisville office. He represents clients in the coal mining industry, manufacturers, distributors and entrepreneurs on their business transactions and corporate matters. Kaplan, a graduate of Harvard Law School, is serving as the managing member of the Louisville office of Miller Wells. He has experience with a broad range of complex business disputes,



David S. Kaplan



Alex L. Scutchfield

commercial arbitrations, government investigations, and class actions. Scutchfield, a graduate the University of Kentucky College of Law, is a member of the firm's Lexington office. He has represented insurance, equine, real estate, banking, and other business interests for the past 12 years. The firm's Louisville office is located at 710 West Main Street on the 4th Floor and may be reached by calling (502) 416-1630 or by visiting the firm's website at <http://www.millerwells.com>.

IN THE NEWS

Wise DelCotto PLLC has announced that former member **Tracey N. Wise** has been sworn in as a United States Bankruptcy Judge for the Eastern District of Kentucky. Her appointment was effective as of March 31, 2010. Prior to her appointment, Judge Wise practiced in the areas of bankruptcy and debt restructuring and served on numerous court-appointed committees. She graduated in 1983 from the Indiana University School of Law, Order of the Coif.



William Lear

Stoll Keenon Ogden PLLC is pleased to announce that **William Lear** received special recognition at Commerce Lexington's Annual Dinner. Lear was honored for his impact on the advancement of the community.



Thomas Williams

Stoll Keenon Ogden PLLC is also pleased to announce that attorney **Thomas Williams** was recently selected as a Louisville Connector as part of the Leadership Louisville Center's Connector Project.



Diana L. Skaggs

Diana L. Skaggs, of Louisville, has been elected to the American Academy of Matrimonial Lawyers Board of Governors. She will serve a three-year term.



John Selent

John Selent was recently selected to serve on Dinsmore & Shohl's Board of Directors which is comprised of 14 partners from across the firm. Selent, a partner in the firm's Louisville office, was elected to a two-year term.



Ched Jennings

Ched Jennings, of the Jennings Law Offices in Louisville, has been elected to the College of Workers' Compensation Lawyers, a national organization of workers' compensation attorneys.

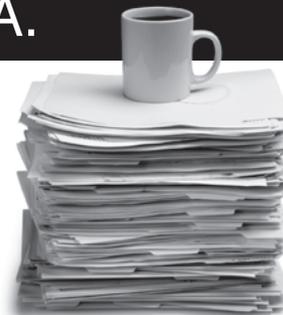


Lisa DeJaco

Lisa DeJaco, an attorney with Wyatt, Tarrant & Combs, LLP in Louisville, has been selected as a member of Leadership

NEED SECURE STORAGE? WE'RE EXHIBIT A.

- Secure records storage and information management
- Offsite data tape storage
- Document imaging, indexing and hosting
- Secure co-location
- Secure online data backup



Call for your FREE needs assessment today 502.451.4570 ext.102

UNDERGROUND
VAULTS & STORAGE

For Security. Forever.

1841 Taylor Avenue Bldg 4
Louisville, KY 40213

www.undergroundvaults-louisville.com

WHO, WHAT, WHEN & WHERE

Kentucky's Class of 2010. The mission of Leadership Kentucky is to identify and develop leadership resources in the state to create a "better and greater Kentucky."



Carl Horneman

Wyatt, Tarrant & Combs, LLP has two other attorneys, **Carl Horneman** and **Cliff Ashburner**, who have been selected to participate in the 2010 class of Bingham Fellows. The Class of 2010 aims to position Louisville as a "Green Leader."



Cliff Ashburner

Cliff Ashburner has been named chairman of the Kentucky Chapter of the United States Green Building Council. The Kentucky Chapter is a statewide organization with a board of twenty directors from around the Commonwealth.



Brian Wells

Brian Wells, an attorney with Wyatt, Tarrant & Combs, LLP, has been elected to the Kentucky Coal Association Board of Directors. The Kentucky Coal Association is a non-profit organization that started in 1942.

Greenebaum Doll & McDonald PLLC is pleased to announce that **Peter L. Thurman, Jr.**, an associate in the firm's Louisville office, has been appointed to the development committee for The Heuser Hearing Institute. Established in 2001, The Heuser Hearing Institute is committed to cutting edge technology, research, and instruction.



Alan J. Hartman

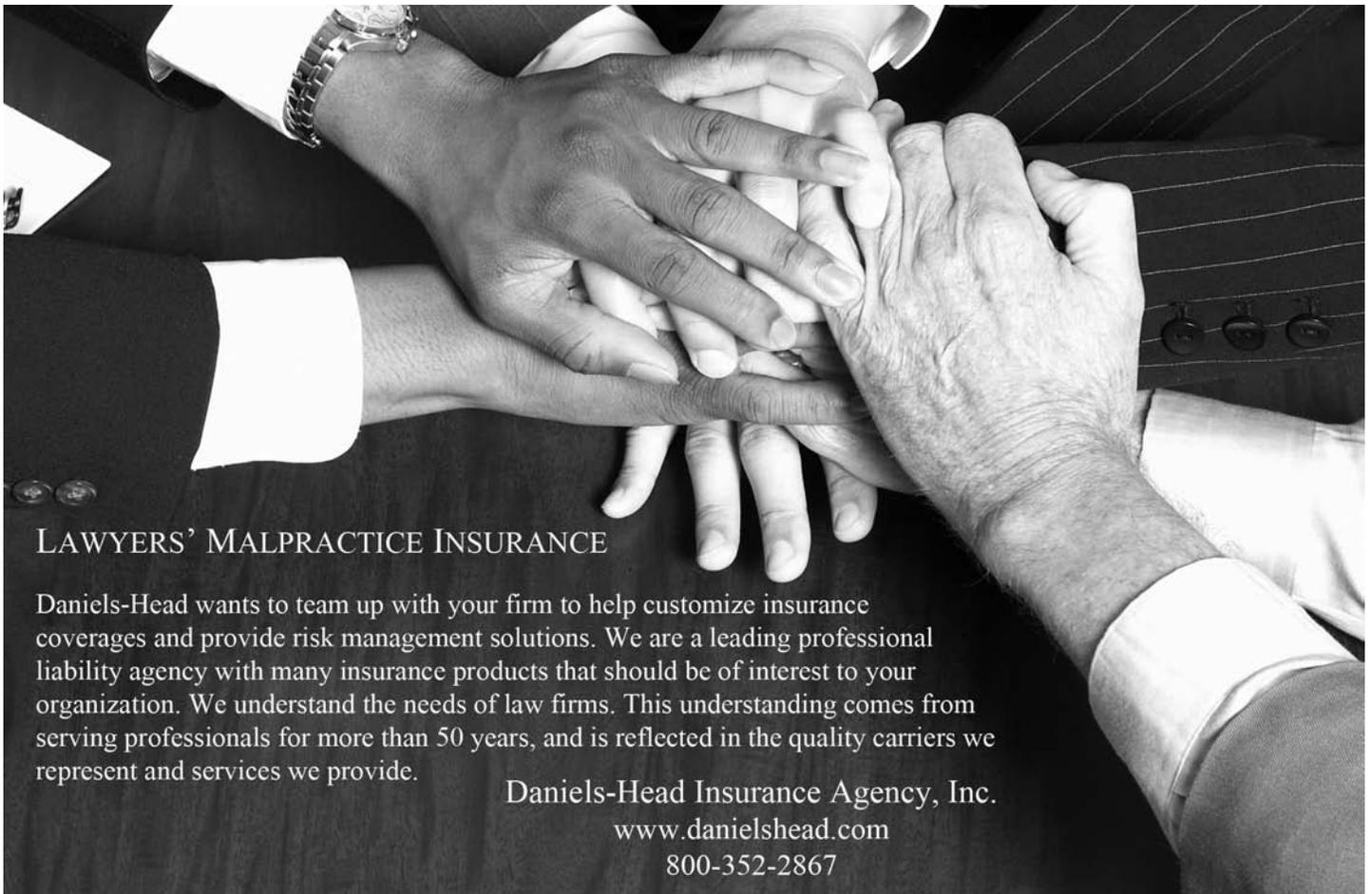
DBL law partner **Alan J. Hartman** was recently appointed to the NKU Chase College of Law

Transactional Law Practice Center's Board of Advisors. He will also serve as a guest speaker and professional mentor for Chase students.

Pepperdine University School of Law Professor **Tom Stipanowich**, William H. Webster Chair in Dispute Resolution and academic director of the Straus Institute for Dispute Resolution, recently received an award from the International Institute for Conflict Prevention & Resolution. His articles, "Arbitration: The 'New Litigation,'" and "Arbitration and Choice: Taking Charge of the 'New Litigation,'" were jointly named Best Professional Article for 2009.

RELOCATION

John Gerard Patten has relocated his offices to 58 Sterling Avenue in Fort Thomas. His telephone number remains the same, (859) 572-0100. His fax number has been changed to (859) 360-1001, and his email address is now jpattenlaw@aol.com.



LAWYERS' MALPRACTICE INSURANCE

Daniels-Head wants to team up with your firm to help customize insurance coverages and provide risk management solutions. We are a leading professional liability agency with many insurance products that should be of interest to your organization. We understand the needs of law firms. This understanding comes from serving professionals for more than 50 years, and is reflected in the quality carriers we represent and services we provide.

Daniels-Head Insurance Agency, Inc.
www.danielshead.com
800-352-2867

Call for Entries

KBA ANNUAL Student Writing Competition

Students currently enrolled in UK, U of L or Chase Law Schools may submit their previously unpublished articles into the competition.

1st place \$1,000

(& possible publication in Kentucky Bench & Bar)

2nd place \$300

3rd place \$200

Articles should be of interest to Kentucky practitioners. For more information about the suggested editorial guidelines, please refer to the *Bench & Bar* Editorial Guidelines on the KBA website at www.kybar.org. The guidelines may be found under "Popular Pages" on the home page – choose "*Bench & Bar*" and click on "About the *Bench & Bar*." The Editorial Guidelines and General Format information may be found under the "*Bench & Bar* Magazine" heading.

Deadline:

**Entries must be received
NO LATER THAN June 1, 2010.**

Submit entries to: Communications Department, Kentucky Bar Association, 514 West Main Street, Frankfort, KY 40601-1812

KBA Annual Convention

June 16-18, 2010

Lexington, Kentucky

Register Today!

www.kybar.org/577



Chase Tower Leasing Opportunities

FOR LEASE

- 14-story office building on East Main Street
- +/-1,400 to 114,600 SF for lease
- Located in the heart of Lexington's CBD
- Skywalk to adjacent 415 space parking structure & add'l 50 space surface parking lot
- On-site security
- Starting Rate: \$16.00 PSF, full service

NAI Isaac

859.224.2000 | naiisaac.com

Before You Move...

Over 16,000 attorneys are licensed to practice in the state of Kentucky. It is vitally important that you keep the Kentucky Bar Association (KBA) informed of your correct mailing address. Pursuant to rule SCR 3.175, all KBA members must maintain a current address at which he or she may be communicated, as well as a physical address if your mailing address is a Post Office address. If you move, you must notify the Executive Director of the KBA **within 30 days**. All roster changes must be in writing and must include your 5-digit KBA member identification number. There are several ways to do this for your convenience.

VISIT our website at www.kybar.org to make **ONLINE** changes or to print an Address Change/Update Form

EMAIL the Executive Director via the Membership Department at kcobb@kybar.org

FAX the Address Change/Update Form obtained from our website or other written notification to:
Executive Director/Membership Department
(502) 564-3225

MAIL the Address Change/Update Form obtained from our website or other written notification to:

Kentucky Bar Association
Executive Director
514 W. Main St.
Frankfort, KY 40601-1812

* Announcements sent to the *Bench & Bar's Who, What, When & Where* column or communication with other departments other than the Executive Director do not comply with the rule and do not constitute a formal roster change with the KBA.

C. CLEVELAND GAMBILL

Retired United States Magistrate Judge

MEDIATION SERVICES

Statewide

Louisville • 502.931.7103
Lexington • 859.317.0303
gambillmediation@aol.com



Lost in the shuffle?

Set yourself apart from the others by advertising in the Kentucky Legal Directory. Among all the legal directories on the market, the *Blue Book* stands out, truly the most user friendly hand held device on your bookshelf.

Stand out for a change!

- Smaller size & distinctive blue cover make our book instantly recognizable
- Each volume covers a single state, and is sold individually. Purchase only the ones that you need.
- Biographical listings appear in single-column page format, with larger type to make them easier to read.
- Color coded pages and tab dividers make it easier to move between sections

The Kentucky Legal Directory

Official Directory of the Kentucky Bar Association.

Legal Directories Publishing Company

Your Blue Book of Attorneys

9111 Garland Road

P.O. Box 189000

Dallas, TX 75218

800 447 5375

Fax: 214 324 9414

www.legaldirectories.com

Announcing...

ProPlus Lawyers Professional Liability Program



**Enhanced coverages provided by
Carolina Casualty Insurance Company**
Rated A+ (Superior) by A.M. Best Company

**Brought to you by
PICA Group Services**
A leading provider of professional liability
insurance for more than 30 years

Contact PICA today for a quote!
(800) 247-3694, Ext. 4223
Register your renewal date at
www.pgsmart.com/lawyers



LPL:10-168:4/10

JULY 2010 KENTUCKY BAR APPLICANTS

Following is a list of applicants who have applied to take the July 27 & 28, 2010 Kentucky Bar Examination. If anyone has knowledge pertinent to determining the character and fitness of any of the applicants to become a member of the Kentucky Bar, please provide that information to:

Kentucky Office of Bar Admissions
1510 Newtown Pike, Suite 156
Lexington, KY 40511-1255
Phone: (859) 246-2381
Fax: (859) 246-2385
E-mail: info@kyoba.org

NOTE: This list is current as of April 12, 2010. Any applications filed after this date will not be included in this list.

Maryam Abdul-Rahman	Jason Tyler Batts	Justin Wayne Brewer	Hart Roxanna Carwell
Kathryn Ann Adams	Shenna Brooke Baylon	John G Brittain	Chelsea Lyn Castiglioni
Ashley Marie Aldridge	Lauren Elizabeth Bean	Adam Michael Broadus	Lily Kityee Chan
Todd Gregory Allen	Shem David Beard	Allison Lea Brown	Robert Westley Charles
Bridgette Alvarez	Dustin Chad Beard	William Joshua Brown	Laura Lee Chastain
John Charles Andris	Marc Alexander Beatty	Andrew Marcum Brown	Blake Ashby Chavis
Brian Joseph Augustine	Jarrod James Beck	Elisabeth Sigler Brown	Rachel Gabrielle Cohen
Neil Patrick Baine	Dustin Michael Bell	Jonah Keith Brown	Jonathan Patrick Collins
Jobeth Marie Baird	Jonathan David Beyer	Bartholomew Aloysius Brown III	Clinton Salyer Combs
Katie Hamilton Bale	Mathew Jonis Blythe	Michael Evanshine Buckley	Jonathan Paul Coomes
Monica Barba	Steven Lynn Boling	Jared William Burke	Trista Leeann Corbin Moss
Rachel Lee Barga	Kristin Marie Bourland	Mary Eleanor Burnett	Lindsay Anne Cordes
Clay Anthony Barkley	Kyle Dane Bowles Jr	Kyle Michael Burns	Lucinda Jane Cornett
Jason Wade Barnette	Amanda Leah Bragg	Leah Faye Campbell	Rebekah Joy Cotton
Matthew Warren Barszcz	Timothy James Bramble	Richard Justin Capps	Gregory Edward James Coulson
Graham David Barth	William Hartman Brammell Jr	Rachel Elizabeth Carmona	Matthew Payton Cox
Michael Joseph Bassi	Erin Marie Bravo	Adam Scott Cart	Cynthia Sue Cram

(continued)

Emily Starr Criscillis	Richard Wade Hartsock	Dianna Lynn Mejia	Bethany Michelle Shortridge
Jacqueline Brittain Cross	Megan Judith Hastings	Erin Christine Melchior	Tanner Hammond Shultz
Terran Mae Cross	Molly Ann Hawkins	Beth Ann Milam	Chad Allen Silber
Kelly Tenille Crouse	Audrey Leeann Haydon	Brian Paul Miles	Benjamin Isaac Silver
Adrienne Caroline Crow	Shellie Leann Hayes	Blair Lee Miller	Amber Hunt Sisco
Adam Clay Cullman	Lon Stuart Hays	Christine Marie Miller	Suesan Diane Skavdahl
Allison Jo Currey	Allison Marie Helsinger	Katelyn Lowry Mitchell	Brant William Sloan
Lyman Sherman Darby	Brooke Elizabeth Hembree	Kevin Michael Monsour	Katherine Diane Smith
Dana Elyse Daughettee	Adrienne Denise Henderson	Nathan John Moorhouse	Vanessa Ann Smith
Ellen Ruth Davis	Robyn Mackey Hensley	Sean Ellison Moynahan	Donald Lee Smith Jr
Douglas Parker Dawson	Andrew Stephen Henson	Daniel George Mudd	Amanda Walker Sosh
Joseph Kyle Despaigne	Sarah Ashley Hester	Ryan Michael Mullen	Johnna Ashley Spicer
Amy Nicole Diers	Henry David Hicks	Rachel Katherine Mulloy	Erica Katherine Stacy
Kathryn Natalie Dillree	Hannah Elizabeth Hodges	Brandon Michael Music	Anna Blake Stahr
Matthew Ryan Dodds	Brian Edward Hoesl	William Jerome Myers Jr	Peter Mchale Starling
Matthew Lee Douglas	Rebecca Lynn Holdredge	Rexena Napier	Matthew David Stauble
Thomas Patrick Dempsey Doyle	Jill Marie Holtman	Daren Casey Neel	Christopher Matthew Stearns
Barry Lee Dunn	Gerrit Lawrence Hopman	Natalie L. Nerland	Tyler Frederick Stebbins
Ashley Gillenwater Eade	Joanna Marie Hortillosa	Patrick Joseph Newton	Victoria Kathleen Steinbach
Blake Van Edwards	Joshua David Howard	Nam Hoang Nguyen	Brian David Stempien
Richard David Elder	Adam Tyler Howard	Melissa Claire Nichols	Chelsey Danae Stephenson
Blake Essia Embry	Lance Christian Huffman	Donnie James Niehaus	Jamie Kristen Stewart
William Fraser English	Daniel Aaron Hunt	Amber Nicole Nisbet	Adam Bernard Stotts
Andrew Gregory English	Carmine Gennaro Iaccarino	William Robert Noelker	Lesley Anne Stout
Justin Colby Ernest	Holly Renee Iaccarino	Andrew Eric Nystrom	Jeffrey Benjamin Svehla
Kyle Anthony Evans	Richard Joseph Inskeep	Jason Michael Obermeyer	Amber N Swain
Mark William Evans	Justin William Janes	Colin John O'Brien	Michael Gary Swansburg Jr
Scott Richard Everett	Adisak Jantatum	Kimberly Jo Olds	Grant Edward Swartzentruben
Brittany Nichole-Lynn Everman	Sarah Lynne Johnstone	Randy M O'Neal	Jennifer Kaye Tarrance
Connie Lee Eyle	Travis James Joseph	Nicholas Shane Orchelle	Jessica Dey Taylor
Edward W Farrell Jr	Thomas Duane Juanso	Samuel Jeremiah Ottley	Johnny Dustin Thacker
Jennifer Lauren Fell	Scott Clayborne Justice	Bradley Robert Palmer	Robyn Ashley Thacker
Mark Andrew Fendley	Victoria Maximova Kadreva Holmes	Andrew Michael Palmer	Seth Richard Thomas
Katherine Renee Ferrell	Courtney Preston Kellner	Jennifer Ann Parker	Gary Wayne Thompson
Sarah Elizabeth Fightmaster	Erin Scott Kennedy	Jose Carlos Pastor	Megan Lovelace Thompson
Brandon Torrell Lee Flippins	David Christopher Kiebler	Marielle Vanessa Peck	Sean Patrick Tillman
Mark Anthony Flores	David Kyle Kincaid	Timothy L Perdue	Katherine Jean Toms
Richard Sandusky Foley	Jason Matthew Kittredge	Rebecca Graham Phillips	Duffy Briggs Trager
Algeria R Ford	Alina Klimkina	Martin Andrew Pohl	Haley Christine Trogden
Christine Jane Foster	Casey Alan Krill	Brian Robert Pollock	Anne Elizabeth Trout
Brooklyn Renee Franklin	Forrest Saunders Kuhn Iii	Chad Owens Propst	Cassandra Lynn Trueblood
Nicole Kathleen Freal Baldrige	Jonathan Kent Kurtz	Ryan Francis Quarles	Carrie Cheryl Turner
Daniel Edwin Fuchs	Michael Lam	Noelle Bryant Rao	Meghan Jackson Tyson
Brigham Brady Fugal	Samuel Kenton Lanham	James Kelly Ratliff	Kathy Megan Upton
Corey Thomas Gamm	Natalie Laszkowski	Danielle Jarvis Ravencraft	Lucas Alan Vance
Anna Ignatenko Garcia	Lukas Randolph Lawless	Samantha Jean Raymer	Renee Sara Vandenberg
Philip Salem George Iii	Jonathon Clay Lee	Adam Clay Reeves	Todd Christopher Veach
Elizabeth Rachel Gersh	Michael Todd Lewis	Ryan Keith Rice	Andrea Nicole Vetter
Dustin Allen Gibson	Richard Dale Lilly	Jessica Anne Richards	Peter John Voelker
Mary Lorraine Gilliam	Carrie Lynn Jolly Link	Eric Gregg Richardson	Blake Austin Vogt
Anna Katherine Girard	Henry Ca List Jr	Christopher Michael Rivello	John Derek Wagner
Jenna Ray Glasscock	Emily Nolan Litzinger	Emily O'neal Roach	Jacob Clark Wallbourn
Alicia Paez Gomez	Bethany Heyl Loftin	Jason Gene Robinson	Dustin Mitchell Wallen
Lauren Alyse Goding	Grace Lu	Jesse Kane Rose	Anne Barret Wallin
Neil M Gonzalez	Sam E Lucas	Courtney Evans Ross	David N Ward
Courtney Lauren Graham	Bobbi Katherine Lyon	Mark Alexander Rouse	Jennifer Suzanne Ward
Kathryn Wallis Gray	Courtney Jaclyn Magill	Jeffery Garrison Rousseau	Nicholas Adam Watson
Sean Patrick Gray	Jeffrey Nicholas Mahoney	Andrew Lee Ruben	Stephanie Louise Wesselman
Richard Paul Green	Erin Nicole Malony Boggs	Amanda Lachelle Rucker	Larry Brandon West
Cathryn Elizabeth Greenwald	Michael Paul Martinez	Dustin Robert Rumbaugh	Emily Faith Wetmore Oakes
Amanda Elizabeth Gregory	Roy Massey IV	Langdon Stites Ryan	Jenny Teresa White
Andrew Jacob Gregory-Mabrey	Jonathan Christopher Masters	Desirae Lee Sanders	Christopher Lee Whitfield
Cameron Cole Griffith	Molly Mattingly	Daniel Huff Jung Satterfield	Daniel Elliott Whitley
Allison Lynn Grogan	Timothy Ryan Maxey	Bradley J Sayles	Kyle Robert Wiete
John Louis Gueltzow	William Lucas McCall	Sarah Jane Schmitt	Chad Daniel Wilcox
Donald J Haas	Darnell L McCoy	Robert William Schrimpf	Ruth Jean Wilkerson
Ebert Henry Haegele	Kelly Lynn McDaniel	Daniel Joseph Schubert	Kacie Allyn Wilkinson
Colleen Casey Hagan	Brigid Anne McDonough	Collin Daniel Schueler	Gary Wayne Williams II
Michael Andrew Haile Jr	Julie Marie McGill	Daniel James Schulman	Clarissa Grace Wilson
Kristen Nicole Hall	Jeremy David McGraw	Matthew Paul Schultz	Ashley Erin Witte
William W Hall	Melissa Gayle McHendrix	Jason Edward Schwalm	Rebecca Keene Wooldridge
Stephen Thomas Hamilton Jr	Herbert Louis McKee Jr	Meribeth Hamilton Sewell	Preston Clark Worley
Ryan Christopher Hampton	Jennifer Ann McLendon	Anna Marie Sewell	Ryan Kent Youngblood
David Lawrence Haney	Muncie Louis McNamara	Kevin Floyd Sharkey	Mark Joseph Yurchisin III
Amanda Knuckles Harrell	Kelli Ann McSurley	Heend Subhash Sheth	Chad Robert Ziepfel
Nicholas Ray Hart	Jonathan Tate Meagher	Samuel James Short	

CLEvents

Following is a list of **TENTATIVE** upcoming CLE programs. REMEMBER circumstances may arise which result in program changes or cancellations. **You must contact the listed program sponsor** if you have questions regarding specific CLE programs and/or registration. ETHICS credits are included in many of these programs. Some programs may not yet be accredited for CLE credits - please check with the program sponsor or the KBA CLE office for details.

MAY

- 19 VLP Seminar: Domestic Violence & Foreclosure Issues
Cincinnati Bar Association
- 20 Legal Writing 201
Cincinnati Bar Association
- 20 The Genetic Information Nondiscrimination Act, Amendments to the FMLA and the ADA and Interaction of the FMLA, ADA, GINA and Workers Compensation
Louisville Bar Association
- 21 Auto Damages
Kentucky Justice Association

- 21 Local Government Law Update
Cincinnati Bar Association
- 21 In-House Counsel Potpourri
Louisville Bar Association
- 25 Probate & Estate Half-Day CLE
Louisville Bar Association
- 26 Depositions
Cincinnati Bar Association
- 26 Foreclosure Defense and Alternatives
Louisville Bar Association
- 27 Tips on Practicing before State and Local Human Rights Commissions
Louisville Bar Association

JUNE

- 1 *Webinar: Generational Issues in Voir Dire*
Kentucky Justice Association
- 1 Real Estate Half-Day CLE
Louisville Bar Association
- 2 Bankruptcy Ethics Brown Bag
Louisville Bar Association

- 3 Intellectual Property – The Landscape is Changing
Cincinnati Bar Association
- 3 *Webinar: Handling Construction Site Injury Claims*
Kentucky Justice Association
- 3 ADR/Mediation Half-Day CLE
Louisville Bar Association
- 3-4 12th Biennial Employment Law Institute
UK/CLE
- 4 Beyond the Basics: Evolving Topics for Real Estate Practitioners
Cincinnati Bar Association
- 4 Auto Litigation
Kentucky Justice Association
- 4 Electronic Discovery and Legal Strategy
Louisville Bar Association
- 7 *Teleconference: Is Your Case Right for a Focus Group?*
Kentucky Justice Association
- 8 Intellectual Property Day-Long CLE
Louisville Bar Association

2010 KBA VIDEO



REPLAY

**ONE PROGRAM
TWO OPPORTUNITIES TO ATTEND**

DATES: FRIDAY, JUNE 25
MONDAY, JUNE 28

TIME: 8:00 A.M. - 4:15 P.M.

LOCATION: KENTUCKY BAR CENTER
FRANKFORT, KENTUCKY

**EARN UP TO 6.5 "LIVE" CLE CREDITS
INCLUDING 2.5 ETHICS CREDITS**

VISIT WWW.KYBAR.ORG/341
FOR AGENDA AND REGISTRATION DETAILS

2010 KENTUCKY LAW UPDATE

Dates and Locations

September 2-3 (TH/F)	Louisville KY International Convention Center
September 23-24 (TH/F)	Bowling Green Holiday Inn & Sloan Convention Center
September 30- October 1 (Th/F)	Owensboro RiverPark Center
October 5-6 (T/W)	London London Community Center
October 19-20 (T/W)	Prestonsburg Jenny Wiley State Resort Park
October 26-27 (T/W)	Gilbertsville Kentucky Dam Village State Resort Park
November 4-5 (TH/F)	Covington Northern Kentucky Convention Center
November 16-17 (T/W)	Ashland Ashland Plaza Hotel
November 30- December 1 (T/W)	Lexington Lexington Convention Center

- | | | | | | |
|----|---|-------|--|----|---|
| 9 | Professionalism
<i>Cincinnati Bar Association</i> | 10 | Corporate Law Half-Day CLE
<i>Louisville Bar Association</i> | 15 | What's Your Standard of Review?
Know What the Standards Are,
Which One Applies and the Effect
on Your Appellate Issue
<i>Louisville Bar Association</i> |
| 9 | <i>Teleconference: Divorce Law:
Know Your Statutes . . . The Judge
Likes It that Way</i>
<i>Kentucky Justice Association</i> | 10-11 | Employee Benefits Conference
<i>Cincinnati Bar Association</i> | 16 | Baseball & the Law
<i>Cincinnati Bar Association</i> |
| 9 | Creating a Niche with Clinical
Trials: The Essentials of an
Effective Clinical Trial Agreement
<i>Louisville Bar Association</i> | 11 | Subrogation
<i>Kentucky Justice Association</i> | 16 | Auto Litigation
<i>Kentucky Justice Association</i> |
| 10 | <i>Webinar: Settlement Options for
Minors</i>
<i>Kentucky Justice Association</i> | 11 | New DUI Laws & Ethics in DUI
Defense
<i>Louisville Bar Association</i> | 16 | Ethics and the Standard of Care in
Taxation Matters
<i>Louisville Bar Association</i> |
| | | 15 | <i>Video Replay: Adoption Law,
Domestic Violence, Child Support</i>
<i>Cincinnati Bar Association</i> | | |

WORDS THAT WILL IMPRESS EVERYONE IN THE COURTROOM



"The Court said last week....."

**LAWREADER ALLOWS YOU TO USE
THESE WORDS FREQUENTLY.**

LAWREADER PUBLISHES A WEEKLY SYNOPSIS OF ALL KENTUCKY APPELLATE DECISIONS

In minutes you can scan our keywords for each case, read a synopsis or call up the full text of any case that is of interest. And best of all, this useful feature is included in our basic membership fee.

This feature is in addition to our FastCase national case law data base - including bankruptcy. Plus LawReader's massive Law Digest and many other features useful to practicing lawyers and judges across the state.

**Still Only \$34.⁹⁵
Per Month**

Annual Programs Available



www.LawReader.com
502-732-4617

Kentucky Bar Association

CLE Office
(502) 564-3795

AOC Juvenile Services
(502) 573-2350

Louisville Bar Association
Lisa Maddox • (502) 583-5314

KYLAP
Suzanne Green • (502) 564-3795

**Kentucky Justice Association
(formerly KATA)**
Ellen Sykes • (502) 339-8890

Chase College of Law
Bonnie Osborne •
osborne1@nku.edu

**Kentucky Department of
Public Advocacy**
Jeff Sherr or Lisa Blevins
(502) 564-8006 ext. 236

**AOC Mediation & Family
Court Services**
Amanda LeMaster
(502) 573-2350 ext. 4250

UK Office of CLE
Melinda Rawlings • (859) 257-2921

**Mediation Center of the
Institute for Violence Prevention**
Louis Siegel • (615) 662-0026

Northern Kentucky Bar Association
Julie L. Jones • (859) 781-4116

Children's Law Center
Joshua Crabtree
(859) 431-3313

Fayette County Bar Association
Mary Carr • (859) 225-9897

CompEd, Inc.
Allison Jennings • (502) 238-3378

Cincinnati Bar Association
Dimity Orlet • (513) 381-8213

Pike County Bar Association
Lee Jones • (606) 433-1167

Access to Justice Foundation
Nan Frazer Hanley • (859) 255-9913

Administrative Office of the Courts
Amanda LeMaster
(502) 573-2350, Ext. 4250

- 16-18 2010 Annual Convention
Kentucky Bar Association
- 17 Nuts and Bolts of Family Law
Louisville Bar Association
- 17-18 New Lawyers Program
Kentucky Bar Association
- 18 Baby Boomers vs. Generation X and Y in the Legal Profession
Louisville Bar Association
- 21 *Live & Webinar: Ethics*
Kentucky Justice Association
- 22 *Teleconference: Biological Dad v. Legal Dad*
Kentucky Justice Association
- 22 Environmental Law Half-Day CLE
Louisville Bar Association
- 23 Ethics: The Grievance Procedure & Attorney Rights
Cincinnati Bar Association
- 23 *Teleconference: Accountability for School-Related Injuries . . . How to Bring Suit*
Kentucky Justice Association
- 23 *Webinar: Using PowerPoint Differently*
Kentucky Justice Association
- 24 Managing Construction in Difficult Times
Cincinnati Bar Association
- 24 *Teleconference: Application of OSHA Standards in Negligence Claims*
Kentucky Justice Association
- 25 Domestic Relations – Property Division & Support
Cincinnati Bar Association
- 25 Subrogation
Kentucky Justice Association
- 25 Last Chance Video Replay
Kentucky Bar Association
- 28 Last Chance Video Replay
Kentucky Bar Association
- 29 *Video Replay: Professionalism, Ethics & Substance Abuse Instruction*
Cincinnati Bar Association
- 29 Ethics Webinar Repeat
Kentucky Justice Association
- 29 *Webinar: Effectively Handling Trucking Litigation*
Kentucky Justice Association

- 29-30 Last Chance Video 2010
UK/CLE
- 29-30 Fayette County Annual Bench & Bar CLE
Fayette County Bar Association
- 30 Ethics Webinar Repeat
Kentucky Justice Association

JULY

- 7 Collecting Judgments
Cincinnati Bar Association
- 11-16 Trial Advocacy Institute
Cincinnati Bar Association
- 20 *Video Replay: Professionalism, Ethics & Substance Abuse Instruction*
Cincinnati Bar Association
- 21 Workers' Compensation: The Employer's Perspective
Cincinnati Bar Association
- 21-23 Annual Myrtle Beach Seminar
Pike County Bar Association

2010 New Lawyers Program

in conjunction with the
2010 KBA Annual Convention

“Within twelve (12) months following the date of admission as set forth on the certificate of admission, each person admitted to membership to the Kentucky Bar Association shall complete the New Lawyer Skills Program.”

SCR 3.652 New Lawyer Skills Program





June 17-18, 2010

Lexington Convention Center

visit www.kybar.org for details



The Serial Comma: To Comma or Not to Comma?

By Helane E. Davis
Director and Assistant Professor of Law, University of Kentucky Law Library

You may not be familiar with what it is called, but most writers — legal or otherwise — are familiar with using commas to separate items within a list, and particularly, the choice of whether to use a comma before the final item in a list. Or, as I first came to know it — the serial comma. To write the statement “our client was charged with assault, larceny, and resisting arrest,” is to make a decision about whether to include that last comma before the conjunction *and*.¹

Some writers distinctly remember being taught that the serial comma — also referred to as the Oxford or Harvard comma after two presses that explicitly require it — is optional. Other writers distinctly remember the opposite — that the comma is mandatory. My argument for its use is twofold: using it is harmless and increases clarity; and, consistency across all your writing is preferable. In other words, I recommend you use it.

But don't just take one writer's word for it.

Any guide to basic punctuation will note that using the serial comma can help prevent ambiguity.² Most legal writing guides also stress this point. For example, Bryan Garner, author of *The Elements of Legal Style*, notes simply that “[t]he reason for preferring the final comma is that omitting it may cause ambiguities, while including it never will.”³

Many grammar hounds argue that using a serial comma is unnecessary if sentence construction is simple and there's no possibility of ambiguity or

confusion. For example, in the sentence “the plaintiff was accompanied by her uncle, nephew and son” the meaning is clear. A more complex statement can also be unambiguous. For example: “...on the relevant dates she could not have been in Philadelphia, Chicago or Detroit because she was in New York...” In both examples, adding commas before the last item in the series does not enhance the clarity of the sentence. But in the phrase “where would I be without my partners, Tom and Steve” not using the comma muddies the meaning. Are your partners Tom and Steve, or are you thanking 1. your partners, 2. Tom, and 3. Steve? Writing “...my partners, Tom, and Steve...” instead removes any doubt about your intentions.

No less important, in my opinion, is the need to be consistent within a document. The document you're drafting may include several lists similar to the list of cities example above where omitting the comma has no impact on the reader's understanding. But what if that same document includes an instance where omitting the comma substantively changes the meaning? Consider the following illustration. You've asked a researcher to compile statistics on state decisions involving appeals of convictions for assault, criminal facilitation, solicitation, and conspiracy. As written this request asks for statistics for four offenses, occurring independently. But what if you write that phrase as “assault, criminal facilitation, solicitation and conspiracy”? Your researcher could logically conclude that you are seeking three

sets of statistics with the last set including cases where both solicitation and conspiracy were charged. If every other list in your document *includes* serial commas, then omitting one here could lend itself to an unintentional interpretation by the reader.

If your document includes even one complicated grouping of items in a list, and that grouping is easier to understand because you used a serial comma, then all the series in your document should include serial commas.

Courts have also taken note of the use or absence of serial punctuation. In discussing KRS s. 532.025(2)(a)(7) in *White v. Commonwealth*, 178 S.W.3d 470 (Ky. 2005) the Supreme Court of Kentucky used the relative placement of conjunctions — in this instance “or” — and serial commas to determine how the statute should be interpreted, noting “...[a] condition following a series of items joined by the word “or” typically applies to all the items in the series. Thus, it is clear that the condition applies to the entire series...” *White*, 178 S.W.3d at 483. 

ENDNOTES

1. Journalistic writing typically has *not* required the serial comma — a convention that stems from space and typesetting needs that don't apply in modern legal writing.
2. See, e.g., *The Chicago Manual of Style*, § 6.19 (15th ed. 2006).
3. P. 15 (2nd ed. 2002). Garner is also the editor of *Black's Law Dictionary* and *A Dictionary of Modern Legal Usage*.

SPOTLIGHT ADS

IMMIGRATION AND NATIONALITY CONSULTANT

The Law office of Dennis M. Clare, PSC is available to practice Immigration and Nationality Law before all Citizenship & Immigration Offices throughout the United States and at United States Consulates throughout the world. More than 25 years experience with immigration and naturalization: member of, American Immigration Lawyers Association. Law Office of Dennis M. Clare, PSC, Suite 250, The Alexander Building, 745 W. Main Street, Louisville, KY 40202. Telephone: 502-587-7400 Fax: 502-587-6400 THIS IS AN ADVERTISEMENT

Put a **WINNER** on your next campaign.



EMMONS & CO., INC.
DALE EMMONS
 Professional Political Services
 228 W. Main Street, Suite 200, PO Box 1551
 Richmond, KY 40476-1551
 859-623-3266
 Fax 859-623-2666 Cell 859-333-6674
 dale@politicskentucky.com www.politicskentucky.com

ENVIRONMENTAL LAW

RONALD R. VAN STOCKUM, JR.
 Attorney at Law
 Louisville, Kentucky
 Phone: (502) 568-6838
 Fax: (502) 589-2714
 rvs@vanstockum.com
 THIS IS AN ADVERTISEMENT

Heir Problems Solved

Heir Verification

We verify the relationship of the decedent's known heirs.

Missing Heirs Located

We identify & locate your missing heirs.

- Serving the Legal Profession since 1984 -

Mark E. Walker & Company, LLC
 1-800-982-6973

website: www.missingheirslocated.com
 e-mail: walker@missingheirslocated.com

Bar Complaint? Disciplinary Matter? TIMOTHY DENISON

Louisville, Kentucky
 Providing representation and consultation in bar proceedings and disciplinary matters statewide.
Phone: (502) 589-6916
Fax: (502) 583-3701
 THIS IS AN ADVERTISEMENT

DOCUMENT EXAMINER

Recognized Expert Since 1973
 Author of
Effects of Alterations to Documents
Am Jur Proof of Facts, 3rd. Vol. 29
Forensics Signature Examination
 Charles C. Thomas Pub. Springfield, IL
 3606 Fallen Timber Drive
 Louisville, KY 40241-1619
 Tel. 502-479-9200
www.saslyter.com

S. A. SLYTER, LLC

FLORIDA LAW FIRM



ROBERT H. EARDLEY, Esq., LL.M.
 • Formerly associated with
Wyatt, Tarrant & Combs
 • Florida Bar Board Certified in
Wills, Trusts & Estates
 • UK College of Law Graduate

- Estate and Trust Planning
- Real Estate Transactions
- Probate Administration
- Business Transactions
- Florida Residency Planning
- Commercial Litigation

Salvatori, Wood, Buckel & Weidenmiller
 9132 Strada Place, 4th Floor
 Naples, FL 34108
 (239) 552-4100
www.swbw-law.com

THIS IS AN ADVERTISEMENT



Medical Record Analysis & Opinion for Medical Malpractice, Personal Injury and Coding Cases

Rose Clifford, RN, LNCC

- Identification of Missing Records and Providers
- Personal Injury, Brief Medical Summary
- Expert Witness Location

(859) 234-0200 / CliffordRZ@aol.com

More than 20 years experience in med mal, PI and criminal defense healthcare fraud.



Fax: (859) 234-0203 / www.MedAnalysisResources.com

Business Immigration Law

Guiding employers and professionals through the U.S. immigration sponsorship process.

Providing advice on related immigration issues including I-9 compliance and enforcement.

- Professors & Researchers
- Physicians & Nurses
- IT Professionals
- International Employee Assignments

Charles Baesler

(859) 231-3944

Lexington

charles.baesler@skofirm.com

Sheila Minihane

(502) 568-5753

Louisville

sheila.minihane@skofirm.com

STOLL KEENON OGDEN PLLC
 THIS IS AN ADVERTISEMENT

Medical & Professional License Defense

Elder & Good, PLLC offers its services to attorneys, physicians, nurses, dentists, pharmacists and other licensed professionals before their state boards and licensing agencies in Kentucky and Ohio. We assist our clients with Board investigations, disciplinary hearings & appeals, board application issues and, depending on their particular fields, hospital actions and Medicare, Medicaid & Insurance exclusions.

Phone: (502) 365-2800 Fax: (502) 365-2801

www.eldergood.com

THIS IS AN ADVERTISEMENT

HARRISON MIDDLETON UNIVERSITY

Great Books
 Great Ideas
 Great Conversations
www.chumsci.edu

ADVANCED INVESTIGATIVE SOLUTIONS INC.

"The Preeminent Investigative Firm in Kentucky"

AIS is a cadre of former FBI agents and state and local law enforcement with the expertise and professionalism to address virtually any matter. AIS has established a network of former FBI agents across the country enabling nationwide investigations.

COMPLEX INVESTIGATIONS • TRIAL PREPARATION • POLYGRAPH
 INTERNAL CONTROL ANALYSIS • FORENSIC ACCOUNTING
 DUE DILIGENCE • SECURITY ASSESSMENTS • PRE-DEPOSITION
 INTERVIEWS • BACKGROUND INVESTIGATIONS



CARL CHRISTIANSEN
 President



502 - 722 - 1931

e-mail: AIS@Insightbb.com

QDRO

Preparation and Processing of QDROs for:

- Defined Benefit & Defined Contribution Plans.
- Military, Municipal, State & Federal Employee Plans.
- Qualified Medical Child Support Orders.
- Collection of past due Child Support/Maintenance by QDRO.

502-581-9700

Charles@MeersLaw.com

Louisville, Kentucky

CHARLES R. MEERS

THIS IS AN ADVERTISEMENT

Calvin R. Fulkerson, ESQ MEDIATION SERVICES

29 years experience with all types of claims
Substantial experience with professional liability claims

Available days, nights and weekends

239 N. Broadway, Lex., KY 40507

(859) 253-0523

Fax: (859) 254-2098

cfulkerson@fulkersonkinkel.com

(available 1/1/10) THIS IS AN ADVERTISEMENT

KY LEGAL RESEARCH

Licensed, insured attorneys in Lexington with easy access to large law library will thoroughly research and analyze legal issues at reasonable rate.

**Contact: (859) 697-3794 or
KyLegalResearch@gmail.com**

THIS IS AN ADVERTISEMENT.

Classified Advertising

The KBA appreciates the support of our advertisers, but the publication of any advertisement does not constitute an endorsement by the Kentucky Bar Association.

Services Offered

MINING ENGINEERING EXPERTS

Extensive expert witness experience. Personal injury, wrongful death, accident investigation, fraud, disputes, estate valuation, appraisals, reserve studies. JOYCE ASSOCIATES 540-989-5727.

WHISTLEBLOWER/QUI TAMS:

Former federal prosecutor C. Dean Furman is available for consultation or representation in whistleblower/*qui tam* cases involving the false submission of billing claims to the government.

Phone: (502) 245-8883

Facsimile: (502) 244-8383

E-mail: dean@lawdean.com

THIS IS AN ADVERTISEMENT

OPHTHALMOLOGIST: Subspecialty interest in neuro-ophthalmology.

Available for consultation/chart review.

Contact John W. Garden, M.D. at

859.255.1871 or 859.321.0744 (cell).

Recreational Rentals

KY & BARKLEY LAKES: Green Turtle Bay Resort. Seventy-five luxury rental condos, 1-4 BR, new Health Club with indoor pool, Conference Center, 2 outdoor pools, Yacht Club, Dockers Bayside Grille, tennis, beach, water sports and golf nearby. The perfect spot for a family vacation or a company retreat. In historic Grand Rivers "The

Village Between the Lakes."

Call 800-498-0428 or visit us at

www.greenturtlebay.com.

LUXURIOUS GULF-FRONT CONDO, Sanibel Island, Fl. Limited rentals of "second home" in small development, convenient to local shopping. 2 BR, 2 bath, pool, on Gulf. Rental rates below market at \$2,400/week in-season and \$1,300/wk off-season. Call Ann Oldfather (502) 637-7200.

Employment

Employment Law Attorney - LITTLER MENDELSON, an employment and labor law firm with over 775 attorneys in 48 offices nationwide, seeks an associate with a minimum of three years experience for its new Lexington Office. The candidate must possess top academic credentials and concentrated experience in employment litigation. Kentucky bar required. If you are interested in applying for this position, please submit your resume online at www.littler.com. No telephone calls please. No Recruiters-principals only. We offer a generous benefits package to all full-time employees. Littler Mendelson is proud to be an equal opportunity employer.

Staff Attorney - Charah, Inc. is a leading ash management provider for the coal-fired electric utility industry. Charah values a strong work ethic and is committed

**LET THIS
SPACE
WORK
FOR YOU!
CALL
502.564.3795**

to our customers as a responsive, service-oriented company. As a rapidly growing and current award-winning company, we are seeking the following currently-licensed and highly-qualified Staff Attorney to serve as in-house counsel in its Louisville, KY headquarters. Five to ten years experience in private practice, or as in-house counsel, in corporate transactions and/or general corporate practice is required. Experience with environmental/regulatory law and commercial litigation, and other dispute resolution procedures would be helpful, but not required. Responsibilities would include contract negotiation, drafting as well as serving as liaison between senior management and the company's outside counsel. Candidates should also have excellent written and verbal communication ability and excellent academic credentials. Please respond with resume and cover letter to: Angela Watkins, Human Resources, Charah, Inc., 307 Townepark Circle, Louisville, KY 40243; Fax: 502-245-7358; Email: awatkins@charah.com. *We are an equal opportunity employer.* www.charah.com

*Introducing the new KBA member benefit
included in your Kentucky Bar dues*



Make your case with a click

Casemaker® Legal Research makes
online legal research accessible and easy

- ◆ Out-of-state & Kentucky legal resources
- ◆ Free unlimited use for all KBA members
- ◆ At your fingertips and simple to use

Login Instructions for KBA members:

- Go to the Kentucky Bar Association website
<http://www.kybar.org>
- Click on the "Login" button on the far left of the menu bar
- Enter your KBA Attorney Number in the first field (Username)
- Enter your Password in the second field
(Your password will either be your date of birth in the form 01/01/19xx or the password you have assigned yourself.)
- Click on the "Log In" button
After you have logged in, you will notice that the button to the far left on the menu bar now says "Logout" and your name will be on the menu bar to the right
- Casemaker® is the first item on the "Resources" menu
You will be asked to read and agree to the End User License Agreement
From this screen, you will also have access to the Casemaker® user manual

If you need assistance with logging on to Casemaker®, contact the Kentucky Bar Association at (502) 564-3795 or send an email to cjones@kybar.org.

Note: you must be a KBA Member and you must log in before you will be able to access Casemaker®.

2010

Kentucky Bar Association Convention

Building Blocks of Democracy

Civics | Communities | Access to Justice



THERE IS SOMETHING FOR EVERYONE AT THE KENTUCKY BAR ASSOCIATION'S 2010 ANNUAL CONVENTION!

**JUNE
16-18**

LEXINGTON
CONVENTION
CENTER
LEXINGTON,
KENTUCKY

**Earn Up To
20.5 CLE
Credit Hours!**

Including 11.25 ethics,
in a relaxing, congenial
environment created
with your legal interests
in mind.

**We've Got You
Covered!**

From digital forensics to
forensic science,
employment law to
environmental regulation,
Facebook to the First
Amendment, along with
a wide range of
programming for
administrative, civil,
constitutional, corporate,
criminal and family law.

**With More Than
60 Quality
CLE Programs!**

The KBA Convention
provides
**Exceptional
Programming at a
Great Value.**

Register online
today at:

www.kybar.org/577

