KENTUCKY BAR ASSOCIATION

Bench & Bar

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PRESIDENT'S PAGE

Jane Winkler Dyche

The focus of my efforts during this year as President of the KBA has been to find out who makes up the group known as Kentucky lawyers, what is important to Kentucky lawyers, and what the Kentucky Bar Association can do to meet those identified needs.

I cannot begin to tell you how important the efforts of those who participated in the membership survey, KLU responder sessions, and stake-holder interviews have been in providing vital information about where we are as Kentucky lawyers.

Recently 2,182 Kentucky lawyers completed the online membership survey. That is a 17 % response rate. The survey provides statistically reliable results and, along with other information gathered throughout the year, is the basis for developing a strategic plan for the KBA. A brief summary of the results follows.

Kentucky Bar Association Membership Survey

Respondents were asked to provide input on KBA services, including CLE, and KBA regulatory functions, such as lawyer advertising and lawyer discipline. They were asked for input via closed-ended questions, but were also given the opportunity to provide further feedback in open-ended questions.

The comments given in response to the open-ended questions were, as you might expect, both positive and negative, which is healthy. In most instances, however, common concerns emerged.

The following is a snapshot of the respondents' input:

1. **KBA Communications –** The effectiveness of KBA communications was generally rated high (around 7.5 – 8 on a scale of 1-10), but specific suggestions were made for improvements:
   - **Email –** regular weekly or monthly updates would be appreciated
   - **Web site –** difficult to navigate and not user-friendly
   - ***Bench & Bar* –** news sometimes dated
2. **Current KBA Member Services/Benefits –** Respondents were asked to provide feedback on CLE, Casemaker, and the annual convention.
   - **CLE –** Received the highest rating (6.54 on a scale of 1-10) of the three services. Respondents would like to see more online CLE and more offerings for criminal lawyers and government lawyers.
   - **Casemaker –** Having a free legal research tool was valued by most respondents, but many expressed concern over Casemaker's limitations, and 32.7% indicated they were not aware of the service. A sizeable number of respondents indicated they used other services due to the limitations of Casemaker. Common limitations of the service noted included:
     - Difficult to navigate and search
     - Not comprehensive
     - No annotations
   - **Annual Convention –** Although some respondents feel the programming favors general practitioners, others would prefer more nuts and bolts sessions. The cost of attending the convention is a concern, particularly for solo practitioners and government lawyers.
3. **Prospective KBA Member Services/Benefits –** Additional member services the respondents would like to see provided fell mainly within technology areas, including an electronic forms database and discussion boards for defined groups.
4. **CLE and Kentucky Law Updates** – Although most respondents indicated they appreciated the opportunity to fulfill their CLE requirements at no charge at the KLU, there was some dissatisfaction with the nature of programming – generally described as too basic and not addressing issues faced by some practitioners. Respondents generally felt the CLE programming was of good quality, but expressed dissatisfaction with the accessibility of CLE programming, indicating the locations not being convenient (very few in Northern and Western Kentucky), approval for prospective CLE being cumbersome and few online CLE courses available.
5. **Lawyer Image** – Respondents expressed an unwillingness to pay additional dues dollars or make a voluntary contribution to a lawyer image campaign without knowledge of the specifics of the campaign. A significant number of respondents indicated a wariness in supporting a formal campaign, stating that pro-

moting the good works of attorneys, publicizing disciplinary actions against "bad" lawyers, and doing more to control undignified lawyer advertising would be more effective in improving lawyer image than a formal campaign.

6. **Lawyer Advertising** – Many respondents feel the KBA is doing the best it can to regulate lawyer advertising in light of First Amendment issues, but others indicate dissatisfaction with the types of ads that are being approved. Concerns were voiced about the fairness of the enforcement of the rules.
7. **Lawyer Discipline –** Almost half of the respondents indicated they were not aware or had no opinion about the timeliness, fairness, or transparency of the lawyer discipline system. Most comments about the system indicated the process should be publicized more, so that the public perceives the bar is doing all it can to police the profession. Others were concerned that publicizing discipline proceedings would further tarnish the image of lawyers.
8. **Challenges Facing the Legal Profession –** The challenges most frequently mentioned by respondents mirror those of other bar association members. Work/life balance is a top concern, with the image of the profession following closely.

Top Ten Challenges (1,965 responses)

1. Work/life balance (42.9%)
2. Image of profession (35.5%)
3. Professionalism/ethics/civility (31.6%)
4. Earning a living/economics of law practice (22.4%)
5. Time commitment/time management (21.7%)
6. Money issues/student loan debt (18.6%)
7. Too many lawyers (16.2%)
8. Lack of public service positions with adequate compensation (15.9%)
9. Malpractice avoidance (14.6%)
10. Lack of mentoring (14.5%)

Topping the list of challenges facing Kentucky lawyers today is work/life balance, closely followed by concern for the image of the profession and professionalism/ethics/civility. Most of us cannot work any harder, so in order to work smarter and achieve a better balance between work demands and the need to "have a life," we must look to greater efficiency in our practice. I have never heard anyone nearing the end of their life mention that they wish they had spent more time at work.

The top three concerns appear to be related. With lots of hard work to do and limited time for a life outside the practice of law, we lawyers feel the pressure to perform, perhaps taking short cuts that lead to problems for our clients and for us. For some lawyers, bad habits and addictions begin to interfere with their performance. These can lead to discipline issues, lack of patience with other lawyers and their clients, and unwillingness to treat others as we would wish to be treated.

The challenge is how to address these serious situations. How can we, as an organization, address the image of the legal profession and help nurture an environment where high standards of professionalism, ethics, and civility prevail? One step the KBA is taking is to implement the Kentucky New Lawyer Mentoring Pilot Program. This year experienced lawyer mentors who are participating in the pilot program are working with the first group of 50 newly licensed Kentucky lawyers selected from those who took the bar examination in February 2008.

Many people work in jobs identified as public service, but, regardless of our practice area, each of us serves the public by ensuring that we treat each other with respect and practice our profession with the integrity and honor it deserves. During my travels across Kentucky, I have encountered many who have devoted their lives to seeking justice and walking humbly as they serve the citizens of Kentucky. It has been an honor and a privilege to meet those lawyers and to serve as President of the Kentucky Bar Association. Thank you for this opportunity.

Terms Expire on the KBA Board of Governors

On June 30 of each year, the terms expire of 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. 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, 2009:

1st	W. Douglas Myers Hopkinsville
2nd	R. Michael Sullivan Owensboro
3rd	Richard W. Hay Somerset
4th	Douglass C.E. Farnsley Louisville
5th	Fred E. Fugazzi, Jr. Lexington
6th	Thomas L. Rouse Ft. Wright
7th	William H. Wilhoit Grayson

Justice Abramson gave Keynote Speech at Kentucky's Law Day Celebration

Justice Lisabeth Hughes Abramson of the Supreme Court of Kentucky was the keynote speaker for the 2008 Law Day celebration at the Kentucky Capitol in Frankfort on May 1.

This year marks the 50th anniversary of Law Day, a nationally designated day for Americans to celebrate the rule of law. Law Day underscores how law and the legal process have contributed to the freedoms all Americans share. President Dwight D. Eisenhower proclaimed the first Law Day on May 1, 1958, to strengthen America's great heritage of liberty, justice and equality under the law.

"In our busy world, it is easy to take our legal system for granted," Justice Abramson said. "It is important for us to remember that the rule of law lays the foundation for a civil society."

The Supreme Court of Kentucky hosted the Law Day ceremony, which began with Chief Justice Joseph E. Lambert opening a special court session. Following Justice Abramson's speech, 110 new Kentucky attorneys were sworn in by Supreme Court Clerk Susan Stokley Clary. The event also included an awards presentation for individuals who have contributed to law-related education programs.

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  (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®.*

Exporting Democracy, Importing Understanding: A Trip to Russia to Teach Jury Trial Practices

By Frances Catron-Malone

I never dreamed I would stand in the middle of Red Square. In front of me was Lenin's tomb and St. Basil's church and the Kremlin. I simply stared. The Kremlin, that symbol of a cold war enemy, was now the center of a reincarnated Russia. Instead of the cold structure of Soviet concrete blocks, I was confronted by medieval fortress walls made of ancient brick and stone. Moscow is a city filled with quaint wooden buildings standing alongside glass and steel, soaring clock towers and sky scrapers, trappings of distant royalty, and breathtakingly beautiful churches now filled with openly devout worshipers.

I went to Russia to teach jury trial practices to Russian prosecutors. But I was the one who learned. My education began the very first moment I realized I was standing not in the long gray shadow of an oppressive communist regime, but in an old European capitol proudly robed in the fabric of history spun from a thousand years. Their legal system, like all things Russian, is a complex product of a thousand years of history, rather than a rejection of the last 80 years of communism in favor of an American style democracy.

OPDAT

How did I manage to get to Russia to teach jury trial practices? The United States Department of Justice has a small, little known yet very important office known as "OPDAT"- Overseas Prosecutorial Development Assistance and Training. Established in 1991, the mission of OPDAT is to assist our foreign partners in their efforts to enhance their own law enforcement and justice sector capabilities and institutions, while recognizing and maintaining the rule of law and the rights of individuals as the cornerstone of any free society.[1] The shared belief among the United States and partner countries is that close cooperation with and assistance between criminal justice institutions helps each to fight terrorism and crimes such as human trafficking, organized crime, financial crime, and other crimes international in scope.[2] OPDAT coordinates its mission with the U.S. State Department and other agencies involved in U.S. foreign relations. Not found in its published mission statement or other materials is what I believe to be the unstated and most important purpose of OPDAT: to build relationships between people of partner countries so the American system of constitutional and democratic government leads by example. The American Bar Association and various American law schools, state bar associations, and judicial conferences support similar outreach and educational programs in Eastern Europe, Russia and other parts of the world.[3]

In Russia, prosecutors are called "procurators" and the agency that oversees prosecutors is known as the General Procuracy of the Russian Federation. This agency traces its origins back 285 years to Czar Peter the Great. I was privileged to be included in a small group of U.S. prosecutors who traveled to Moscow to teach experienced Soviet era prosecutors and new Russian prosecutors some of the basics of presenting a criminal case to a jury, from the American point of view. Conversely, the Russian prosecutors shared with us their uniquely Russian challenges and experiences with juries.

To give our group of Americans a basic understanding of the Russian system, we toured a courthouse, met and spoke with a judge, and observed closing arguments in a murder trial in the Moscow city courts. Then, under the auspices of one of the Russian law schools, we paired with a Russian law professor or more experienced procurator and "team taught" classes on trial practices: the development of a theory of the prosecution, the opening statement, trial organization, use of exhibits and physical evidence, the presentation of witness testimony, the closing argument, and jury instructions. As in trial courses in the U.S., the students and instructors practiced presenting various parts of a jury trial and were critiqued as the trial progressed. Most of the differences between Russian and American trial procedures and techniques were based not on different personal styles or different levels of courtroom experience, but on the different goals and traditions of our respective legal systems. The American instructors quickly developed a new understanding and appreciation for the reasons underlying these differences, as well as the challenges faced by Russian procurators.

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From an Inquisitorial Legal System to an Adversarial Legal System

With the adoption of its new constitution and criminal code in 1993, Russia instituted an adversarial court system that includes trial by jury for very serious crimes.[4] Approximately 35 serious crimes trigger the right to jury trial when requested by a defendant. For less serious crimes, trial is before a single judge or a panel of three professional judges.[5] There is no plea bargaining in Russia as we understand it.[6] Although most defendants confess, a trial still takes place either before a judge or a jury.[7] While the new Russian justice system is intended to be adversarial, its traditions and long-standing practices are based on the civil law or inquisitorial model used for centuries in Europe.[8]

In an adversarial system the parties to a legal dispute are in a competition, a contest.[9] Parties have the opportunity to contest facts in the belief that the end product will be "the truth." The trial is the ultimate tool for finding "the truth."[10] Guarding every step in an adversarial system are rules governing the engagement. The judge frequently acts as an impartial arbiter and is in charge of assuring the parties abide by the rules. The judge also enforces and sanctions violations of the rules. Litigants are not required to do anything in addition to the minimum stated by the rules. The adversarial system sifts, hears, and limits facts and then decides "the truth" based on the sifted facts, and that "truth" impacts only the parties to the litigation.

The civil law's inquisitorial system is philosophically different; the parties mutually engage in seeking "the truth." Generally, a civil law system imposes on all citizens the duty to tell what they know, and all they know, to get to the truth.[11] Facts not considered in the adversarial context are fair and even necessary in an inquisitorial system. All relevant facts are to be considered. To that end, Russian attorneys are not permitted to ask leading questions, because to do so may limit the witness's relevant information.[12] Frequently, the first question asked of a witness by a Russian criminal investigator is, "Tell me everything you know relevant to this matter."[13] Instead of a trial, the civil law tradition points to the preliminary investigation as the ultimate tool for finding "the truth" and judges have historically been charged with assisting and leading the search for "truth"; they may even intercede and direct criminal investigations.

A courtroom in Russia.

One practical example of the differences in the two legal systems is the exercise of the privilege against self-incrimination. Although Russian defendants enjoy a broader privilege against self-incrimination than U.S. defendants in that the privilege extends to spouses as well as other close relatives,[14] most suspects do not exercise this right. Ingrained in their attitude is the general belief that undergirds the inquisitorial tradition – it is their duty as citizens to speak with the police or criminal investigators.[15]

The inquisitorial process gathers all the information it can, synthesizes the information into a much larger picture, and from this picture "the truth" emerges. The inquisitorial system projects this "truth" not merely upon the parties, but for posterity and history.

This difference in philosophy results in all sorts of procedural and substantive differences between the new Russian adversarial system and the American adversarial system. The overlay of an adversarial trial process on the long-standing tradition of inquisitorial justice produces many challenges for Russian judges, procurators and defense counsel.

The Russian Criminal Investigation

In a Russian criminal investigation, a criminal investigator conducts a preliminary investigation and compiles a case file referred to in the civil law tradition as a "dossier."[16] The criminal investigator is a lawyer and not a professionally trained police officer. The criminal investigator directs and conducts the investigation in conjunction with professional law enforcement officers. The investigation compiles something akin to an administrative record. In essence, the case file contains statements from witnesses and the defendant(s), pictures, maps, laboratory reports, and statements from experts. It may also contain information provided by the defendant and favorable to the defendant, as the defendant has the right under some circumstances to contribute to the case file.[17] Although permitted, efforts by defense counsel to contribute to the investigation are not always well received by the criminal investigator.[18] Because they are said to be full parties at all stages of the criminal case, crime victims may also be able to contribute to the case file.[19]

Criminal investigators have the power to subpoena witnesses to give statements and to command the presentation of evidence.[20] The criminal investigator must have court approval to make certain types of entries onto property,[21] but retains

authority to do certain searches and seizures without court oversight. The criminal investigator conducts site visits and line-ups, and engages in other forms of evidence collection.

The preliminary investigation and case file are supposed to be secret until a sufficient amount of evidence has been gathered to conclude a crime has been committed and a person or persons committed the crime,[22] loosely analogous to the secrecy afforded our grand jury process. At that point, a preliminary charge is drafted and the case file is sent to a procurator for review, formal charging, and trial.[23] A case file is compiled in all criminal cases, including those which will result in a jury trial. If after review by a procurator the case file does not contain sufficient evidence, the charges are dismissed.[24]

The Russian Trial

After formal charging, the case is sent to a judge and scheduled for a preliminary hearing and trial. A trial on less serious charges may be nothing more than the presentation of the evidence from the case file by a procurator to a judge. The presentation by the procurator would be followed by a presentation by defense counsel and by the statement of the defendant. The defendant may be the only witness to actually testify in person. The judge then determines whether the dossier was lawfully compiled, the investigation properly conducted, and whether the procurator's conclusions are supported by the evidence, somewhat similar to an administrative law judge's review of an administrative record to determine if the conclusions of the agency are supported by substantial evidence in the record.[25]

The long-standing practices and traditions of the Russian courts can serve to make a Russian jury trial on a serious charge consist of little more than the following: the procurator reads the indictment and portions of the evidence from the case file to the jury; the jury receives or hears a statement from the defendant; defense counsel, procurator, and the victim then make statements to the jury.[26]

The presentation of testimony before a jury is one area where Russian prosecutors are most interested in analyzing U.S. practices. Because the case file includes most of the evidence, and documents and statements within the case file are customarily reviewed by the court, defense counsel, and the defendant both during the investigation and prior to trial, there is no long-standing tradition of in-court testimony or the introduction of physical evidence through a live witness.

Witness Testimony and Confessions

There was a certain amount of anxiety among the Russian prosecutors associated with the presentation of the testimony of witnesses in open court. They were concerned about lay witnesses being intimidated by the formal court process and by coming face to face with the criminal defendant. Regarding police officers, they were concerned about undermining the prosecutions by in-court accusations of police brutality. For this reason, the procurators resisted the suggestion to use police officer testimony to introduce items of physical evidence. For the Americans, it was unheard of to have a criminal trial without the testimony of police officers or agents, but in Russia, it is commonplace.

Police officers have such little credibility in the eyes of Russians that any claim of abuse at the hands of an officer can and often does result in the rejection of a written confession and the acquittal of the defendant.[27] This is so despite the fact that Russian law now prohibits the use of a confession unless it is made with counsel present, or the defendant states to the court that he knowingly waived his right to counsel at the time of making the confession.[28] The phenomenon is so prevalent that the Russian Supreme Court has suggested it is error to permit the issue of coerced confessions based on police brutality to be presented before a jury.[29]

The American prosecutors tried to offer some suggestions. Because U.S. criminal trials don't usually involve the confessions of a defendant, the defendants who confess usually plead guilty, U.S. prosecutors often prove cases through other evidence. Perhaps the procurators could consider using evidence other than the confession?

In situations where a confession was to be introduced, we suggested that a jury's ability to "eye ball" the police officers as they testify and to watch the manner in which the officers respond to questions, would give the jury a basis for judging the reliability of the confession based on the "believability" of the officers. And, we suggested the technique of corroborating a confession with other proof to "inoculate" a confession from attack.

The suggestions to prove a crime without using a confession and to use other evidence to corroborate challenged confessions had not readily occurred to the Russians, due to their civil law tradition of relying on confessions to police. We suggested foregoing the use of a confession in situations where the procurators were not confident of the propriety of police actions in obtaining the confession.

Foregoing the use of incriminating evidence for tactical reasons is an area not yet developed in Russian trial practices. While these ideas were intriguing to the Russian procurators, their initial

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response was cautious. There simply may not be a mechanism within their system to implement the suggestions. Currently the criminal investigators, not the procurators, develop the preliminary investigation and case file. The investigation has concluded by the time a procurator sees the case file. Thus, there is little room for a Russian procurator to return a case file to the criminal investigator for more investigation or to develop alternative evidence if a confession won't be used.

Also, both the crime victims and the defendants possess procedural rights in the preliminary investigation, rights that have no counterparts in the U.S. adversarial system. The defendant has a right of "rehabilitation," sort of a right for the law to declare him innocent,[30] and both victims and defendants may be able to object to sending the case back for more investigation. Crime victims, as parties to the criminal case, may object to the decision not to use a confession. It will be intriguing to see if a crime victim can compel the introduction of a confession that a procurator had decided for ethical or tactical reasons not to use. Interestingly, Russian law, like the law of most civil law countries, does not require the defendant's statement or testimony to be under oath or given under penalty of perjury. Statements of defendants both in the preliminary investigation and at the trial are not sworn.[31]

Frances Catron-Malone serves as an Assistant United States Attorney for the United States Attorney's Office for the Eastern District of Kentucky. In 2001, she was appointed Interim United States Attorney for the Eastern District of Kentucky. Prior to her government service, she was in the private practice of law in her hometown of Corbin. Ms. Catron-Malone also served as law clerk to U.S. District now Senior U.S. Circuit Court Judge Eugene E. Siler, Jr. She graduated from the University of Kentucky College of Law in 1983 and was a member of the *Kentucky Law Journal*. Ms. Catron-Malone is an active member of the Kentucky Bar Association where she serves on the Editorial Board of the *Bench & Bar* magazine and is a frequent contributing author. She is now studying the Russian language and hopes to again visit Russia. This article contains the opinions of the author and does not necessarily represent the position of the United States Department of Justice.

Use of Physical Evidence, Diagrams and Summary Charts

The Russian procurators are very interested in the presentation of physical evidence in the courtroom. Unlike the uncertainty of witness testimony, they understand the drama and interest created by presenting to the jury concrete items such as the murder weapon, or the bloody clothes of a victim. Many of them routinely present objects as evidence, showing the jury the gun or the club or the knife by simply holding it up for the jury to see, without any accompanying live testimony from a police officer or other witness. This is acceptable under Russian procedures because the items of physical evidence have been investigated in the course of the preliminary examination and in our terminology, authenticated and pre-admitted. Another tool the Russian procurators have adopted and use to advantage is the presentation of diagrams and summary charts.

One of the scenarios enacted by the U.S. prosecutors for the Russian prosecutors demonstrated the use of in-court testimony of the son of a murder victim to identify a bloody fur hat found near the body as the hat of his mother. While this type of example seems elementary to those of us steeped in our adversarial tradition, to many of the Russian procurators accustomed only to the use of a sterile record, this type of conduct bordered on the obscenely theatrical. Yet, they understood and appreciated that this was one tool useful to tell the story of the crime, hold the jury's attention, minimize the use of police officer testimony, and at the same time allow the victim to speak in a manner somewhat controlled by the procurator.[32]

Victims are Parties to the Prosecution

Victims are parties to a Russian criminal prosecution and can create issues unknown to the adversarial tradition. Victims may appeal the Procuracy's decision not to prosecute.[33] Victims can also appeal an acquittal, as can the Procuracy, so the protection against repetitive prosecution is not equivalent to the U.S. protection from double jeopardy.

Victims have the right to counsel and to participate at the trial and in most cases, there is no separate civil lawsuit comparable to an action for damages. The jury who hears the criminal case also decides whether the victim is entitled to any compensation. If the defendant is acquitted for any reason other than a procedural one, i.e., the acquittal is on the merits, then the victim cannot collect compensation.[34] In the murder trial we observed, the family members of the murdered victims spoke directly to the jury in closing argument. Although argued in a language I could not understand, I could see the victims' personal statements had a powerful emotional impact on the jury.

While this combined role for a jury is unknown to U.S. lawyers, it fits perfectly within the context of a civil law system seeking to derive "truth" from all facts which make up the larger historical picture of the criminal event. It's also very efficient. It does, however, highlight that the Russian system does not distinguish or define burdens of proof.[35] Jurors either believe something happened, or they don't believe it happened. Unlike in the U.S., no juror may conclude, "I believe he did it, but I don't think the government proved it beyond a reasonable doubt." The same undefined standard of proof applies equally to a victim's civil claims.[36]

The Verdict Form

Russian juries consist of 12 citizens and are usually required to render a unanimous verdict by answering a series of questions we would recognize as special interrogatories.[37] Often, these questions are quite onerous, asking jurors to determine many facts of the crime, facts that we would consider irrelevant in an adversarial system, but are very important in a civil law system steeped in determining facts for historical purposes. For example, in a murder case, the jurors are often asked to find the instrumentality of death. If a victim is beaten and left by the side of the road in the cold, the jury may be asked to decide if the death was from blows, from loss of blood, from positional suffo-

cation, or from exposure. All jurors may agree that the defendant caused the death by a purposeful criminal act, but vigorously disagree about the actual mechanism of death. This can be very problematic for the prosecution if the judge poses special interrogatories regarding guilt in such a way that requires agreement on a specific cause of death.[38]

One of the most fascinating discussions U.S. prosecutors had with our Russian counterparts concerned the best way to frame proposed questions for the jury and what facts a jury should be asked to agree upon in order to meet the twin goals of determining guilt and finding historical fact. Participants considered the most tactful way to present suggested jury questions to the judges. According to the Russian procurators, Russian procedural practice permits parties to suggest jury questions to the court, but judges are resistant and protect their expertise in this area. The procurators are very aware that the largest percentage of appellate reversals of Russian trial court verdicts is due to appellate courts' disapproval of jury questions.[39]

Other Differences

Some differences in our two systems have nothing to do with the rules of our adversarial and inquisitorial legal systems. Instead, they are based strictly on cultural expectations and the general structure of government. First, the Procuracy is part of the Russian Executive Branch of government[40] and is considered a branch of the military. The procurators wear uniforms rather than the standard issue and ubiquitous dark suit worn in the U.S. How could a jury of private citizens not be intimidated by a prosecutor appearing in a uniform? Images of Soviet era KGB officers swirled in my head until I was introduced to one of the Russian procurators who happened to be wearing his uniform. It turns out the uniforms are bright royal blue and distinctly reminiscent of the outfits worn by drum majors for the University of Kentucky marching band, complete with gold buttons and shoulder epaulets. Perhaps the Russian observer places a different cultural context on the uniform and feels some intimidation, but from the American perspective, the sight is amusing, particularly when worn by Russian lawyers who, like a lot of American lawyers, have spent more time reading law books than working out in gymnasiums!

Second, all Russian criminal law is federal law,[41] from petty theft to hijacking, murder and treason. Russia does not have the same concept of state sovereignty with parallel state authorities that we cherish in the United States. While there are forms of regional and local governments, all criminal courts are federal courts. Russian procurators would not recognize the somewhat confusing array of federal and various state court levels we have in the United States.

Most Russian judges are not appointed for life, but for terms of office. Russia has many women judges and young judges, perhaps because a judgeship is considered somewhat of a bureaucratic and lower paid position.[42]

The courtrooms, at least in Moscow, were utilitarian at best. The trial proceedings are not recorded verbatim but by shorthand notes taken by the judge's secretary. There are no transcripts.[43] There is, however, a rather imposing walk-in cage set immediately in front of the jury box. The cage contains bench seating, where defendants sit during the proceedings. The defendants in the murder trial we observed were not shackled or manacled and were not wearing clothing I associated with prisoners. Escorted by law enforcement officers, they walked through a courtroom full of spectators, stepped into the cage and had a seat. To the American eye, the cage seemed highly prejudicial to the defendants, but it was explained to me that the cage, in addition to providing security, stands as a stark reminder to the jury of the power of the Russian state to incarcerate its citizens. In fact, segments of both the Russian citizenry and legal commentators have criticized the use of jury trials because they have resulted in too many acquittals, not in too many convictions.[44]

All Russians have a right to defense counsel paid for by the government. In the same murder trial in Moscow, defense counsel sat at small tables immediately adjacent to the bars of the cage where they were in close communication with

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the defendants.[45] The procurator's table was also near the cage. A third table for the victims and their counsel was located next to the jury box.

Another difference not grounded in philosophy is the different levels of legal education of lawyers. Like registered nurses in the U.S., a licensed attorney can have various years of legal education. The educational hierarchy of all Russian attorneys is reflected in the Russian attorneys who work for and with the Procuracy.[46] Procurators tend to have degrees based on longer years of training, while the criminal investigators tend to be law students, recent graduates, or graduates of programs with fewer years of required schooling.

Since lawyers conduct the criminal investigations, one may surmise that most Russian criminal cases are historical in nature and very few proactive cases are instigated using undercover and other covert investigative techniques.[47] While this would be generally correct, Russia does have a procedure for investigative activity that does not depend on the initiation or prosecution of a criminal case. This procedure is called a tactical investigative operation (TIO). A TIO uses proactive police investigative techniques such as undercover activities, sting operations, informers, controlled purchases of narcotics and other contraband, surveillance, etc. The purpose of these tactics is to detect, prevent, suppress, and expose crime, not necessarily to prosecute and punish crime, although the investigations can result in prosecution. A TIO is carried out by one or more special divisions of the same agencies that conduct regular criminal investigations, as well as by the Federal Security Bureau, the Russian Federation's version of the Soviet KGB.[48] Discussions with our Russian counterparts did not address prosecutions that may arise as a result of a TIO.

Conclusion

The Russian jury in the trial we observed returned a guilty verdict against the three defendants charged with murder. All three defendants had confessed. The jury recommended leniency, which meant the judge could not sentence them to more than two thirds of the statutory maximum sentence.[49] The trial judge was quite open with us about the challenges of handling jury trials. The procurators likewise were amazingly open about problems they encounter and shortcomings they experience in their current practices. I came away with a firm sense from the Russians that they sincerely desired a fair and open system, one that administers "justice" in the sense we would recognize justice in the U.S. I hope I have the opportunity to work again with my counterparts in Russia. ■

ENDNOTES

1. http://www.usdoj.gov/criminal/opdat/mission/mission.html. Last visited February 15, 2008.
2. *Id.*
3. *See*, *generally*, Paul J. De Muniz, *Realizing the Rule of Law: Jury Trials Come to the Russian Far East*, 63 Or. St. B. Bull. 11 (Feb/March 2003).
4. William Burnham, Peter B. Maggs & Gennady M. Danilenko, *Law and Legal System of the Russian Federation*, 3rd Edition, p. 532, (Juris Publishing 2004). Russia had jury trials under the Czars, so technically, Russia has "re instituted" trial by jury. I had the great pleasure of meeting Professor Bill Burnham from Wayne State University School of Law, the primary author of this book. He traveled with the group of U.S. prosecutors to Russia in December of 2006 and served as the subject matter expert. He gave us background on the long standing inquisitorial tradition, the newly engrafted adversarial model, and the resulting uncomfortable fit. The observations and musings of this article are mine; anything bordering on scholarship should be credited to him.
5. *Id.* at 517.
6. *Id.* at 467.
7. *Id.* at 502-503.
8. *Id.* at 467-468. The civil law model was new to me. I was not a political science or history major in college and since most American law schools no longer require legal history or classes on the development of

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legal systems, though perhaps they should, my knowledge of European and civil systems of law was woefully deficient. Part of the thrill of studying the new Russian legal system was learning about this other system of "doing justice" used by countries such as France, Germany, Italy and, of course, Russia.

9. *See*, John C. Coughenour, *Canary in the Coal Mine: The Importance of the Jury Trial*, 26 *Seattle Univ. L. R.* 399 (Winter, 2003), 401-412.
10. Burnham, *supra* note 4, p. 479.
11. *Id*. at p. 485, 486 note 2 and n. 61.
12. *Id*. at 485.
13. *Id*.
14. *Id*. at 485-486.
15. There are reasons Russians may choose to confess other than their civic duty: police violence, widespread use of pretrial detention, horrible jail conditions, and the rewards gained by confession: reduction of the statutory maximum sentence of imprisonment by one third. *Id*. at 502-503, 530.
16. *Id*. at 469, 479.
17. *Id* at 488, 503-04.
18. *Id*.
19. *Id*. at 518.
20. *Id*. at 469.
21. *Id*. at 492.
22. *Id*. at 484.
23. *Id*. at 507, 509-10.
24. *Id*. at 507.
25. *Id*. at 480-81.
26. *Id*. at 482, 519-21.
27. *Id*. at 494, 496.
28. *Id*. at 500, 544.
29. *Id*. at 542.
30. *Id*. at 527.
31. *Id*. at 487.
32. Victims can have a devastating impact on a Russian trial. The creative use of effective methods to control victims' testimony could ward off appellate court intervention.
33. Burnham, supra note 4, at 518, 525.
34. *Id*. at 525.
35. *Id*. at 524, 526. Prof. Burnham sees in application a standard similar to "proof beyond a reasonable doubt."
36. *Id*. at 526.
37. *Id*. at 514. After three hours of deliberation, a Russian jury can return a majority verdict. *Id*. at 541.
38. *Id*. at 535.
39. *Id*.
40. The Russian government consists of three coordinate branches of government, very loosely similar to the U.S. government: the Executive Branch, the Legislative branch, and the Judicial branch. However, the Executive Branch of government clearly dominates the other two. One of the goals of the new Russian Criminal Code was to empower the Judicial branch, the weakest of the three branches.
41. *Id*. at 549.
42. The judge presiding over the murder trial, Judge Snedgerova, agreed to meet and speak with the U.S. prosecutors at the conclusion of the trial while the jury was deliberating. She openly shared her opinions on the progress of implementing the jury trial in Russia. Generally, she had positive comments especially about the courts in Moscow, but expressed reservations about the level of commitment to public service evidenced by potential jurors. She said it was difficult to obtain good jurors from everyday citizens, suggesting that ordinary people don't always have the educational background to make good jurors, that most people called for jury service did not report because service is not compulsory, and that jury service was seen as more of an imposition than a public service. I was struck by her judicial demeanor and the great confidence she had in her evaluation, a judicial demeanor and confidence that would be recognized by any American attorney familiar with any American judge.
43. *Id*. at 519.
44. Kristi O'Malley, "Not Guilty Until the Supreme Court Finds You Guilty: A Reflection on Jury Trials in Russia" *Demokratizatsiya* (Winter 2006) found online at http://findarticles.com/p/articles/mi_qa3996/is_200601/ai_n16537202.
45. The proximity of the defendant to defense counsel is not always so favorable. *See*, Burnham *supra* note 4, at 517 ("Whether in a dock or a cage, the defendant is usually some distance from defense counsel, making attorney-client consultation somewhat difficult and the need for it a public matter.")
46. *Id*. at 469-470.
47. *Id*. at 515-516.
48. *Id*.
49. The defendants were never facing the death penalty. Because trial by jury has not been fully implemented, the Russian Supreme Court has suspended imposition of any death sentences until all defendants in all of Russia have access to trial by jury. Burnham, *supra* note 4 at 602-607.

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Exporting the American Legal System and the Republic of Azerbaijan

By Lamia Mammadova
& Michael Losavio

Lamia Mammadova

The rule of law is one of America's greatest social and economic assets. It holds great promise for justice reform in my country. Kentucky's system of justice has become my model after I was given a generous opportunity to study there by the U.S. State Department and the World Affairs Council of Kentucky and Southern Indiana.

Exporting the American legal system to countries in transition gives the advantage of a predictable, transparent and fairer system of resolving disputes. It helps America by extending its domestic benefits into the transnational commercial and social arena, to the benefit of all countries.

Azerbaijan, between the Caucasus Mountains and the Caspian Sea just north of Iran and south of Russia, has moved from a Soviet-era government to a republic with a presidential form of government. Its Constitution established a system of government based on a division of powers among a strong presidency, a legislature with the power to approve the budget and impeach the President, and an independent judiciary. Technologically, it has moved to expand information technology in the country, including use of the Internet. Within its system of justice, my country is considering how it can benefit from the American system of justice.

My time in Kentucky was unique and invaluable in helping me understand the workings of the American system in a living context. It is that kind of understanding that can help us bring parts of that system to work in Azerbaijan's justice system in light of the history of our country and its legal system.

Lamia Mammadova studied U.S. civil public and private institutions here in Kentucky under U.S. State Department/ Kentucky World Affairs Council sponsorship in June 2007. She interned with United Nations High Commissioner for Refugees oversight of juvenile justice agencies and children's rights and is a lawyer for the American Bar Association Central European and Eurasian Law Initiative's Legal Advocacy Center in Baku, Azerbaijan. She holds bachelor's and master's degrees in law from Baku State University.

Azerbaijani History and Legal System

The Republic of Azerbaijan was created on May 28, 1918 but lost its independence via the 11th Red Army; in April 1920 and in December 1922 it became a part of the now-defunct U.S.S.R. Azerbaijan re-established its independence with The Constitutional Act on Restoration of the State Independence of the Republic of Azerbaijan on October 18, 1991.

Source: https://www.cia.gov/library/publications/the-worldfactbook/geos/aj.html

Azerbaijani law is based on a civil (continental) law system. It consists of a variety of hierarchically arranged legal acts where higher-level enactments supersede any contrary lower-level acts. If a contradiction exists between two legal acts of equal standing, as a general rule the more recent legal act prevails. An act containing a special rule prevails over a more general rule.

Several types of legal acts comprise the Azerbaijani legal system. These are (from highest to lowest priority):

(1) the Constitution of Azerbaijan;
(2) acts adopted by referenda;
(3) international treaties to which Azerbaijan is a party;
(4) laws of Azerbaijan;
(5) presidential decrees and instructive orders;
(6) Resolutions of the Cabinet of Ministers;
(7) acts of central executive authorities; and
(8) acts of other authorities.

Case law does not play a prominent role in Azeri courts.

Trial courts in Azerbaijan are divided into two groups: courts of general jurisdiction and courts of limited jurisdiction such as economic or military courts. There are no specialist courts in Azerbaijan such as courts dealing only with intellectual property or tax issues. There are 65 districts in Azerbaijan and each district has its own court of general jurisdiction. The district courts have jurisdiction to hear civil, family, labor, land, tax and administrative disputes provided one of the parties to the dispute is a natural person and does not have the status of an individual entrepreneur. District courts also hear certain types of criminal cases.

Under the 1999 Civil Procedure Code, the Economic Court on Disputes Arising Out of International Agreements hears disputes between Azerbaijani natural and legal persons and foreign legal entities, legal entities with foreign investments, international legal entities such as the World Bank and European Bank for Reconstruction and Development, foreign citizens involved in entrepreneurial activity, and stateless persons. The majority of disputes involving a "foreign element"

are tried in this Court. The Court consists of three judges and hears more than 700 cases a year.

Azerbaijani versus American Legal System

The main difference in comparison with the Anglo-American system is that the Azerbaijan legal system is determined by statute but in the Anglo-American system case law or judge-made law plays an important role as a source of law. Decisions of the Azeri courts are not generally a source of law.

Decisions of the Constitutional Court (http://www.constitutional-court-az.org/decisions.htm; http://www.e-gate.net/az_constitutional_court_decisions.htm) are the exception. The Constitutional Court of the Republic of Azerbaijan in its decisions gives official interpretation of the Constitution and the Laws of the Azerbaijan Republic. Decisions of the Constitutional Court create a new rule or norm which is binding in the whole territory of the Azerbaijan Republic. These decisions of the Constitutional Court may be considered as an additional source of law guiding other courts in the country.

Azerbaijani legislation formally preserves fundamental rights and freedoms, but its system of justice fails to implement these rights and freedoms effectively or to adopt the rulings and case-law of international supervisory bodies (UN Committee on Human Rights, European Court of Human Rights). The majority of national judges, lawyers and representatives of law enforcement agencies fail to apply international standards for the protection of human rights in the course of exercising of their own functions.

Azerbaijan does not have a common law system, and case law is not considered as a source of law: no legal provision obliges us to rely on the case law and rulings of international and regional supervisory bodies. Accordingly, some Azerbaijani judges and lawyers neglect this source of law and assume they may ignore it. Too many judges and lawyers fail to realize that the "jurisprudence" of the international courts and tribunals, and guidance given by recognized international bodies, are the source of interpretation of the provisions contained in the international instruments on human rights.

Azeri judges and lawyers do not appreciate the power of case law to define the scope and content of the rights and freedoms reflected in the international instruments that Azerbaijan has ratified. They do not see that case law can clarify methods of implementation. They need to understand that case law is able to define the scope of the State's discretion, in the light of present realities, to regulate those rights which are not absolute.

In contrast with Azerbaijan, countries with an American style legal system have normative values and practices formalized by the judges and expressed in judicial precedents that form the basis of legal system. Thus, case law has great importance in such type of countries. While Azerbaijan's civil law legal system includes the Roman-German legal system, other normative acts still affect the basis of legal system here. Case law differs from our civil law practice. An American court, considering the case,

may be guided by a previous judgment as a legal precedent. In other words, when considering similar cases, prior decisions of a superior court may be considered as a case law in contrast to having a purely persuasive authority in civil law regimes such as Azerbaijan.

These features highlight another important aspect of American judicial practice that differs from that of Azerbaijan and many civil law regimes. American judges are very independent in their decision-making in contrast to many civil law systems which, at least in theory, subordinate the judiciary to legislative and executive authority. While this independence may be frustrating to some in American legislative and executive bodies, it may help provide for the equal application of the laws to all citizens.

Exchanges Help Azerbaijan Lawyers Learn and Apply American Law

Exchange programs give the lawyers the opportunity to learn the legal system of the USA in its application, not just in theory. Accordingly, they can see the advantages of the American system in context, such as the mechanisms for the application of law under legal principles like the rule of law. We may then try to apply its advantages in our practice when back in Azerbaijan.

Application does not always happen smoothly, and a lawyer may not be able to apply the experience of the American legal system in Azerbaijan. Our two countries have different legal systems with different traditions and habits though our general principles of the law are similar. The main issue for the Azerbaijani legal system, which supports the rule of law, is connected with experience. That is, although the legislation envisions numerous important principles, it is very difficult to apply them in practice where few have any experience with applying these principles.

That's why it is very important for Azeri lawyers to learn the working mechanisms of the American legal system, how such experience is applied, and how these traditions developed.

In November 2007, a meeting in Baku was held by the American Bar Association Rule of Law Initiative (ABA ROLI) with judges familiar with the U.S. courts via a recent exchange program. The judges emphasized that it was very important for their peers to see and experience the application of law in America that would, in turn, be beneficial for courts in Azerbaijan. I shared with them my experiences in Kentucky and the U.S. and thoughts on how the American system could be used in Azerbaijan. The meeting was successful and served as a foundation for further reforms.

Information on the Kentucky Institute for International Studies College Consortium and the Justice Administration international programs is available, respectively, at www.kiis.org and http://louisville.edu/justice administration/international-program

Relevant legislative changes are needed. In Azerbaijan, lawyers and judges submit their proposals for legal reform to the legislative body; experiences with the U.S. legal system can be vital to both drafting needed changes and supporting them. A proposal package is being prepared to reflect the changes suggested from the judges of the U.S.-Azerbaijan exchange program, including that of "legal creativity."

Several programs have been held to train on U.S. legal practice by the U.S. Government. ABA ROLI also sent lawyers, prosecutors, and judges on practice exchange tours in the U.S. through its programs. Those lawyers who participated came to appreciate the benefits of the "rule of law" American-style for their cases.

Learn more on the Rule of Law Project in Azerbaijan at: http://www.abanet.org/rol/europe_and_eurasia/azerbaijan.html

Volunteer and job opportunities in Azerbaijan and throughout the world are available at: http://www.abanet.org/rol/

The World Affairs Council for Kentucky and its international exchanges are discussed at: http://www.wacaky-in.org

Lawyers are flexible and open to changes in their activities and these exchange programs have had such an effect. A lawyer learns techniques of how to make the defense and a prosecutor how to justify an accusation. It influences the quality of the work. This leads to the development of needed procedural legislation.

Another example is in the examination of witnesses. A lawyer using the U.S. practice of aggressive direct and cross-examination will more successfully obtain necessary information. Under the previous Soviet practice examination techniques were not helpful as the style is not polite and uses only standard questions.

It is critical for lawyers and judges to have practical experience in the U.S. in order to have the best chance at initiating the rule of law in my country and in others once under the old Soviet legal model.

Our study of America law for the Azerbaijan legal system holds many benefits. It may be adopted by the Constitutional Court of Azerbaijan Republic, which doesn't now generally use case law and precedent in deciding constitutional issues before it. This is a real possibility for the future. In Azerbaijan today there is no effective way for courts to work with issues not addressed by legislation. There are some gaps in legislative regulation of civil cases which can make decision-making by the courts very difficult. The American case law system can help. We can benefit from application of prior judgments in analogous cases and the application of case law-created criteria within the Azerbaijan Law system.

Promoting The Rule of Law

Other factors must also be addressed for us to fully benefit from the rule of law as Americans do. Reform of our legal system to improve the speed, efficiency and predictability of the law is an important first step. Having begun, we hope to continue learning both how America administers its laws and the history of its development.

That development is marked by the determination and courage of lawyers and judges, legislators and executives, to see that justice be done as best possible in spite of the dangers from power and corruption. Our knowledge of the American experience will guide us as we promote the benefits of the American legal system for the people and country of Azerbaijan.

Michael Losavio

Rule of Law efforts are not just do-gooder work pushed by policy wonks; they offer commercial and social stability and limit the prevalent alternative: corruption. As the World Bank notes "Corruption hampers economic growth, burdens the poor disproportionately and undermines the effectiveness of investment and aid." It's an issue everywhere, from Iraq to our largest trading partners in the world. It's vital for them and vital that Americans understand their legal systems and the challenges for the rule of law in their countries.

Our third largest trading partner Mexico, under Felipe Calderon, is moving to adopt U.S.-style open, adversarial trials to improve transparency and reduce corruption and arbitrariness in its judicial system. Emulation *is* the sincerest form of flattery.

Conversely, the University of Louisville's Department of Justice Administration is building a comparative criminal justice systems program in Morelia, Mexico for Kentucky students to learn *in situ* how justice is done in a different country. Dr. Deborah Keeling, the department chair and a former ROL trainer in Romania, Slovakia and Hungary, observes that the globalization of commerce, legal and illegal, can only be addressed with knowledge and skills of the administration of justice in other nations.

So you see, it's not just me whining about being an under-appreciated cog in the American justice system. It's taking the great traditions we've built and sharing. It's good, shrewd, prudent business. This is a huge task, and an appropriate one for a great nation. ■

The Rule of Law: Advancing Universal Principles

By William H. Neukom, President, American Bar Association and Wm. T. Robinson III, Treasurer, American Bar Association

The American legal system is an important model for developing countries around the world that are building or reforming their systems. The United States Constitution – which articulates fundamental rights, standards for due process, and principles of accountable government – offers a useful starting point. Other nations also can learn much from the formal processes and body of laws that have developed in the United States over time, as well as from the many model codes, rules, canons, standards and principles developed by bar associations to ensure high standards in the delivery of justice, including the conduct of judges and lawyers.

American Legal System – Model not Blueprint

As helpful as the American legal system might be as a reference point for developing nations, attempting to "export" the United States' justice system to other parts of the world is not necessarily the most effective way to achieve reform. Despite its strengths, the American justice system has significant weaknesses – for example, poor people's inadequate access to counsel in civil[1] and criminal cases,[2] and especially in serious criminal matters such as death penalty cases[3] – that should be discouraged and that can cause leaders from other countries to be cynical about the value of American assistance. In addition, a "one size fits all" approach to legal reform fails to recognize the importance of local cultural and political norms to developing effective legal systems in communities.

Advancing principles of justice that are required to have a fair, functioning legal system is a more promising strategy to enact reforms and strengthen the rule of law. Emphasizing principles instead of specific processes, structures, and institutions allows communities to develop systems that will ensure fundamental rights, fairness, and accountability in ways that will be accepted and utilized by community members.

The World Justice Project

Last year the ABA launched an effort called the World Justice Project (WJP), which is building a multidisciplinary, multinational movement to advance the rule of law. The WJP is based on two, related premises. First, the rule of law is the foundation for communities of opportunity and equity, where people have the opportunity to support their families by earning a living wage or better, and where a fair, accountable government protects people's rights. Second, because all members of a community are stakeholders in the rule of law – not just lawyers and judges – multidisciplinary collaboration is the most effective way to advance the rule of law.

The WJP describes the rule of law by four universal principles. The extent to which communities adhere to these four principles determines their place on a continuum from lawlessness to a healthy rule of law system, but the principles do not dictate the use of specific institutions, structures or procedures to adhere to the rule of law. First, the government must be accountable under the law. Second, laws must be clear, publicized, stable, and fair, and they must protect fundamental rights. Third, the process by which laws are enacted, administered and enforced must be accessible, fair and efficient. Fourth, the legal process must feature competent, independent, ethical and diverse advocates and umpires.

Consistent with its emphasis on multidisciplinary and multinational collaboration, the WJP is building a broad base of support for the rule of law and is fostering cooperative programs to advance justice. The WJP has held multidisciplinary outreach meetings in Africa, Asia, Europe, Latin America and North America, as well as in several U.S. states. Representatives of 15 disciplines from around the world have agreed that the rule of law is essential to their work. For example, public safety officials need the rule of law to protect lives and property, entrepreneurs need the rule of law to start businesses, and human rights advocates need the rule of law to assist vulnerable people. Participants in these meetings have unanimously agreed that all disciplines must work together to advance the rule of law. Organizations representing business, education, engineering, public health, and labor already have become co-sponsors of the WJP.

To inform future collaborative efforts, the WJP is developing new tools and knowledge to advance the rule of law. The WJP Rule of Law Index will be the first comprehensive tool to measure countries' adherence to the rule of law. By revealing the strengths and weaknesses of countries' governmental and legal processes, the index will help governments and civil society make informed decisions about needed reforms to advance the rule of law. This spring, the WJP will run the index for the first time in Argentina, Chile, Columbia, India, Nigeria, and the United States.

The Project also is supporting scholarship on the rule of law led by two Nobel Laureates, which will show the relationship between the rule of law and thriving communities. A group of scholars is focusing on the nexus between the rule of law and issues such as public safety, economic development, corruption, public health and education. A second group of scholars is examining how access to justice issues relate to the rule of law.

Finally, the WJP will hold the World

Justice Forum July 2 - 5 in Vienna. About 500 world leaders representing 15 disciplines will gather to develop new multidisciplinary programs to advance the rule of law in their communities. The Project will release its index findings and the scholars' papers, and participants will help define the Project's second phase.

ABA Rule of Law Initiative

Of course, building communities' support for the principles that comprise the rule of law, and developing new tools and knowledge to advance the rule of law is only part of what must be done to achieve reforms abroad. Helping countries transform such principles into practice requires extensive technical assistance work in the field.

American lawyers can – and do – help developing countries strengthen the rule of law in material ways. Through the American Bar Association Rule of Law Initiative (ROLI), American lawyers work with colleagues on the ground in about 40 countries to develop legal systems that adhere to fundamental principles of justice in a way that works within the construct of local norms. For nearly 20 years, ROLI's work has helped particular countries strengthen the rule of law through country-specific technical legal assistance programs.

ROLI traces its origins to 1990, after the fall of the Iron Curtain. The ABA created the Central European and Eurasian Law Initiative (CEELI) to help new democracies in the region develop stable governments and legal systems. Because of CEELI's success and the need for the rule of law around the world, the ABA launched sister initiatives in Asia in 1998, in Africa and Latin America and the Caribbean in 2000, and in the Middle East and North Africa in 2003. These regional programs were recently consolidated into a single entity now known as the ABA Rule of Law Initiative.

ROLI's overseas work is implemented by experienced legal professionals – including lawyers, judges, prosecutors, and law professors – who work in tandem with a staff of host country legal professionals. This team of legal professionals works hand-in-hand with reformers in both the governmental and nongovernmental sectors.

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John Hays has been mediating cases for over 10 years and has extensive experience with mediating construction, employment, commercial, and personal injury disputes. He has served as a mediator for cases from all parts of the Commonwealth and several surrounding states. Mr. Hays is currently on the Board of Directors for the Mediation Center of Kentucky and is a past president of the Mediation Association of Kentucky. He is a mediator and arbitrator for AAA and is on the CPR panel of distinguished neutrals for Kentucky.

Robert F. Duncan
Since 1995 Mr. Duncan has successfully mediated civil matters involving issues pertaining to personal injury, professional liability, construction, health care, insurance coverage/bad faith, as well as hospital and nursing home liability. Mr. Duncan is the Chair of the Mediation Section of the Fayette County Bar Association. Mr. Duncan received his undergraduate degree in Civil Engineering from the University of Kentucky and is a graduate of the University of Kentucky School of Law.

Daniel G. Grove
Daniel G. Grove joined Jackson Kelly PLLC in 2003. Prior to joining the Firm, Mr. Grove was in private practice for over 30 years, concentrating in the areas of civil and criminal litigation, domestic relations, fraud, business disputes and negligence. He is a Fellow of the American College of Trial Lawyers and a permanent member of the Fourth Circuit Judicial Conference. Mr. Grove has experience mediating civil disputes in Maryland, Virginia, and Washington, DC; and is now qualified to mediate disputes in Kentucky.

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William H. Neukom, a partner in the Seattle office of K&L Gates, is president of the American Bar Association, where his primary initiative is the World Justice Project. He was Microsoft Corp.'s chief lawyer for nearly a quarter of a century, leading the company's efforts to establish, distribute and protect intellectual property rights around the world, and helping to establish a number of key corporate giving strategies. He has been active in organized bar work since 1972 on both local and national levels, and served the ABA as secretary of the Board of Governors prior to his presidency. He was a delegate from Washington State to the ABA House of Delegates, and chaired the ABA Fund for Justice and Education. He served on the ABA Governance Commission and was a trustee of the National Judicial College. Recipient of an LL. B from Stanford University, and an A.B. from Dartmouth College, Mr. Neukom has served Dartmouth as a Trustee and Stanford as a member of the Dean's Council. He has chaired, or served as a member of, numerous philanthropic organizations and is founder of the Neukom Family Foundation along with his four children. He is general partner in San Francisco Baseball Associates, L.P., the ownership group of the San Francisco Giants.

Wm. T. (Bill) Robinson III, the member-in-charge of the Northern Kentucky offices of Frost Brown Todd LLC, is treasurer, American Bar Association, 2005-08. He has served on the ABA Board of Governors, as a member of the Executive Committee and chair of the Finance Committee, and on several other committees of the ABA. He was the 50th president of the Kentucky Bar Association, first chair of Kentucky IOLTA Fund, president of Kentucky Bar Foundation, and co-founder/first president of the Salmon P. Chase American Inn of Court. A graduate of Thomas More College and the University of Kentucky College of Law, Mr. Robinson has been inducted into the College of Law's Alumni Hall of Fame. He has received numerous awards, including the Outstanding Lawyer Award from the KBA and has held numerous positions of leadership in civic and cultural organizations, including chair of the Board of the Cincinnati/Northern Kentucky International Airport, Kentucky Chamber of Commerce, and Cincinnati USA Partnership.

Today, the Rule of Law Initiative has over 400 professional staff working in the United States and abroad, including a cadre of short and long-term expatriate volunteers who typically spend between three months to two years in the field providing technical assistance. These volunteers, from the United States and elsewhere, have contributed well in excess of $200 million in *pro bono* technical legal assistance since 1990.

ROLI's work in the field is supported by a team of lawyers based in Washington, D.C., who comprise the Research and Program Development Office. They develop and implement a series of highly regarded assessment tools, provide in-depth assessments of draft legislation at the request of host country partners, conduct legal research, and produce a variety of papers and resource guides on rule of law issues. ROLI volunteers abroad have helped draft constitutions and laws, establish independent bar associations, and educate lawyers and judges to be more effective and ethical advocates and umpires.

ROLI programs run the gamut from helping countries combat corruption and training criminal justice professionals to fight crime, to educating legal professionals about ways to address human rights abuses and fostering the independence of the bench and bar. ROLI also helps to promote a "rule of law culture" through civic education and assistance to law schools.

ABA – Collaboration and Leadership

Strengthening the rule of law around the world is best accomplished by advancing universal principles of justice, not by seeking to export American systems and structures to other places. Lawyers can work with governments and civil society leaders from other countries to develop sound legal systems based on these principles that are consistent with local norms. Through new tools and resources, such as the WJP index and scholarship, lawyers and their local partners will be better equipped to craft fair and effective justice systems all over the world.

Lawyers have always understood the importance of the rule of law to our communities, but members of other disciplines recognize that this foundation is essential to their work, too. As the WJP demonstrates, lawyers can show leadership by bringing a cross section of their communities together to support the rule of law. Through collaboration with representatives of other disciplines from around the world, the efforts of the ABA to advance justice will be more successful.■

ENDNOTES

1. "Only a very small percentage of the legal problems experienced by low-income people (one in five or less) are addressed with the assistance of either a private attorney (pro bono or paid) or a legal aid lawyer." Legal Services Corporation, *Documenting the Justice Gap in America: The Current Unmet Civil Legal Needs of Low-Income Americans*, September 2005, p. 4.
2. "Overall, our hearings support the disturbing conclusion that thousands of persons are processed through America's courts every year either with no lawyer at all or with a lawyer who does not have the time, resources, or in some cases the inclination to provide effective representation…The fundamental right to a lawyer that Americans assume apply [sic] to everyone accused of criminal conduct effectively does not exist in practice for countless people across the United States." American Bar Association Standing Committee on Legal Aid and Indigent Defendants, *Gideon's Broken Promise: America's Continuing Quest for Equal Justice*, December 2004, p. iv.
3. The American Bar Association Death Penalty Moratorium Implementation Project found serious deficiencies in the provision of defense services in capital cases in the eight state death penalty assessments it concluded in October 2007. The Project concluded: "States must address counsel representation issues in a way that will ensure that all capital defendants receive effective representation at all stages of their cases." American Bar Association Death Penalty Moratorium Implementation Project, *State Death Penalty Assessments Key Findings*, October 2007, p. 2.

Kentucky Bar Foundation Welcomes New Fellows

Our deepest appreciation goes to these distinguished members of the Kentucky Bar for their financial support of the Foundation's charitable efforts.

David L. Baird practices law in Pikeville with the law firm of Baird & Baird. A graduate of Miami University and the Salmon P. Chase College of Law, he was admitted to the Kentucky Bar in 2005. Mr. Baird is a Life Fellow.

Stacey Ann Blankenship practices law in Paducah with the law firm of Denton & Keuler. A graduate of Murray State University and the Southern Illinois University School of Law, she was admitted to the Kentucky Bar in 1995. Ms. Blankenship is a Life Fellow.

James L. Deckard of Frankfort currently serves as Executive Director of the Kentucky Bar Association. A graduate of Western Kentucky University and the Cecil C. Humphreys School of Law at the University of Memphis, he was admitted to the Kentucky Bar in 1995. Mr. Deckard is a Life Fellow.

Glenn D. Denton practices law in Paducah with the law firm of Denton & Keuler. A graduate of Centre College and the Salmon P. Chase College of Law, he was admitted to the Kentucky Bar in 1995. Mr. Denton is a Life Fellow.

Candy Yarbray Englebert practices law in Owensboro. A graduate of the University of Alabama and the Cumberland School of Law at Samford, she was admitted to the Kentucky Bar in 1988.

Douglass Farnsley practices law in Louisville with the law firm of Stites & Harbison. A graduate of the University of North Carolina, the University of Louisville Brandeis School of Law, and the University of Wisconsin where he obtained an LL.M. in Legal History, he was admitted to the Kentucky Bar in 1976. Mr. Farnsley currently serves as a member of the Kentucky Bar Association Board of Governors.

John W. Graves of Paducah served as a Justice on the Kentucky Supreme Court from 1995-2006. Previously, from 1989-1995 he served as McCracken Circuit Court Judge, and from 1984-1988 presided as a District Judge. A graduate of the University of Notre Dame and the University of Kentucky College of Law, Justice Graves was admitted to the Kentucky Bar in 1963.

Kenneth R. Haggard practices law in Hopkinsville. A graduate of Murray State University and the University of Kentucky College of Law, he was admitted to the Kentucky Bar in 1984. Mr. Haggard currently serves as a member of the Kentucky IOLTA Fund Board of Trustees. He is a Life Fellow.

Theodore S. Hutchins practices law in Paducah with the law firm of Denton & Keuler. A graduate of Southeast Missouri State University and the University of Kentucky College of Law, he was admitted to the Kentucky Bar in 1993. Mr. Hutchins is a Life Fellow.

J. B. Johnson, Jr. of Corbin served as a U.S. Magistrate Judge from 1987-2006. Previously, from 1974-1982 he presided as a Circuit Judge for the 34th Judicial Circuit. He also served as a member of the Kentucky Bar Association Board of Governors from 1991-1996. A graduate of the University of Kentucky and the University of Kentucky College of Law, he was admitted to the Kentucky Bar in 1961. Judge Johnson has been enrolled as a Kentucky Bar Foundation Life Fellow by members of the Southeastern Kentucky bar to honor his many years of service to the legal community.

Robert D. Johnston practices law in Bowling Green. A graduate of the University of the South and the University of Louisville Brandeis School of Law, he was admitted to the Kentucky Bar in 2004. Mr. Johnston is a Life Fellow.

Edward M. King practices law in Louisville with the law firm of Frost Brown Todd. A graduate of Wabash College and the Indiana University School of Law-Bloomington, he was admitted to the Kentucky Bar in 1997. Mr. King currently serves as a member of the Kentucky Bar Foundation Board of Directors. He is a Life Fellow.

Charles L. Kirk, prior to his death in June 1991, practiced law in Maysville. A graduate of the University of Kentucky and the University of Kentucky College of Law, he was admitted to the Kentucky Bar in 1966. Mr. Kirk has been enrolled *posthumously* as a Kentucky Bar Foundation Life Fellow.

Jeffrey R. Morgan practices law in Hazard with the law firm of Morgan, Madden, Brashear & Collins. A graduate of the University of Kentucky and the Salmon P. Chase College of Law, he was admitted to the Kentucky Bar in 1991. Mr. Morgan is a Life Fellow.

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Thomas L. Rouse practices law in Fort Wright with the law firm of Wallace, Boggs & Rouse. A graduate of the University of Virginia and the University of Kentucky College of Law, he was admitted to the Kentucky Bar in 1978. Mr. Rouse is a founding member and Past President of the Northern Kentucky Bar Association and currently serves as a member of the Kentucky Bar Association Board of Governors. He is a Life Fellow.

William E. Savage, II practices law in Nicholasville. A graduate of Duke University and the University of Kentucky College of Law, he was admitted to the Kentucky Bar in 1974. Mr. Savage is a Life Fellow.

Helene Gordon Williams practices law in Louisville. A graduate of the University of Cincinnati and the University of Louisville Brandeis School of Law, she was admitted to the Kentucky Bar in 1981. Ms. Williams is a Life Fellow.

Rule of Law Operations in Counterinsugency:
A few thoughts on the when, why and how

By Jeffrey L. Spears

There are few catchphrases that resonate across the political lexicon better than "Rule of Law." President Bush has made it a key cornerstone of his National Security Strategy and notes that as part of our foreign policy efforts that "[r]ule of law must be reinforced . . . ."[1] Senator Barack Obama states that seeking international support for the establishment of the "rule of law" is part of any successful strategy in Afghanistan.[2] Senator John McCain notes that the "rule of law in our country is not to aggregate power to the state but to protect the liberty and property of its citizens."[3] And Texas Congressman Ron Paul views the tyranny of absolute power as the antithesis of the Rule of Law.[4] Of course, the means and methods of achieving "rule of law" is a subject of debate.

The early development of the governmental institutions that facilitate the establishment of a basic respect for the rule of law is a key component of any successful counterinsurgency.[5] Rule of law operations including early efforts to modernize police and courts, reinvigorate bar associations and reform and develop responsible prison systems have a vital role in winning insurgency wars because each contributes to security and stability. As an examination of the idea of the establishment of the rule of law as a vital element in counterinsurgency warfare, this article briefly addresses three key concepts: (1) the timing of the start of rule of law activities, or what the author prefers to call "justice operations"; (2) the interconnected relationship between justice operations and a successful counterinsurgency; and (3) examples of early efforts that can be undertaken by governments, NGOs and key constituents of the transitional society to facilitate a successful transition to a stable government that respects and operates within the rule of law.

Major Jeff Spears is a member of the Kentucky Bar and an Army reserve officer assigned as a drilling IMA with the Army's Center for Law and Military Operations (CLAMO). Major Spears has served in a variety of assignments as both a reserve and regular Army Judge Advocate to include service with the 1st Cavalry Division during Operation Iraqi Freedom from 2004 to 2005. In his civilian capacity, he serves as vice president and senior counsel for the L-3 Services Group. The opinions expressed herein are those of the author and do not necessarily reflect those of the U.S. Government, the Department of Defense, the Army or any other person or entity associated with the author.

The Rule of Law Battle Begins Early

Those involved in supporting military rule of law operations sometimes disagree as to when efforts to reconstitute the cornerstone institutions needed for the rule of law should be undertaken. Although this debate takes many forms, it often centers either on the difficulty of providing security for the rule of law practitioners or on the justification for diverting resources from active combat. Some argue that security must first be established before any rule of law operations are undertaken so that a fully synchronized roll out of a rule of law program can be accomplished by those best skilled in such undertakings. It is the opinion of this author, however, that when the United States or a coalition of nations enters a conflict, permissively or otherwise, efforts to establish the rule of law must begin immediately. The very existence (or potential) of an insurgency increases the immediacy for such action because insurgents partially gain power by supplanting the rule of law and taking over vital government functions when a vacuum is allowed to exist.

The United States is supporting major counterinsurgency efforts by Iraq and Afghanistan. It is the host nations of Iraq and Afghanistan, not the United States and her allies, that are the counterinsurgents[6] and that carries with it implications for how the rule of law may be established in those nations. To insurgent propagandists, the government of the host nations might be characterized as simply "puppets" for the United States or some other foreign power, but in reality Iraq is a sovereign nation notwithstanding protests and propaganda to the contrary and has established traditions and institutions.[7] Efforts to help a sovereign nation on the path to successfully establishing a respect for the rule of law should necessarily first focus on the existing institutions and their tangible and intangible deficiencies.

As one reflects upon the arduous and chaotic transition from tyranny to a struggling democracy that Iraq has faced during the past five years, it becomes evident why efforts to support the institutions required to effectuate the rule of law are critical. Although at times imperfect in concept and execution, various rule of law efforts have been underway in Iraq continuously since 2003.[8] Undoubtedly more could have been done, but these efforts have increased the likelihood that Iraq will ultimately survive its challenges and join the ranks of transitional societies that enjoy popular support and embrace a commitment to governance under the rule of law.

As discussed in the National Security Strategy of the United States, a key goal of United States strategy is to support the development of effective democracies. This strategy recognizes that an effective democracy must "protect an independent and impartial system of justice, punish crime, embrace the rule of law, and resist corruption."[9] Few would argue that these are not crucial attributes of an effective

democracy, but the link between the development of an "independent and impartial" justice sector and the defeat of a brutal insurgency is often overlooked by western planners. The link is not overlooked, however, by the insurgencies that plague the world today and promise to do so in the future.

Insurgencies, like political elections, are won ultimately by controlling and influencing the masses in the middle.[10] While insurgents in Iraq and Afghanistan have engaged in atrocities by any acceptable standard, insurgents know that popular success requires that they present themselves as an *effective* and acceptable alternative to the government in power. This sets up a classic asymmetric confrontation between the insurgent and the counterinsurgent government in which each has its own unique strengths and weaknesses. The party that best understands this asymmetry will be in the best position to capitalize on their strengths while exploiting the weakness of their adversary. Over time, a successful insurgent will seek to demonstrate the weakness of the government by usurping some of the traditional roles of the government. If successful, the insurgent strengthens its propaganda campaign and seeks to demonstrate to the population that it can deliver what the government cannot.

Justice Operations are Counterinsurgency in Action

Ironically, one of the "governmental services" that an embattled population desires above all others during a hot insurgency is security. In an effort to capitalize on this desire, insurgents create shadow police and courts, and sometimes even accomplish a reduction in violence even if only by reducing their own terrorist activities. The activities of various al Qaeda affiliates and other terrorist and extremist organizations have repeatedly demonstrated a strategy of seizing the administrative and justice functions from the legitimate government. In Afghanistan, the Taliban built its original power on a promise to bring law and order to a troubled and lawless land.[11] Although initially embraced by large segments of the population who desired security, it ultimately lost credibility when its concept of justice became more akin to barbarism.[12]

Similar efforts to co-opt the justice sector have been made in Iraq by both Sunni terrorist groups such as al Qaeda and by Shiite extremist groups such as Sadr's Mahdi Army.[13] While the execution of wage laborers as "collaborators" by al Qaeda led to a loss of popular support, the establishment of extra-governmental courts such as the Sharia Courts by rival insurgent leader Sadr enjoyed some popular support. For example, during 2004 many in al Najaf perceived that prostitution and other forms of debauchery were occurring in a village near Diwaniya. The local police and judicial system took no evident action, and that left a vacuum for Sadr's Mahdi Army to exploit. The Mahdi Army militia moved in and established its own Sharia courts. Sentences were handed down from these courts and offenders were beaten or worse and the village itself was sacked and destroyed by a brigade of illegal militia.[14] The court was merely an instrument of violence against the minority, but provided a propaganda platform for Sadr to

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demonstrate he could impose "law and order."

In the general social upheaval that existed, local government officials appeared happy to cede this authority to Sadr and his forces. In the words of a local policeman, the Mahdi Army is a "good force" and its Sharia court is "supreme."[15] More shocking was the reaction to these events by the Spanish Coalition troops in that area. After the illegal trials and the destruction of a village of "gypsies" by Sadr's militia, a Spanish major commented that the "problem is not the Mahdi's Army, the problem is the terrorists. It's the terrorists who make dangers for the coalition."[16] This misguided comment was at odds with the efforts of the Coalition Provisional Authority (CPA) which was then attempting to foster the rule of law while countering efforts by Sadr to set up his own justice system.[17] Unless such illegal efforts to usurp the rule of law are extinguished early, they risk gaining legitimacy for the insurgents and preventing the establishment of a truly legitimate rule of law and general respect for international norms such as human rights.

This vignette from the early stages of Operation Iraqi Freedom reveals the important role that justice operations play during a conflict. The local population – even during periods of social upheaval and war – will still expect the government to provide security and maintain law and order. If the government – the counterinsurgent – fails to do so it provides an opportunity for the insurgent to take control and demonstrate that they have the ability to provide that which the government is unable or unwilling to provide. In asymmetrical warfare different standards apply as governments that attack minority populations (here the gypsies) and sack their cities are rightfully accused of crimes against humanity but similar conduct by insurgents is "excused" as an act of insurgency. Obviously, insurgents who operate outside of all legal frameworks worry little about such ramifications or established international norms and human rights.

Counterinsurgency has been called the "graduate level of warfare"[18] and the complexity and breadth of such operations is revealed in unclassified extracts of the U.S. military campaign plan utilized in Iraq. While Operation Iraqi Freedom is commonly referred to as the "Iraq War," the lines of operation (LOOs)[19] around which operations are planned are much broader than what is traditionally thought of as war fighting. These lines of operation are: combat operations; economic pluralism; governance; essential services and security.[20] When it comes to establishing the rule of law in a war-torn state each LOO plays a role.

An established government and its allies typically dominate "force on force" combat operations.[21] Notwithstanding this prowess, the insurgent will seek to demonstrate the inadequacy of the government in the other LOOs and insurgents generally do not first wait for the shooting to stop. As an insurgent's abilities and support grows, it may even attempt to show that it is better at providing jobs (by hiring militia recruits), allocating resources (such as black market gasoline) and, as discussed above, providing "justice" through the creation of shadow courts. The fact that modern insurgents make early and aggressive efforts at seizing this governmental role provides the reason that efforts must be undertaken by the U.S. and others immediately upon the commencement of counterinsurgency work to improve upon and establish the Rule of Law.

How to Nurture the Establishment of the Rule of Law

In deciding "how" to strengthen and cultivate respect for the rule of law in war torn areas, it is necessary to understand the laws and procedures already or previously in place. This is a broad undertaking that must start as soon as any effort to assist a transitional or war torn society is contemplated. Such a review should include an analysis of the existing type of legal system employed,[22] constitutional law, the criminal code and procedures to include the rights of the accused and how they are protected, the law of evidence, commercial law, family law, property law and their related bodies of law. While in many cases it will be necessary to suggest improvements in the legal code to the host nation, initial efforts to bring a fledgling legal system closer to international norms can often be best accomplished by working to bring the system's actual practices in line with the nation's own existing laws.[23]

There are five key constituencies that play a critical role in this type of justice sector reform – courts, police, the prison system, the broader legal community often represented by a bar association or lawyers' guild, and the general population. Rule of law institutions such as those that constitute the justice sector will need support in a variety of forms.[24] Planners can often quickly recognize that the facilities are inadequate, that the systems and technological backbone common to modern courts is lacking,[25] and that there is a breakdown of trust and coordination between the various constituencies. Compounding this problem, rule of law practitioners will often find that the organizations have poor practices and procedures that facilitate corruption and a corresponding lack of faith in the system by the general population.[26] These weaknesses must be addressed early even if only minimal resources are available for the purpose.

While enormous problems sometimes require major solutions, the temptation to focus solely on the need for major long term undertakings should not serve as an argument against immediate action to improve these sectors by incremental methods. Therefore, efforts must be undertaken to move all of the institutional components forward from the beginning as part of the counterinsurgency effort. For example, police forces are needed immediately when a counterinsurgent government faces banditry or insurgency because the population's continued support may depend on the ability of the government to protect the people.[27] Successful police training and operational support not only helps with bandits, but helps with combat operations as it is also effective in identifying and arresting insurgent cells. However, once insurgents and common criminals are captured they must be detained in appropriate pre-trial detention facilities, subject to appropriate interrogation techniques, and processed through the civilian court system for trial consistent with the host nation's criminal law and procedures. Great efforts to improve the police forces must therefore also be met by similar efforts to improve

and support the rest of the justice sector so that it can process the detained.

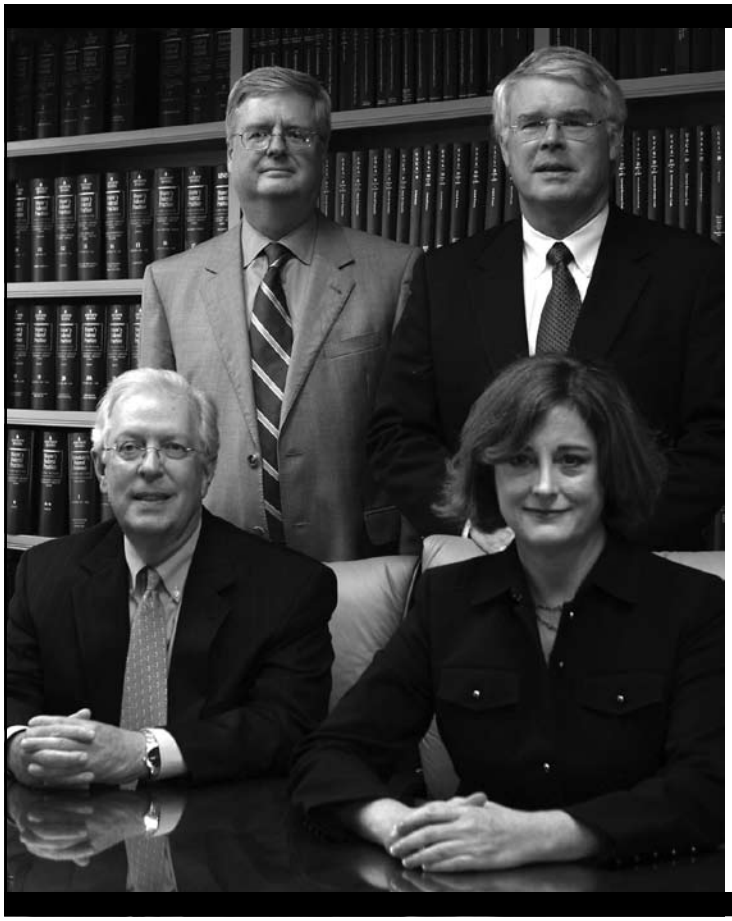
If the courts are not capable of processing or even coordinating cases with the police, the system will break down. Similarly, if prisons and detention facilities are not an early focus of reconstruction, growing numbers of detainees and convicts will overwhelm a poorly prepared correctional system and increase the potential for inhumane or unfair treatment. These factors have a direct impact on the conflict. If the courts are unable to handle the increased case load, it can lead to a "Hobson's choice" for the counterinsurgent: (1) release potentially dangerous detainees to reduce the numbers in custody; or, (2) detain them indefinitely and feed the insurgent's propaganda efforts to de-legitimize the government with allegations of real or alleged human rights abuses. While indefinitely holding a detainee may seem minor compared to the punishments imposed by illegal insurgent courts, such conduct will undoubtedly discredit the legitimate government as it fails to act consistent with its words.[28]

An often overlooked area requiring attention which is also crucial to success is the necessity of providing support for the existing legal community and helping build the population's confidence in the system. Confidence in the police, courts, prisons and legal community is crucial to enabling a society to handle the strain of a hot insurgency or traditional organized crime. Small efforts working with the legal community broadly, as well as programs designed to educate the general population on the workings of the legal system, can help create the conditions for a successful reconstruction. Unlike massive efforts to reconstitute all the institutions that effectuate the rule of law, efforts to work with the local legal community and the population at large require only modest resources. Modest early commitments can reap long term positive impacts, when synchronized with other longer term institutional projects that occur later. These outreach and support projects can evolve over time to meet the needs of the local bar while simultaneously serving as a platform for dialogue to assist larger institutional programs.

These small scale efforts can include such simple items as the following:

a. Conducting training programs with members of the local bar with an emphasis on compliance with legal changes instituted by the government. For example, if the government modernizes its criminal procedures to provide greater procedural protections for the accused, the dissemination of this change is the first step in bringing about meaningful change. Further, in countries emerging from tyranny, the local bar might not believe that the government will actually tolerate attorneys that mount a meaningful defense. Training coordinated and eventually managed by the government or the bar will signal and reinforce that these changes are more than "paper rights."

b. Educating attorneys and judges on existing treaty obligations affecting the rights of the criminal accused. For example, during one Iraqi training program the author asked a group of 50



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practicing defense counsel if they had any awareness of the International Covenant on Civil and Political Rights (ICCPR).[29] None of the attorneys were familiar with its provisions,[30] but once copies in Arabic were provided along with United Nations documents that demonstrated that the ICCPR was ratified and in force in Iraq, the attorneys were more willing to embrace the enhanced protections afforded to criminal defendants by the Coalition Provisional Authority (CPA).[31]

c. Provide direct assistance to the local bar association. Like all institutions in emerging democracies, the bar association or lawyers guild will likely be in need of assistance. It is critical to engage the bar early and often as they represent those that will be initially affected by any changes brought about as a result of justice sector reform. Further, if the Bar is not brought into the process in an effective way, "anger and resentment flow."[32] A cursory study of Modern Times will reveal that many revolutions, power grabs and insurgencies are led by lawyers or legally trained persons.[33]

The above efforts have the secondary benefit of forging professional as well as informal relationships with respected members of the local legal community. These relationships frequently prove valuable when difficulties arise that threaten more tangible efforts and institutions. For example, during Spring 2004, the 1st Cavalry Division was working with the Ministry of Justice Advisory Team of the CPA to provide training opportunities for members of the criminal defense bar. Other activities involved providing direct support to the Iraqi Bar Association (Lawyer's Guild) in the renovation of the bombed out "great hall" of the bar association. The relationships that were established during this process were beneficial in identifying attorneys with the skill and qualifications necessary to support other legal training programs and other more substantive rule of law activities. Those efforts additionally helped to shore up and support an articulate and respected portion of the professional class that could help to offset the onslaught of insurgent propaganda.

Such efforts to strengthen the legal community can result in increased support for other national level undertakings. For example, one of the many initial difficulties confronted by the Iraqi Special Tribunal was providing the accused access to Iraqi defense counsel. The court and their advisors encountered early resistance from some members of the Bar who considered it inappropriate for an attorney to defend Saddam Hussein and other members of the former regime. Such obstacles were overcome through the relationships and foundation built with the legal community by those early small scale efforts to train and disseminate legal resources and support; it all played an important role in countering this inappropriate attitude and guaranteeing access to local counsel.[34]

Conclusion

Rule of law operations are a critical component of long term efforts to transform a fractured society emerging from tyranny into a modern democracy. As important as such efforts are for ensuring long term success, these activities are equally important as part of an early integrated counterinsurgency strategy. Efforts to strengthen the effectiveness of police are important in extending the ability of the government to maintain order and establish security during an active insurgency. However, it is the opinion of this author that a failure to invest the resources necessary to move the courts and prisons forward in tandem with the police forces only strengthens the insurgent's propaganda campaign when the system is unable to process detainees consistent with the standards established under law. Of equal concern, it will encourage the insurgent to actively seek to take over the administration of justice through the creation of shadow courts.

Counterinsurgency warfare is dangerous "warm work." Nonetheless, while it is waged in part with bullets, it is won with brains.[35] Justice operations are a critical component of winning this "thinking man's war"[36] while building the institutions that are essential for the long term success of any democracy committed to governance under the Rule of Law. ■

ENDNOTES

1. The National Security Strategy of the United States 5 (2006).
2. Comments of Barack Obama available at http://www.barackobama.com/2007/08/01/remarks_of_senator_

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Conley Salyer, Attorney, J.D., LL.M.; Examiner, Malcolm Baldrige National Quality Award (MBNQA) 2007. csalyer@nonprofitattorney.net, (859) 281-1171, 444 E. Main Street, Lexington, KY 40507. This is an advertisement.

obama_the_w_1.php, last accessed February 24, 2008.

3. John McCain, PRESS RELEASE, *Remarks By John McCain to CPAC* (February 7, 2008).
4. RON PAUL, *Political Power and the Rule of Law* (February 6, 2007), *avail. at* http://www.lewrockwell.com/paul/paul366.html.
5. Of course, this strategy assumes that the goal is to establish a society based upon the rights of the individual in a democratic society
6. Counterinsurgent – Is the government in power resisting and fighting an insurgency.
7. UNSC Resolution 1557 (2004).
8. In some respects rule of law activities began before the Iraq War. For example, prior to the Iraq War private organizations, foreign governments and the US Government were engaged in activities to evaluate the nature and quality of the Iraqi legal system and to study potential forums for trying members of the former regime implicated in war crimes, crimes against humanity or genocide. *See also Operation Hammurabi – Task Force Baghdad's Justice Operations 2004-05*, Kentucky Bench and Bar, Vol. 69 #6 (November, 2005).
9. NSS, supra note 1, at 6.
10. *See* DAVID GALULA, COUNTERINSURGENCY THEORY AND PRACTICE 50 (1964). The great counterinsurgent scholar and practitioner cited Mao in support of the proposition that insurgencies can only distinguish themselves from banditry through the complicity of the people. This support can be gained through popular support for the cause or through the use of brutal intimidation of the local population or a mixture of the two. Galula, leveraging Mao, argues that in the end, however, the insurgent will seek to separate the general population from the counterinsurgent and set the conditions to take over the government with the active support or complicity of the people. *Id*. at 50-62.
11. *The Taliban's Deadly Rise to Power*, WASHINGTON POST, Page A14, (September 16, 2001) ("Mohammed O'Mara . . . espoused a return to law and order in his country").
12. *See Taliban Publicly Executes Woman*, AP (November 17, 1999), *avail. at* http://www.rawa.org/murder-w.htm
13. *See* APS DIPLOMAT REPORTER (12 April 2004*), avail. at* http://goliath.ecnext.com/coms2/gi_0199-535273/IRAQ-Mar-31-Sadr-Army.html#abstract.
14. *Id*.
15. *Id*.
16. *Id*.
17. *Id*.
18. FM 3-24, US ARMY COUNTERINSURGENCY FIELD MANUAL 1 (2007). Appendix D of this Field Manual notes that during periods of instability that the counterinsurgent should expect to expend resources to support a strained justice sector. *Id* at D-39. This article is an effort to go a step further and identify the strategic advantage that the insurgent will gain if the counterinsurgent fails to adequately support the justice sector during a hot insurgency.
19. The author served as a Line of Operation Chief (LOO Chief) for the 1st Cavalry Division during OIFII (2004-05).
20. Major General Peter W. Chiarelli & Major Patrick R. Michaelis, "*Winning the Peace: The Requirement for Full-Spectrum Operations*," MIL. REV. 14 (July – August 2006).
21. See GALULA, supra note 10, at 71.
22. For example, common law, civil law, ecclesiastical, sharia, etc.
23. See Rule of Law Being Built One Step at a Time; LEGAL STANDARD Vol. II, at 1 (September 1, 2005).
24. *See Operation Hammurabi*, supra note 8.
25. The author is not suggesting that a court that lacks modern technology cannot effectively meets the needs of justice or that providing a modern technology package will solve or even mitigate the ills that plagued a troubled justice sector. It is more important in the opinion of the author to develop effective systems (even if based on stubby pencil and paper) than to push technology ahead of capabilities. There is little doubt that in modern and large cities such as Baghdad that information technology will play an important role over time. Early efforts with technology, however, may be simply to begin building IT skills among the various nodes of the justice sector while supporting certain functions.
26. THE RULE OF LAW HANDBOOK: A PRACTITIONER'S GUIDE FOR JUDGE ADVOCATES 155-6 (CLAMO 2007).
27. The conditional nature and importance of winning and maintaining

the support of the population is a key principle of counterinsurgency warfare theory as developed by David Galula and his followers to the present day. *See* GALULA, supra note 10, at 74-9, and, e.g., COIN FM, supra note 18, at para. 8-42.

28. For example claiming a commitment to human rights and the rule of law while holding thousands of detainees for months without trial (because the courts cannot process the load) in detention facilities that are overcrowded (because the former regime cared little about overcrowding) would be immediately ceased upon by insurgent propagandists to show a difference in word and deed by the government in power.
29. ICCPR, G.A., Res. 2200 a (XXI), 21U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/631b (1966), 999 U.N.T.S. 171, entered into force, March 23, 1976.
30. It is important to note that this lack of knowledge of the ICCPR was inconsistent with the depth of knowledge that these attorneys possessed about Iraqi code law. In discussions about the criminal code to property law, attorneys that attended these programs could quote the law in detail. Apparently the ICCPR was not a topic studied in great detail at Iraqi law schools.
31. After June 28, 2004, the MOJ Advisory Team dissolved along with the CPA.
32. WARREN ZEVON, *Mohammed's Radio* (BMI 1976). Someone wishing to invest no more than a few minutes (and enjoy doing it) to understand the effectiveness of insurgent propaganda should listen to this song. Zevon sings in one verse that "In walked the village idiot and his face was all aglow
He's been up all night listening to Mohammed's Radio . . ." and later follows up with the ditty:

    You've been up all night listening for his drum
    Hoping that the righteous might just might just might just come
    I heard the General whisper to his aide-de-camp
    "Be watchful for Mohammed's lamp"

    The author is not sure what Zevon was writing about, but it is an interesting tale in song nonetheless.
33. Examples include the Iranian Revolution, Cuban Revolution, and the power grab that brought Saddam Hussein to power.
34. *See* Interview of Gregg Nivala, Former Regime Crimes Liaison, Baghdad, Iraq. Mr. Nivala, now Vice President and General Counsel for ITT Night Vision, served in Iraq with the Regime Crimes Liaison Office from 2004 until 2006. (Interview Notes on File with the Author).
35. *Brains, not Bullets*, THE ECONOMIST (October 25, 2007).
36. COIN, supra note 18, at 1.

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The Impact of the Internet on a Lawyer's Standard of Care & Professional Responsibility

Part I

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

Introduction

The Internet profoundly changed the practice of law. It grew from a quick way of sending messages to the enormous capability it has today for transmission of documents. In addition, it has become an invaluable practice tool for lawyers. Today legal research on the Internet is routine, electronic dockets are used by most courts, case investigation often begins with a Google search, and lawyer websites and blogs saturate the Internet.

These developments turned lawyer use of the Internet from a minor risk management consideration to something that has significant professional responsibility and malpractice issues. The primary concern is client confidentiality closely followed by advertising and solicitation issues. Are you clear on the professional responsibility standards for using the Internet to send client confidential information, the significance of metadata in e-mailed documents, and the implications of using your computer on the Internet thereby exposing it to hacking and loss of client confidentiality?

Lawyer websites trigger the advertising and solicitation ethics rules. Do lawyer blogs require compliance with these rules as well? Are they really not so subtle client solicitation ostensibly offering friendly legal information? Does someone in your office have a personal blog on which they discuss the firm? If you fail to use the Internet to research and investigate a matter, are you negligent if you miss something available there? Is it malpractice if you miss a deadline because you did not use the Internet to check electronic court case management systems?

The idea for this article came from these and other Internet issues I noted in monitoring malpractice and disciplinary cases. The problem in writing about them, however, is that rapid change is the one constant in practicing law using the Internet. The expression "it's like trying to paint a moving train" came to mind as I considered how to write something useful. I concluded that the following subjects are of the most current interest and best treated in a two-part article:

Part I

- E-mail Confidentiality
- E-mail Metadata
- E-mail Disclaimers
- Uninvited E-mail
- Computer Assisted Legal Research (CALR)
- Google Research
- Internet Court Case Management Systems

Part II (*To be published in a forthcoming issue of the Bench & Bar*)

- Lawyer Websites
- Blogs, Chat Rooms, and Bulletin Boards
- Internet Lawyer Referral Services
- Duty to Protect Client Electronic Documents from Internet Attacks

My purpose is to alert you to the issues and provide, when I can, available guidance and resources. Given the fast moving nature of many of these issues, you should use anything you find of interest here only as a starting point for your independent evaluation of how it affects your practice.

E-Mail Confidentiality

When the Internet took off as a significant means for transmission of legal documents to clients there was considerable angst about the vulnerability of these transmissions to interception or hacking. The KBA Ethics Committee resolved the question for Kentucky lawyers in KBA E-403(1998) in adopting the following language from an Illinois Bar ethics opinion:

> [T]he Committee concludes that because (1) the expectation of privacy for electronic mail is no less reasonable than the expectation of privacy for ordinary telephone calls, and (2) the unauthorized interception of an electronic message subject to the ECPA is illegal, a lawyer does not violate Rule 1.6 by communicating with a client using electronic mail services, including the Internet, without encryption. Nor is it necessary … to seek specific client consent to the use of unencrypted e-mail. … [T]here may be unusual circumstances involving an extraordinarily sensitive matter that … require enhanced security measures like encryption. These situations [are] of the nature that ordinary telephones and other normal means of communication [are] also … inadequate.

The ABA Ethics Committee adopted the identical reasoning in ABA Formal Ethics Op. 99-413 in 1999. It is now routine to use e-mail when communicating with a client and just about everyone else. Nonetheless, in the interest of assuring preservation of the attorney-client privilege, work product immunity, and

client confidentiality the following risk management practices should be employed:

1. The sensitivity of the information and the cost of disclosure to the client are factors to consider when deciding whether to communicate privileged information over the Internet. Taking into consideration how often e-mail is misaddressed, how easily it is forwarded by addressees to others, and that e-mail differs from a telephone call in that it creates a record that is nearly ineradicable, using encrypted e-mail or another more secure means of communication of privileged information is often the best risk management.

2. Be sure that the firm's letter of engagement includes a paragraph on all means of communication the firm uses – fax, cell phone, e-mail, etc. It should disclose the risk of interception and provide that the client consents to these means.

3. Establish 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.

   These written procedures not only serve to protect confidentiality, but are Exhibit A in any allegation that the firm was negligent in protecting client information.

4. Encrypting e-mail remains the safest way to send confidential information. Many lawyers considered encryption in the mid-90's and decided against it because of its complexity. Fortunately, encryption software has gotten cheaper, better, and easier to use. Now may be a good time to reconsider. Encryption is especially useful in sending confidential e-mail to business clients with major computer systems where the risk of unintended distribution is greatest. More important, encryption best protects the interests of clients. What better reason could there be to use it?[1]

E-Mail Metadata

Metadata is data about data that can be transmitted in electronic documents — most frequently in e-mail and in response to discovery requests. In evaluating whether lawyers could review and use metadata in received e-documents the 2004 New York State Bar ethics opinion provides this helpful definition of metadata:

> Word-processing software commonly used by lawyers, such as Microsoft Word and Corel WordPerfect, include features that permit recipients of documents transmitted by e-mail to view "metadata," which may be loosely defined as data hidden in documents that is generated during the course of creating and editing such documents. It may include fragments of data from files that were previously deleted, overwritten or worked on simultaneously. Metadata may reveal the persons who worked on a document, the name of the organization in which it was created or worked on, information concerning prior versions of the document, recent revisions of the document, and comments inserted in the document in the drafting or editing process. The hidden text may reflect editorial comments, strategy considerations, legal issues raised by the client or the lawyer, legal advice provided by the lawyer, and other information. Not all of this information is a confidence or secret, but it may, in many circumstances, reveal information that is either privileged or the disclosure of which would be detrimental or embarrassing to the client.[2]

The New York Ethics Committee concluded that the use of computer technology to 'mine' for client confidences and secrets revealed in metadata constitutes "an impermissible intrusion on the attorney-client relationship …." The ABA Ethics Committee, however, took the position in 2006 that the Model Rules of Professional Conduct do not prohibit such conduct. The Florida, Alabama, and Arizona bar ethics committees rejected that ABA's position and joined New York in precluding metadata mining.[3]

All the opinions cover in some degree the need for diligence on the part of the sending lawyer to protect confidentiality by taking steps to preclude inadvertent inclusion of metadata in e-mail and other e-documents. Some of the ethics opinions distinguish between e-documents obtained through discovery and those voluntarily provided to other persons – making it clear that the ethics opinion does not govern discovery requests. This distinction is based on the supremacy of substantive law over ethics rules on questions of discovery, including waiver of privilege and work product immunity. These issues are beyond the jurisdiction of an ethics committee to adjudicate.

To my knowledge there is no Kentucky authority on the issue of review and use of metadata in e-mail and other e-documents. The states prohibiting lawyers from mining for metadata have followed in principle the ethics rules for the receipt of inadvertently sent materials (think fax) similar to Kentucky's standard as expressed in KBA E-374 (1995):

> When it is clear that the materials were not intended for the receiving lawyer, the lawyer should refrain from examining the materials, notify the sending lawyer and abide the instructions of the lawyer who sent them.

In deciding how to proceed on this issue note that the Kentucky Supreme Court currently has pending before it a proposed change to Kentucky Rule of Professional Conduct SCR

3.130(4.4), Respect for the Rights of Third Persons. The change adopts KBA E-374 guidance for the treatment of inadvertently sent documents. The proposed Comment [2] to the Rule specifically provides that a document includes e-mail and other e-documents. Should the Court approve this proposal, it will place Kentucky with those states that have rejected the ABA's open season on metadata mining. For risk management purposes that is the approach to follow until more definitive guidance is provided. If you want to be more aggressive, I recommend you consult your judicial district's Ethics Hotline adviser before reviewing and using inadvertently sent metadata.[4]

Risk managing e-mail to avoid inadvertently disclosing confidential or privileged metadata involves carefully determining the format in which to create and send e-documents. Philip Lyon in his article *Confidentiality and Ethics In A Hi-Tech World: Some Nuts and Bolts Solutions* advises that to avoid sending metadata:

- Keep an eye on documents to ensure that the track changes features of word processors are not activated;
- Download and use a metadata removal tool; and
- Send all outgoing files in some format that strips metadata from a document, such as .rtf or pdf.[5]

One note of caution. The requirements for what e-document format to use when responding to a discovery request depends on how the discovery request is styled. For more on this consideration see my article *E-Discovery Risk Management Is the "New New" Thing* (KBA *Bench & Bar*, Vol. 69, No. 6, p. 64 at 68, Nov. 2005; also available on Lawyers Mutual's website at www.lmick.com — go to the Risk Management/*Bench & Bar* page).

E-Mail Disclaimers

Lawyers routinely use disclaimers in e-mail that warn about confidentiality requirements and forbid unauthorized use of the information in the mail. This is good practice and is recommended. The efficacy of e-mail disclaimers, however, is largely untested and may serve more to give comfort to the sending lawyer than anything else. In drafting disclaimers use plain English – think in terms of the least sophisticated person who may receive an e-mail. Do not assume that terms such as 'attorney-client relationship' or 'confidential,' that have specific meaning for lawyers, are understood by nonlawyers. Display disclaimers prominently. Rulings that have not accepted lawyer website disclaimers as effective often note their brevity or inconspicuous display.

Uninvited E-Mail

What is a lawyer's duty of confidentiality to a person who, uninvited, e-mails them directly seeking representation – not through a firm website or by responding to any type of invitation to contact the lawyer based on lawyer marketing? A California lawyer received an uninvited e-mail in which the sender asked to be represented in an auto accident matter and included the information that she had a few drinks just prior to the accident. The sender obtained the lawyer's e-mail address from a bar association alpha list of lawyers not intended to serve as a referral service. The lawyer read this e-mail just after an initial interview with a prospective client who turned out to be the injured party in that accident. The lawyer asked the Legal Ethics Committee of the San Diego County Bar Association whether the uninvited e-mail was confidential, whether she could represent the injured prospective client, and, if so, whether she could use the information received in the e-mail in that representation?

In well written Ethics Opinion 2006-1, the Ethics Committee opined "… that private information received from a non-client via an unsolicited e-mail is not required to be held as confidential by the lawyer where the lawyer has not had an opportunity to warn or stop the flow of non-client information at or before the communication is delivered." The Committee concluded "that if an unsolicited e-mail transmitting information about an adverse party is not confidential, an attorney should be permitted to utilize that information for the lawful purposes of representing an existing client."

If uninvited e-mail becomes an issue for you, read this opinion. It is available on the San Diego County Bar Association website.[6] Keep in mind that the KBA Ethics Hotline is available to help you with close calls. Also note that pending before the Kentucky Supreme Court is the adoption of ABA Model Rule of Professional Conduct 1.18, Duties to Prospective Clients, that covers when a prospective client is entitled to confidentiality. Comment [2] to the proposed rule provides:

> Not all persons who communicate information to a lawyer are entitled to protection under this Rule. A person who communicates information unilaterally to a lawyer, without any reasonable expectation that the lawyer is willing to discuss the possibility of forming a client-lawyer relationship, is not a "prospective client" within the meaning of paragraph (a).

Should the Supreme Court adopt Rule 1.18 with Comment [2], Kentucky lawyers will have the guidance they need on this issue.

Computer Assisted Legal Research (CALR) – *It's a Matter of Competence*

More recent members of our Bar will be amused that there ever was a question whether CALR is a requisite for lawyer competence. With the current numerous commercial providers of CALR, along with LawReader.com specializing in Kentucky law and the KBA's free Casemaker Legal Research engine, lawyers failing to avail themselves of these powerful resources expose themselves to allegations of negligence for failing to competently research a matter. No lawyer can afford to be computer illiterate.

Google Investigations

The ALI-ABA is advertising the newsletter *Internet Fact Finding For Lawyers* with the attention grabbing question: Is There a "Duty to Google? The ad asserts that failure to do so is a matter of due diligence. The newsletter authors cite instances when lawyers were stung by failing to Google for missing parties. This proved particularly embarrassing when the court used Google and promptly found relevant information.

The purpose of the newsletter is to help identify websites that are useful for fact finding. For more information Google *Internet Fact Finding For Lawyers*.[7] Note that Google is also highly useful as law finder as well as a fact finder. I am now able to get virtually all state bar ethics opinions over the Internet.

Internet Court Case Management Systems

One of the surest ways to receive a claim for malpractice is to miss a case-dispositive deadline. With the advent of court electronic case management systems that allow lawyers to file documents, view filed documents, receive court orders, and track case docketing over the Internet, the question arises whether failure to diligently track cases on these systems is negligence. The 6th Circuit case of *Kuhn, et al. v. Sulzer Orthopedics, et al* is the leading case I found on this question.

Kuhn concerned whether a lawyer's failure to timely file an appeal to the court's injunction order was excusable because the lawyer did not receive written notice of it and only learned of it when an office paralegal found it when reviewing the court's electronic docket after the time for appeal. The following language from the decision says it all:

> We decline to follow *Nunley* and *Avolio*. Both cases were decided long before electronic dockets became widely available which, as the district court noted, do not even require an attorney "to leave the seat in front of his computer" to keep apprised of what is happening in his cases. .... An interpretation of Rule 4(a)(6) that allowed parties to ignore entirely the electronic information at their fingertips would severely undermine the benefits for both courts and litigants fostered by the CM/ECF system [*Case Management/ Electronic Case Filing*], including ease and speed of access to all the filings in a case. In addition, such an interpretation would defy common sense: It might be one thing not to penalize a party who did not learn about the issuance of an appealable order in the bygone days of hiring "'runners' to physically go to the courthouse to check the docket," but here all Harris had to do was register his email address with the district court's CM/ECF system to receive the court's orders. …. Failing that, Harris simply had to scan periodically the electronic docket for recent activity. Indeed, the unreasonableness of Harris's conduct here is evident in that ultimately, he learned about the district court's Injunction Order in precisely this way: His paralegal checked the online docket and discovered the order. (*citations omitted*)[8]

The damages at stake in the *Kuhn* case were as much as $800,000 – maybe more. Any malpractice claim against Kuhn's lawyer will be difficult to defend, to say the least. Good practice and good risk management require firm policies that call for routine and meticulous monitoring of all electronic court case management systems in which the firm has a pending case. *Kuhn* is highly recommended professional reading. ■

ENDNOTES

1. Extract from my article *The Latest on Ethics and Malpractice In the Dot Com World of Law*, KBA *Bench & Bar*, Vol. 65, No. 5, p. 33 at 34, Sep. 2001.
2. The New York State Bar Ass'n Comm. on Professional Ethics, Op.782, 12/8/2004.
3. ABA Formal Op. 06-442; Ala. Op. RO-2007-02; Fla. Op. 06-2; Az. 07-03. Maryland and the District of Columbia follow the ABA position: D.C. Op. 341; Md. 2007-09.
4. SCR 3.530 (2).
5. ALI-ABA, The Practical Lawyer, Vol. 53, No. 2, p. 15 at 18 (April 2007). A copy of this article is available for $15.00 at the ALI-ABA website – Google *The Practical Lawyer* (last viewed on 3/17/2008).
6. Last viewed on 3/10/2008.
7. Last viewed on 3/17/2008.
8. 2007 WL 2287742.

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Supreme Court of Kentucky

PROPOSED AMENDMENTS TO THE:

Rules of Civil Procedure page 34

Rules of Criminal Procedure page 37

Rules of the Supreme Court page 50

The following Proposed Rules Amendments will be considered in a two-part open session beginning at 9:00 a.m. on Wednesday, June 18, 2008. The hearings will be conducted in the Bluegrass Ballroom at the Lexington Convention Center in Lexington.

PROPOSED AMENDMENTS TO THE RULES OF CIVIL PROCEDURE

A. CR 7.03 Privacy Protection for Filings Made with the Court

The proposed new rule CR 7.03 shall read:

(1) Unless the court orders otherwise, in a 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) 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.

(2) An attorney or party making a filing under part (1) above shall keep an unredacted, original copy of the filing. The attorney and party shall be custodians of the original or unredacted copy of the filing and shall present it upon order of the court.

(3) The court may order that a filing be made under seal without redaction. If the court orders an unredacted copy of the filing under seal, a copy redacted in compliance with part (1) of this rule may also be filed.

(4) For good cause, the court may by order in a case:
(a) require redaction of additional information; or
(b) limit or prohibit a nonparty's access to a document filed with the court.

(5) The clerk is not required to review filings with the court for compliance with this rule. The responsibility to redact filings rests with counsel and the party making the filing.

(6) A person waives the protection of this rule as to the person's own information by including it in a filing without redaction.

(7) 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 refiled unless otherwise ordered by the court.

B. CR 45.01 [For attendance of witnesses; f]Form; issuance

The proposed amendments to CR 45.01 are:

(1) Every subpoena [shall be issued by the clerk or other authorized officer,]shall state [the name of] the court from which it is issued, [and] the title of the action, the court in which the action is pending, and its civil action number; and the name, address, telephone number and e-mail address of the attorney or pro-se party causing the subpoena to be issued. Every subpoena [and] shall command each person to whom it is directed to attend and give testimony and/or to produce designated documents or tangible things in that person's possession, custody, or control, or to permit inspection of premises, at the time and place [and for the party] therein specified.

(2) The clerk or other authorized [officer]deputy shall issue a subpoena[, or a subpoena for the production of documentary or other tangible evidence,] signed but otherwise in blank, to a party requesting it, who shall fill it in before service. An attorney licensed to practice law in this state may also issue and sign a subpoena on behalf of the court. [Subpoenas shall not be used for any purpose except to command the attendance of the witness and production of documentary or other tangible evidence at a deposition, hearing or trial. Upon order of the Court, with the agreement of the parties, documents may be produced without a deposition.]

C. [CR 45.02 For production of documentary evidence]

The proposed deletion of CR 45.02 reads:

[A subpoena may also command the person to whom it is directed to produce the books, papers, documents, or tangible things designated therein; but the court, upon motion made promptly and in any event at or before the time specified in the subpoena for compliance therewith, may (a) quash or modify the subpoena if it is unreasonable and oppressive or (b) condition denial of the motion upon the advancement by the person in whose behalf the subpoena is issued of the reasonable cost of producing the books, papers, documents, or tangible things.]

D. CR 45.03 Service; Notice

The proposed amendments to CR 45.03 are:

(1) A subpoena may be served in any manner that [by any officer by whom] a summons might be served. It may also be served by any person over eighteen years of age, and the affidavit endorsed thereon by such person shall be proof of service or the witnesses may acknowledge service in writing on the subpoena. Service of the subpoena shall be made by delivering or offering to deliver a copy thereof to the person to whom it is directed. A subpoena may be served at any place within this state. Proof of service shall be made by filing with the issuing court a statement showing the date and manner of service and the names of the persons served. The statement must be certified by the server.

(2) Copies of all documents received in response to the subpoena [(or in lieu of proceedings thereunder)] shall be [forthwith] immediately made available [furnished] to all other parties to the action, except on motion and for good cause shown. Any other tangible evidence received in response to the subpoena [(or in lieu of proceedings thereunder]] shall be [forthwith] immediately made available for inspection by all other parties to the action.

(3) Every subpoena, except those issued for trial, shall be served on each party in the manner prescribed by Rule 5.02.

E. CR 45.04 [Subpoena for taking depositions; place of examination] Protection of a person subject to a subpoena

The proposed amendments to CR 45.04 are:

(1) **[**A certificate of a member of the Bar showing the time and manner of a notice to take a deposition as provided in Rules 30.02 and 31.01 constitutes a sufficient authorization for the issuance of subpoenas by the clerk of the court in which the action is pending or by an officer authorized to take depositions, for the persons named or described in the notice. The subpoena may command the person to whom it is directed to produce and permit inspection and copying of designated books, papers, documents, or tangible things which constitute or contain matters within the scope of the examination permitted by Rule 26.02, but in that event the subpoena will be subject to the provisions of Rules 26.03 and 45.02.**]** A subpoena that commands the person to whom it is directed to produce designated documents or tangible things or to permit inspection of premises may relate only to matters within the scope of discovery permitted by Rule 26.02. Every subpoena will be subject to the provisions of Rule 26.03.

(2) The person to whom **[**the**]** a subpoena is directed may, within 10 days after the service thereof or on or before the time specified in the subpoena for compliance if such time is less than 10 days after service, serve upon the attorney or pro se party designated in the subpoena written objection to inspection or copying of any or all of the designated materials. If objection is made, the party serving the subpoena shall not be entitled in inspect and copy the materials except pursuant to an order of the court from which the subpoena was issued. **[**The party serving the subpoena may, if objection has been made, move upon notice to the deponent for an order at any time before or during the taking of the deposition.**]** The party serving discovery may, upon notice, move for an appropriate order.

(3) A resident of the state may be required to attend an examination only in the county wherein he resides or is employed or transacts his business in person, or at such other convenient place as is fixed by an order of the court. A person commanded to produce documents or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

F. CR 45.05 Subpoena for a hearing or trial; personal attendance

The proposed amendments to CR 45.05 are:

(1) **[**At the request of any party, subpoenas for attendance at a hearing or trial shall be issued by the clerk of the court in which the action is pending, and such a subpoena may be served at any place within the state.

(2)**]** Subject to the provisions of paragraph **[**(3)**]** (2) of this rule a witness whose deposition might be used under Rule 32.01(c) shall not be compelled to appear in court for oral examination, unless he failed, when duly subpoenaed, to give his deposition.

[3**]**(2) Upon the affidavit of a party or his attorney that the testimony of a witness is important, and that the just and proper effect of his testimony can not in a reasonable degree be obtained without oral examination in court, the court may, in its discretion, order the personal attendance of the witness, although such witness may otherwise be exempt from personal attendance.

G. CR 73.02 When and how taken

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

(1) (a) The notice of appeal shall be filed within 30 days after the date of notation of service of the judgment or order under Rule 77.04(2).

(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)(1)(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 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.

(c) If an appeal or cross-appeal is from an order or judgment of the district court, the filing fee required by KRS 23A.210 or 23a.205(1) shall be paid to the clerk of the district court at the time the notice of appeal or cross-appeal is filed, and the notice shall not be docketed or noted as filed until such payment is made.

(d) Upon a showing of excusable neglect based on a failure of a party to learn of the entry of the judgment or an order which affects the running of the time for taking an appeal, the trial court may extend the time for appeal, not exceeding 10 days from the expiration of the original time.

(e) The running of the time for appeal is terminated by a timely motion pursuant to any of the Rules hereinafter enumerated, and the full time for appeal fixed in this Rule commences to run upon entry and service under Rule 77.04(2) of an order granting or denying a motion under Rules 50.02, 52.02 or 59, except when a new trial is granted under Rule 59.

(i) If a party files a notice of appeal after the date of the docket notation of service of the judgment required by CR 77.04(2), but before disposition of any of the motions listed in this rule, the notice of appeal becomes effective when an order disposing of the last such remaining motion is entered.

(ii) A party intending to challenge a post-judgment order listed in this rule, or a judgment altered or amended upon such motion, must file a notice of appeal, or an amended notice of appeal, within the time prescribed by this rule measured by the date of the CR 77.04(2) docket notation regarding service of the order disposing of the last such remaining motion.

(iii) No additional fee is required to file an amended notice.

H. CR 76.28 Opinions

The proposed amendments to section (2) of CR 76.28 are:

(2) Time of Announcement.

Unless otherwise determined by the Supreme Court, opinions of the Supreme Court will be released for publication on Thursdays. Opinions of the Court of Appeals shall be released on Fridays. However, if a Friday is a state holiday, the Court of Appeals, at the discretion of the Chief Judge may render opinions on the last working day before the holiday. The time of publication shall **[**alternate between**]** **be** 10:00 A.M. **[**and 2:00 P.M.,**]** prevailing Frankfort time**[**, so as to balance the advantage between morning and evening publications**]**.

I. CR 76.36(7) Original proceedings in appellate court

The proposed amendments to sub-section (c) of section (7) of CR 76.36 are:

(7) Appeals to the Supreme Court

(c) To perfect the appeal the appellant shall**,** within 30 days after filing **[**his**]**a notice of appeal**,** file with the Clerk of the Supreme Court **[**a statement of appeal and**]** a brief setting forth **[**his**]** argument for reversal or modification of the judgment or order from which the appeal is taken. In workers' compensation cases, briefing shall proceed according to CR 76.12.

J. CR 76.38(4) Effective date and reconsideration of orders

The proposed new section (4) of CR 76.38 shall read:

(4) Orders granting or denying reconsideration under this Rule will not be reconsidered.

K. [SUBPOENA DUCES TECUM FORM #796] SUPOENA DUCES TECUM FORM

The Subpoena Dues Tecum Form to be deleted is:

AOC-025 Doc. Code: RS
Rev. 5-03
Page 1 of 1
Commonwealth of Kentucky
Court of Justice *www.courts.ky.gov*
CR 45; RCr 7.02

[ ] SUBPOENA

[ ] SUBPOENA DUCES TECUM

Case No. _____
Court _____
County _____
Date _____

PLAINTIFF

VS

DEFENDANT

The Commonwealth of Kentucky to:
*Name*_____
*Address*_____

You are commanded to appear before: *(select one of three choices)*

[ ] _____ Court [ ] The Grand Jury of _____ County
[ ] Other _____

You are to appear at: _____

on the _____ day of _____, 2_____, at _____ [ ] a.m. OR [ ] p.m. [ ] Eastern [ ] Central Time
[ ] To testify in behalf of _____
[ ] To produce _____

[ ] To give depositions

_____ Clerk
Issuing Officer
By: _____ D.C.

_____
Name of Requesting Attorney
Phone # _____

This subpoena was served by delivery of a true copy to: _____

This _____ day of _____, 2_____. By: _____
_____ Title

The new Subpoena Dues Tecum Form shall read:

AOC-025 Doc. Code: RS
Rev. *DRAFT*
Page 1 of 1
Commonwealth of Kentucky
Court of Justice www.courts.ky.gov
CR 45; RCr 7.02

[ ] SUBPOENA

[ ] SUBPOENA DUCES TECUM

Case No. _____
Court _____
County _____
Date _____

PLAINTIFF

VS

DEFENDANT

The Commonwealth of Kentucky to:

Name _____
Address _____

You are commanded to appear before: *(select one of three choices)*
[ ] _____ Court [ ] The Grand Jury of _____ County
[ ] Other _____

You are to appear at: _____

on the _____day of _____, 20_____ at _____ [ ] a.m. OR p.m. [ ] Eastern [ ] Central Time

[ ] To testify in behalf of _____
[ ] To produce _____

[ ] To give depositions

You are commanded to produce and permit inspection and copying of the following documents or objects (or to permit inspection of premises): _____

on the _____day of _____, 20_____ at _____ [ ] a.m. OR p.m. [ ] Eastern [ ] Central Time
at the following address: _____

_____
Issuing Officer/Attorney Licensed in Kentucky
By: _____

_____
Name of Requesting Attorney
Phone # _____

PROOF OF SERVICE

This subpoena was served by delivery of a true copy to: _____

This _____day of_____, 20_____By:_____
_____**Title**

PROPOSED AMENDMENTS TO THE RULES OF CRIMINAL PROCEDURE

A. RCr 3.02 Initial appearance before the judge

The proposed amendments to RCr 3.02 are:

(1) An officer making an arrest under a warrant issued upon a complaint shall take the arrested person without unnecessary delay before a judge as commanded in the warrant. If the arrest is made in a county other than that in which the warrant was issued and the arrested person is not taken as commanded in the warrant, the arrested person shall be taken before a judge of the county in which the arrest is made, who shall consider the defendant for release on personal recognizance and so release the arrested person or admit the arrested person to bail for his or her appearance before the proper judge to whom the bail bond and other papers may be transmitted by mail. If the offense is nonbailable, or if the person arrested is unable to give bail, the judge shall commit that person to jail and he or she shall be taken as commanded in the warrant within a reasonable time by an officer of the county in which it was issued.

(2) Any person making an arrest without a warrant shall take the arrested person without unnecessary delay before a judge and shall file with the court a post-arrest complaint specifying the offense for which the arrest was made and the essential facts constituting probable cause on which the complaint is based. Such complaint need not be verified but shall be signed by the person making the arrest. If the judge before whom the arrested person is taken is in a county other than the county in which the offense was committed, the judge shall proceed as directed in paragraph (1) of this Rule 3.02 as on an arrest under warrant in a county other than that in which the warrant was issued.

(3) If no judge is available in the county in which the arrest was made the defendant shall be taken to jail, and any documents relating to the arrest shall be given to the jailer**[**. If the defendant is ineligible to post bail under Rule 4.20 or cannot make the bail endorsed on the arrest warrant, the jailer shall take the defendant before the judge without unnecessary delay.**]** , or where appropriate, the director of any city, county, urban county, metro, or regional jail, and all of such, as well as their authorized deputies, shall, except for good cause, be designated by the Chief Circuit Judge of the jurisdiction, pursuant to KRS 30A.060(3), as persons able to prepare bonds and receive bail under RCr 4.20.

(4) **[**Any documents relating to the arrest that are in the possession of the jailer shall be delivered to the clerk on or before the next business day.**]** If the defendant is ineligible to post bail under Rule 4.20 or cannot make the bail endorsed on the arrest warrant, the jailer shall take the defendant before the judge without unnecessary delay.

(5) Any documents relating to the arrest that are in the possession of the jailer shall be delivered to the clerk on or before the next business day.

B. RCr 4.00 Recognizance and bail; definitions of terms

The proposed amendments to RCr 4.00 are:

As used in these rules the following terms mean:

(a) "Bail bond" means a written undertaking, executed by the defendant or the defendant and one or more sureties, that the defendant designated in such instrument will, while at liberty as a result of **[**an order fixing bail and of**]** the execution of a bail bond **[**in satisfaction thereof**]**, comply with all conditions of release while on the bond and appear in a designated criminal action or proceeding when the defendant's attendance is required and otherwise render himself or herself amenable to the orders and processes of the court, and that in the event the defendant fails **[**to do so**]** to so comply with the condition(s) or appear, the signers of the bond will pay to the court the amount of money specified in **[**the order fixing bail**]** the bond.

(b) "Cash bail bond" means a sum of money, in the amount designated **[**in an order fixing**]** for bail or set out in the Uniform Schedule of Bail, posted by a defendant or by another person on the defendant's behalf with a court or other authorized public officer upon condition that such money will be forfeited if the defendant does not comply with the conditions of the bond and all directions or orders **[**of a court**]** requiring the defendant's attendance at the criminal action or proceeding involved and does not otherwise render himself or herself amenable to the orders and processes of the court.

(c) "Conditions of release" or "Conditions" may include financial as well as non-financial requirements upon which the defendant's release is dependent. All methods of pretrial release may include **[**the**]** conditions of release and shall otherwise **[**requiring**]** require the defendant to appear before the court when required and to submit himself or herself to the orders and processes of the court.

(d) "Jail" means any city, county, urban county, metro or regional jail in the Commonwealth of Kentucky.

(e) "Jailer" means the person in charge of a jail and includes his authorized deputy.

(f) "Monitored Conditional Release" or "MCR" means release with court-ordered non-financial conditions that are to be monitored by the pretrial services agency.

(g) "Non-financial condition" means any condition of pretrial release that does not require cash, property, or any other type of monetary deposit.

[(d)**]** (h) "Pretrial release" is release of a defendant from custody before his or her trial date. It may be secured by any authorized method of pretrial release including but not limited to release on personal recognizance, **[**on non-financial conditions**]** or **[**upon**]** execution of a bail bond, secured or unsecured. It does not include the procedure for issuance of a citation as provided in KRS 431.015.

[(e)**]** (i) "Pretrial services agency" means the agency established or authorized by Supreme Court order to provide pretrial release investigation and services for trial courts having jurisdiction of criminal causes.

[(f)**]** (j) "Release on personal recognizance" means release of a defendant on a personal recognizance bond when, having acquired control over the defendant's person, the court, or the Uniform Schedule of Bail, permits the defendant to be at liberty during the

pendency of the criminal action or proceeding upon the defendant's written promise to comply with all conditions of the release and to appear whenever his or her attendance before the court may be required and to render himself or herself amenable to the orders and processes of the court.

[(g)] (k) "Surety" means a person other than the defendant who executes a bail bond and assumes the obligations therein.

(l) "Uniform Schedule of Bail" or Schedule," means the Schedule listing offenses that have a preset bail amount established by the Kentucky Supreme Court, attached as Appendix A.

[(h)](m) "Unsecured bail bond" means a bail bond for which the defendant is fully liable upon failure to appear in court [when ordered to do so] as required or upon breach of a [material] condition of release, but which is not secured by any monetary deposit [of] or lien upon property.

C. RCr 4.04 Authorized methods of pretrial release

The proposed amendments to RCr 4.04 are:

(1) The only authorized methods of pretrial release are [on] the following, or any combination thereof, as the court determines, or as authorized by the Schedule:

(a) personal recognizance bond

(b) unsecured [bail] bond

(c) [non-financial conditions]

[(d)] executed bail bond

(i) with sufficient personal surety acceptable to the court; or

(ii) with a deposit with the court of a sum of money equal to at least ten percent of the bond; or

(iii) with a deposit with the court of cash equal to the amount of the bond; or

(iv) with stocks or bonds which are not exempt from execution and which over and above all liabilities and encumbrances have a value equal to the total amount of the bond; or

(v) with real property having a value over and above all exemptions, liabilities and encumbrances, equal to twice the value of the bond; or

(vi) in cases of motor vehicle traffic violations, with a guaranteed arrest bond certificate as provided in KRS 431.020[1]; or

(vii) any combination thereof at the discretion of the court.

(2) A court, in its discretion, may impose non-financial conditions upon any bond, or such may be imposed [Nonfinancial conditions may be imposed upon any bail bond] in the manner provided in RCr 4.14 as authorized by the Schedule.

(3) Except as allowed in RCr 4.24 and the Schedule, [T]the court shall determine the method of pretrial release and the manner in which a [bail] bond is executed.

D. RCr 4.06 Duties of pretrial services agency

The proposed amendments to RCr 4.06 are:

The duties of [a] the pretrial services agency [authorized by the Administrative Office of the Courts] to serve the trial court shall include interviewing defendants eligible for pretrial release, verifying information obtained from defendants, obtaining criminal histories of defendants, applying risk assessments, making recommendations to the court as to nonfinancial conditions of release for [whether] defendants who have been interviewed [should be released on personal recognizance], monitoring non-financial conditions of release for defendants released under such conditions if ordered to do so by the court, and any other duties ordered by the Supreme Court. The pretrial services agency's recommendations shall be presented to the court within twelve hours of a defendant's incarceration. When a defendant requests appointment of counsel, the [P]pretrial [release] services [O]officer shall, where practical, interview the defendant, assist in preparing the affidavit of indigency set out in KRS 31.120, and provide the affidavit to the court and the defendant.

All asserted violations of Monitored Conditions of Release shall be reduced to writing by the pretrial services agency and transmitted forthwith to the appropriate court and County Attorney or Commonwealth's Attorney, as well as defendant's counsel.

E. RCr 4.10 Release on personal recognizance; unsecured bail bond

The proposed amendments to RCr 4.10 are:

[A defendant shall be released]The court shall release a defendant on personal recognizance or upon an unsecured [bail] bond with or without non-financial conditions unless [the court] it determines, in the exercise of its discretion, that such release will not reasonably assure the defendant's compliance with any non-financial conditions imposed and/or the appearance of the defendant as required. In the exercise of [such] its discretion the court shall give due consideration to recommendations of the [local] pretrial services agency [when made as authorized by order of the Supreme Court].

F. RCr 4.12 Release on non-financial conditions

The proposed amendments to RCr 4.12 are:

(1) If a defendant's promise to appear or his or her execution of an unsecured bail bond alone is not deemed sufficient to insure his or her appearance and compliance with any nonfinancial conditions imposed when required, the court shall impose the least onerous conditions, or combinations of conditions, reasonably likely to insure the defendant's appearance and compliance as required. Such conditions of release may include, but are not limited to:

(a) Electronic Monitoring
(b) Drug testing and alcohol monitoring
(c) Reporting to pretrial services

(d) Curfew restrictions
(e) Seeking and maintaining employment
(f) Obtaining drug or alcohol assessment or treatment; or
(g) Any other condition deemed appropriate by the court, including, but not limited to placing the defendant in the custody of a designated person or organization agreeing to supervise the defendant or to placing restrictions on the defendant's travel, association or place of abode during the period of release.

(2) Commensurate with the risk of nonappearance**,** the court may impose any other condition including a condition requiring the defendant to return to custody after specified hours.

(3) The court shall cause the issuance of an order containing a statement of any conditions imposed upon the defendant for his or her release. The defendant shall sign the statement of conditions and receive a copy thereof. The order shall inform the defendant of penalties applicable to violation of conditions and advise that a warrant for the defendant's arrest will be issued if conditions are violated. If the defendant's compliance with the conditions is to be monitored by the local pretrial services agency, the court shall inform the local pretrial services agency of the conditions of release.

G. RCr 4.14 Non-financial conditions on release

The proposed amendments to RCr 4.14 are:

[The court shall cause the issuance of an order containing a statement of any conditions imposed upon the defendant for his or her release. The defendant shall sign the statement of conditions and receive a copy thereof. The order shall inform the defendant of penalties applicable to violation of conditions and advise that a warrant for the defendant's arrest will be issued if conditions are violated. The court shall also inform the local pretrial services agency of the conditions of release.**]**

(1) Where bail is established by the Schedule, and taken by an officer authorized under RCr 4.24, said officer shall insert in the bond non-financial conditions upon the defendant for his or her release as required by subsection (2) hereof. The defendant shall sign the bond with the statement of conditions therein and receive a copy thereof. The bond shall inform the defendant of penalties applicable to violations of the conditions and advise that a warrant for the defendant's arrest will be issued if the conditions are violated. Once signed by the defendant, the bond shall be treated for all purposes as an order of the court. The authorized officer shall also inform the local pretrial services agency of the conditions of release.

(2) Every bail established by the Schedule and taken by an officer authorized to do so under RCr 4.24, excepting bail set by the court, shall impose the following non-financial conditions of release prohibiting:

(a) any unlawful contact with any alleged victim;
(b) any further violations of law; and
(c) the illegal use of alcohol or controlled substances, provided however, if an offense involves the use of alcohol, this non-financial condition shall require the defendant to abstain from the use of alcohol and the illegal use of controlled substances.

H. RCr 4.16 Amount of bail

The proposed amendments to RCr 4.16 are:

(1) The amount of bail shall not exceed the amount set forth in the Schedule for designated misdemeanors and violations in Appendix A of these rules, unless the court records its reasons that bail in such an amount and under such specified conditions will not assure the defendant's appearance and compliance therewith.

[(1)**]** (2) The amount of bail set by the court shall be sufficient to insure compliance with the conditions of release set by the court. It shall not be oppressive and shall be commensurate with the gravity of the offense charged. In determining such amount the court shall consider the defendant's past criminal acts, if any, the defendant's reasonably anticipated conduct if released and the defendant's financial ability to give bail.

[(2)**]** (3) If a defendant is charged with an offense punishable by fine only, the amount of bail shall not exceed the amount of the **[**maximum penalty and costs**]** minimum fine.

[(3) Amount of bail may also be set in accordance with the uniform schedule of bail prescribed for designated misdemeanors and violations in Appendix A-Uniform Schedule of Bail, of these rules.**]**

I. RCr 4.20 Use of uniform schedule of bail

The proposed amendments to RCr 4.20 are:

(1) The defendant may execute a bail bond in accordance with the **[**uniform schedule of bail**]** Schedule (Appendix A) for designated misdemeanors, offenses, and violations without appearing before a judge. **[**If a defendant chooses to execute a bail bond in accordance with the schedule without appearing before a judge and proceeds to do so, that defendant waives his or her statutory right to be considered for other authorized methods of pretrial release. Before said waiver is effective, the defendant must be informed of his or her right to appear before a judge without unnecessary delay, in no event more than twelve hours, and to be considered for release on personal recognizance.**]** The Schedule, however, shall only apply when all of a defendant's charges are listed in the Schedule.

(2) **[** In the exercise of its reasonable discretion the court may refuse to set bail in the amount prescribed by Appendix A, but must record written reasons for the deviation.**]**

[(3)**]** Each court may by local rule establish a **[**uniform s**]**Schedule of bail for violations of ordinances of cities and counties over which it has jurisdiction; provided, however, that when the ordinance is punishable by a fine only, the amount of the bond set shall not exceed the amount of the **[**maximum penalty and costs**]** minimum fine. No court, however, shall establish a local rule, order, or other local practice regarding the Schedule that conflicts with these Rules.

J. RCr 4.22 Ten percent deposit

The proposed amendments to RCr 4.22 are:

[(1)**]** If a ten percent cash deposit to the court is accepted, in no event shall it be less than ten dollars.

[(2) A ten percent deposit will not be accepted to secure bail in the amount designated on the uniform schedule for bail for traffic, boating, fish and wildlife offenses listed therein.]

K. RCr 4.24 Officers authorized to take bail

The proposed amendments to RCr 4.24 are:

When the amount of bail has been fixed either by the court or by the [uniform s]Schedule [of bail,] , it may, subject to the provisions of KRS 30A.060(3) and KRS 431.5305, be taken by the jailer of the jail in which the defendant is held or by the clerk of the court in which the defendant is held or charged. [Another bonded public officer shall be authorized by the chief judge of the circuit court to take bail. The authorized bonded public officer shall take bail when the clerk of the court is unavailable.]The individual with whom deposits are made shall ascertain that the amount deposited is no less than the amount fixed by the Schedule or the court.

L. RCr 4.28 Custody of cash deposits and bond

The proposed amendments to RCr 4.28 are:

An officer authorized to take bail pursuant to RCr 4.24 shall deliver [T]the court copy of the bond and any statement of conditions along with the cash deposited and receipt thereof [with an individual authorized to take bail in the absence of the clerk shall be delivered] to the clerk by the next business day. The clerk shall forthwith deposit the money in an escrow account for all cash deposits and bail, which account may include other funds held by the court.

M. RCr 4.30 Qualification of sureties

The proposed amendments to RCr 4.30 are:

(1) Each surety, except a corporate surety that is approved as provided by law, shall be a resident or owner of real estate within the Commonwealth and shall file an affidavit in which the surety shall describe the property by which the surety proposes to secure the bond. The provisions of this paragraph (1) shall not apply to a surety who posts a full cash bond.

(2) No attorney at law, sheriff, deputy sheriff, judge, justice, jailer, clerk, deputy clerk, trial commissioner, master commissioner or pretrial release officer shall be taken as surety on any bail bond, including bail on appeal under Rule 12.78.

(3) No bond shall be approved unless the surety thereon appears to be qualified.

N. RCr 4.40 Review of conditions of release

The proposed amendments to RCr 4.40 are:

(1) The defendant or the Commonwealth may by written motion apply for a change of conditions of release at any time [before the defendant's trial.] The motion shall state the grounds on which the change is sought. The moving party may request an adversary hearing on the motion, and is entitled to such hearing the first time the moving party requests it. Requests for adversary hearings made in subsequent motions for review of conditions of release shall lie within the discretion of the court.

(2) [Whenever the court denies the specific relief requested, the judge shall record in writing the reasons for so doing.]

[(3)] A [M]motion for change of conditions of release must be made in good faith. Where the defendant has appeared when required at previous proceedings in the case and has otherwise complied with all the conditions imposed, the Commonwealth must demonstrate by clear and convincing evidence the need to modify existing conditions of release. If the court refuses to release the defendant on non-financial conditions, then the court shall enter an order and written findings of fact setting forth the reasons underlying the continued detention.

O. RCr 4.48 Forfeiture of bail

The proposed amendments to RCr 4.48 are:

(1) If the court has ordered forfeiture of bail following a show-cause hearing as described in Rule 4.42(5), or following the willful failure of the defendant to appear in court when required, the court shall serve a copy of the forfeiture order on the defendant and the defendant's surety or sureties at their last-known addresses[;]. [i]If the defendant or the defendant's surety or sureties do not appear within 20 days after service of the order or return of not found and satisfy the court that appearance or compliance by the defendant was impossible and without his or her fault, the court may order judgment against the defendant and the defendant's surety for the amount of the bail or any part thereof and the costs of the proceedings.

(2) If the declaration of forfeiture is made by a trial court other than the circuit court and the amount of bail is beyond its jurisdiction, or a lien on real estate is involved, the bond shall be filed with the clerk of the circuit court of the county where the amount of forfeiture may be determined and collection proceedings may be so instituted.

(3) A forfeiture may be set aside upon such conditions as the forfeiting court may impose if it appears that justice does not require its enforcement.

(4) When bail is forfeited, the clerk of the court shall enter a record of the forfeiture and date of forfeiture. When real estate is affected, the clerk shall forthwith send notice of the forfeiture and date thereof to the county clerk of each county where the real estate is situated. The county clerk of the latter county shall make an appropriate entry at the end or on the margin of the record of the Commonwealth's lien on the real estate.

P. RCr 4.54 Continuation of bail

The proposed amendments to RCr 4.54 are:

(1) Except as provided in Rule 5.22 and Rule12.78, bail taken at any stage of the proceedings shall continue in effect to insure the appearance of the defendant for any and all purposes at all stages of the proceedings, including appeal. In the event a defendant waives the charges to the Grand Jury, or following a preliminary

hearing is ordered bound over to the circuit court [after a preliminary hearing], control over bail [taken by the district court], including any conditions thereof, shall remain with the district court until indictment is returned unsealed, at which time control shall pass [immediately] to the circuit court. Upon the conviction of a defendant, bail may be increased, decreased, revoked, or modified by the trial court without being subject to the hearing requirements of Rule 4.42, and control over bail shall remain with the trial court throughout any appeal.

(2) Subject to RCr 5.22, [B]bail shall terminate (a) when the principal is acquitted or the prosecution is dismissed; (b) when the principal, following conviction, fails to file a notice of appeal within the time limit under Rule 12.04; (c) when the appeal taken by the defendant is dismissed; or (d) on the effective date of an appellate decision affirming the conviction.

(3) In the event of a reversal of a conviction by an appellate court granting the defendant a new trial, the defendant shall be entitled to the rights of pre-trial release under Rule 4.04 as if upon an initial appearance.

(4) The efficacy of a bail bond shall not be affected by the fact that the defendant is prosecuted for an alleged offense or offenses different from but arising out of the same occurrence as the charge named in the bail bond.

Q. RCr 4.58 Credit for incarceration

The proposed amendments to RCr 4.58 are:

Any person incarcerated on a bailable offense who does not supply bail or is not otherwise released and against whom a fine is levied on conviction of such offense shall be allowed a credit of $50.00 for each day so incarcerated prior to conviction except that in no case shall the amount so allowed or credited exceed the amount of the fine.

R. RCr 8.28 Presence of defendant

The proposed amendments to RCr 8.28 are:

(1) The defendant shall be present at the arraignment, at every critical stage of the trial including the empaneling of the jury and the return of the verdict, and at the imposition of the sentence. The defendant's voluntary absence after the trial has been commenced in his or her presence shall not prevent proceeding with the trial up to and including the verdict. The defendant may be permitted to remain on bail during the trial. Upon a hearing and finding by the trial court, that a defendant in custody on any charge, including a felony, intentionally refuses to appear for any proceeding, including trial, short of physical force, such refusal shall be deemed a waiver of the defendant's right to appear at that proceeding.

(2) A defendant who persists in engaging in disruptive conduct after being warned by the court that such conduct will cause him or her to be removed may be excluded from the courtroom.

(3) A corporation may appear by counsel for all purposes.

(4) In prosecutions for misdemeanors or violations the court may permit arraignment, plea, trial and imposition of sentence in the defendant's absence. However, no plea of guilty to a violation of KRS 189A or KRS 218A may be entered in the defendant's absence, unless the defendant first executes a written waiver of his or her right to be present.

(5) During his or her appearance in court before a jury the defendant shall not be required to wear the distinctive clothing of a prisoner. Except for good cause shown the judge shall not permit the defendant to be seen by the jury in shackles or other devices for physical restraint.

S. RCr 11.02 Sentence.

The proposed amendments to RCr 11.02 are:

(1) Sentence shall be imposed without unreasonable delay. Pending sentence the court may commit the defendant or continue or alter the bail. Before imposing sentence the court shall, if the defendant is guilty of a felony, cause a presentence investigation to be conducted, examine and consider the report, and [advise the defendant or the defendant's counsel of the contents of the report pursuant to KRS 532.050] furnish a copy of the report to the attorney for the Commonwealth and the attorney for the defendant no later than 2 business days prior to final sentencing. The defendant may waive the presentence investigation report. The court shall consider the possibility of probation or conditional discharge and shall afford the defendant and the defendant's counsel an opportunity to make a statement or statements in the defendant's behalf and to present any information in mitigation of punishment.

(2) After imposing sentence in a case tried on a plea of not guilty, the court shall advise the defendant of his or her right to appeal and of the right of a person who is unable to pay the cost of an appeal, or unable to employ counsel, to apply for leave to appeal in forma pauperis and to have the continued assistance of counsel to perfect and prosecute the appeal. If the defendant is proceeding without counsel and so requests, the clerk of the court shall prepare a notice of appeal for the defendant's signature and shall file the notice forthwith.

T. RCr 12.04 When and how taken

The proposed amendments to RCr 12.04 are:

(1) An appeal is taken by filing a notice of appeal in the trial court.

(2) The notice of appeal shall name all of the appellants and appellees and designate the judgment from which the appeal is being taken. The clerk shall serve notice of the filing of the notice of appeal by mailing a copy thereof to the clerk of the appellate court and to the attorney for each appellee, shall note on each copy thus served the date on which the notice of appeal was filed, and shall note in the docket the names of the parties served and date or dates on which the copies were mailed.

(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.

(4) The timely filing of a notice of appeal from a judgment of the district court, except for a juvenile adjudication, shall stay proceedings on the judgment as long as the case remains on appeal, except for the requirement of bail. Stays in juvenile dispositions shall be discretionary with the court.

U. RCr 12.76 Stay of execution

The proposed amendments to RCr 12.76 are:

(1) (Death.)
A sentence of death shall be stayed pending review by an appellate court, but the defendant may be transferred to the penitentiary.

(2) (Imprisonment.)
The execution of a sentence of imprisonment shall be stayed if an appeal is taken and the defendant is admitted to bail.

(3) (Fine.)
A sentence to pay a fine or a fine and costs, if an appeal is taken, may be stayed by the trial court upon such terms as the court deems proper.

(4) (Probation.)
[An order placing the defendant on probation shall be stayed if an appeal is taken.**]** A sentence of probation may be stayed if an appeal from the conviction or sentence is taken. If the sentence is stayed, the court shall fix the terms of the stay.

V. [APPENDIX A – UNIFORM SCHEDULE OF BAIL]
APPENDIX A – UNIFORM SCHEDULE OF BAIL

Proposed New Appendix A – Uniform Schedule of Bail shall read:

(1) Except as provided in RCr 4.16(1), this Schedule of Bail ("Schedule") shall be used uniformly for all offenses listed in the schedule by all courts and by all officers authorized to take bail.

(2) If the defendant has been charged with any one or more offenses that are not listed in this Schedule, this Schedule shall not be used.

(3) (A) Subject to the provisions of KRS 30A.060(3) and KRS 431.5305, the following officers are authorized by RCr 4.24 to take bail:

(1) the jailer of the jail (as defined in RCr 4.00(d)&(e)) where the defendant is held; and

(2) the clerk or deputy clerk of the circuit court of the county where the defendant is held or charged.

(B) Unless otherwise ordered by a judge of the county in which the defendant is held or charged, such officer shall, without order of a court:

(1) as soon as practicable after the defendant's arrival at the jail, take bail in accordance with this Schedule and require the defendant and any person who posts bail for the defendant to execute a written bail bond;

(2) at the time bail is taken, furnish each person from whom the officer receives a cash bail deposit a written receipt for the money taken on a uniform receipt form provided by the Administrative Office of the Courts, and retain not less than two (2) copies thereof;

(3) at the time bail is taken, furnish the defendant and any person who posts bail for the defendant a written notice that contains:

(a) the non-financial conditions of the defendant's release that are specified by this Schedule;

(b) the penalties and consequences prescribed by law if the defendant violates any condition of bail including appearing as required; and

(c) the name of the court where the defendant is to appear, and the date, time and place of such appearance;

and retain not less than two (2) copies thereof;

(4) by not later than the next business day, deliver to the clerk of the court in which the defendant is to answer: the cash bail deposits the officer took and the original of the bail bond required by paragraph (3)(B)(1); a copy of each receipt for a cash bail deposit required by paragraph (3)(B)(2); and a copy of the notice required by paragraph (3)(B)(3); and

(5) by not later than the next business day, deliver to the pretrial services office for the court in which the defendant is to answer a copy of the bail bond and a copy of the notice required by paragraph 3(B)(3).

(4) The following non-financial conditions shall be imposed on each defendant who is released on bail under this schedule and such defendant shall be prohibited from:

(A) any illegal use of alcohol or controlled substances, provided, however, that where the defendant is charged with an offense involving the use of alcohol, then the conditions imposed shall require that the defendant abstain from the use of alcohol and the illegal use of controlled substances;

(B) having any unlawful contact with any alleged victim; and

(C) committing any further violations of law.

(5) Bail for a defendant who is charged with an offense punishable by fine only is hereby set at an amount equal to the minimum fine prescribed by law.

(6) (A) Bail for a Kentucky resident charged with a first offense of KRS 189A.010 (Driving Under the Influence) shall be set at $2,000.00 and the defendant may comply therewith by paying a 10% deposit thereof, provided that the charging document does not disclose any aggravating circumstances as

defined in KRS 189A.010(11). If the charging document discloses any aggravating circumstances, then this Schedule shall not be applicable.

(B) In the event there are no aggravating circumstances disclosed, bail shall be accepted under the terms and amount set out above, but only after a mandatory holding period of eight (8) hours, unless otherwise ordered by the court.

(C) Bail for a non-resident defendant charged with a first offense of KRS 189A.010 shall be set per KRS 431.523.

(7) (A) Bail for a defendant who has been arrested for a violation of KRS 222.202 (Alcohol Intoxication or Drinking Alcoholic Beverages in a Public Place) and has not had two (2) prior convictions for violations of KRS 222.202 in the previous twelve (12) months, shall comply with KRS 222.204 and release shall be allowed at the time indicated.

(B) Bail for a defendant charged with a violation of KRS 222.202 and who has had two (2) previous convictions for same within the previous twelve (12) months, shall be allowed in the amount of $500.00 with a 10% deposit thereof, but only at such time as the defendant appears able to safely care for himself, and in no event shall he be detained for more than eight (8) hours following his arrest, unless ordered by the court.

(8) Bail for a defendant charged with a first offense of KRS 525.100 (Public Intoxication) is hereby set at $500.00 and the defendant may make said bail by paying a 10% deposit thereof. Such bond shall be allowed only at such time as the defendant appears able to safely care for himself, but in no event shall he be detained for more than eight (8) hours following his arrest, unless otherwise ordered by the court.

(9) For purposes of the determination of bail under this schedule, an officer authorized by paragraph (3)(A) to take bail shall determine only from the charging document such as the indictment, warrant, or uniform citation, whether an offense charged is a first, second, or subsequent offense, and shall rely solely on that document.

(10) For purposes of determining whether a first, second or subsequent offense is bailable under this schedule, the following rules apply:

(A) If the listing of the offense in the schedule does not refer to whether it is a first, second or subsequent offense, bail shall be set as provided in this schedule, regardless of the number of the offense;

(B) If the listing of the offense refers only to a first offense, then bail is only allowable for a first offense;

(C) If the listing of the offense refers only to a second offense, then bail in the amount set shall be allowable for second offense, as the first offense has a separate listing, or constitutes a violation, bailable under Section (5) hereof;

(D) If the listing of the offense refers to a second offense or more, then bail in the amount set shall be allowable for second and subsequent offenses.

(E) If the listing of the offense refers only to a third offense, then bail in the amount set shall be allowable for a third offense;

(F) If the listing of the offense refers to a third offense or more, then bail in the amount set shall be allowable for third and subsequent offenses.

(G) A second, or later offense, is an offense committed subsequent to a previous conviction, or convictions, for the same offense.

(H) Abbreviations:

(1) "<" means less, or less than; ">" means more, or more than, or greater;

(2) "u" means under;

(3) "w" means within;

(4) "w/o" means without;

(5) "UOR" means Uniform Offense Reporting Codes.

(11) Bail for the Class A Misdemeanors listed below shall be set at $1,000.00 and the defendant may make bail by providing bond with a 10% deposit thereof. Bail for the Class B Misdemeanors listed below shall be set at $500.00 and the defendant may make bail by paying a 10% deposit thereof. [If authorized by the Legislature the following will be added – Bail for the Class D Felonies listed below shall be set at $5,000.00 and the defendant may make bail by providing bond with a 10% deposit thereof.]

BAIL SCHEDULE FOR MISDEMEANORS BY UOR CODES (VERSION A)

UOR	KRS	SUMMARY DESCRIPTION	
00116	189.370	PASSING LOADING/UNLOADING SCHOOL/CHURCH BUS-1ST OFFENSE	MISDEMEANOR B
00125	189.565	FLAMMABLE LIA/EXPLOSIVE TRANSPORT FAIL TO STOP AT RR CROSS	MISDEMEANOR B
00127	189.930	FAILURE TO GIVE RIGHT OF WAY TO EMERGENCY VEHICLE	MISDEMEANOR B
00134	189.550	SCHOOL/CHURCH BUS FAILING TO STOP AT RR CROSSINGS	MISDEMEANOR B
00180	177.305	NO TARP ON TOP OF COAL TRUCK ON LIMITED ACCESS HIGHWAY	MISDEMEANOR B
00183	189A.430(3)	FAILURE TO DISPLAY HARDSHIP DRIVING PRIVILEGE DECAL	MISDEMEANOR B
00184	189A.440(2)	UNAUTHORIZED USE OF VEHICLE UNDER HARDSHIP DRIVERS LICENSE	MISDEMEANOR A
00185	189A.440(3)	FALSE APPLICATION FOR HARDSHIP DRIVERS LICENSE	MISDEMEANOR A
00186	189.378(4)	FAILURE TO YIELD RIGHT OF WAY TO FUNERAL PROCESSION	MISDEMEANOR B
00190	189A.345(2)	ENABLING VEH/MTRCYC EQUIP W/IGNITION INTERLOCK DEV, 1ST	MISDEMEANOR B
00192	189A.345(3)	INSTALL/TAMPER W/IGNITION INTERLOCK DEV TO MAKE DEFECTIVE	MISDEMEANOR B
00194	189A.345(4)	DIRECT/INSTRCT PERSONS TO INSTALL DEFECTIVE INTERLOCK DEV	MISDEMEANOR B
00200	189.950	USING FLASHING LIGHT/SIREN ON NON EMERGENCY VEHICLE	MISDEMEANOR B
00208	189.940	IMPROPER USE OF SIREN	MISDEMEANOR A
00216	189.950	IMPROPER SOUND DEVICE (WHISTLE, BELL, SIREN)	MISDEMEANOR B
00246	189.920	IMPROPER EMERGENCY/SAFETY LIGHTS	MISDEMEANOR B
00260	177.300	IMPROPERLY TURNING, DRIVE LANE, OR ENTERING LTD ACC HIGHWAY	MISDEMEANOR B
00380	186.410(1)	NO OPERATORS/MOPED LICENSE	MISDEMEANOR B
00396	186.412	30 DAY TEMPORARY LICENSE 0/21 YEARS OLD	MISDEMEANOR B
00398	186.410(2)	OPERATING VEHICLE WITH EXPIRED OPERATORS LICENSE	MISDEMEANOR B
00399	186.480	FAILURE TO COMPLY WITH OPERATOR LICENSE REINSTATEMENT	MISDEMEANOR B
00403	186.620(2)	OPERATING ON SUSPENDED/REVOKED OPERATORS LICENSE	MISDEMEANOR B
00404	186.620(1)	PERMIT UNLICENSED OPERATOR TO OPERATE MOTOR VEHICLE	MISDEMEANOR B
00414	186.200	TRANSFER OF MOTOR VEHICLE WITHOUT BILL OF SALE	MISDEMEANOR A
00417	186.610(1)	DISPLAY/POSSESSOIN OF CANCELLED/FICTITIOUS OPERATOR LICENSE	MISDEMEANOR B
00418	186.610(2)	PERMIT USE OF OPER LIC BY ONE NOT ENTITLED THERETO	MISDEMEANOR B
00419	186.610(3)	REPRESENTING AS ONES OWN ANOTHERS OPER LIC	MISDEMEANOR B
00420	186.610(5)	FALSE STATEMENT/FRAUD IN APPLICATION FOR OPERATOR LICENSE	MISDEMEANOR B
00421	189.110(8)	INSTALLATION OF NON COMPLIANCE TINTING ON VEHICLE	MISDEMEANOR B
00422	186.610(4)	FAILURE TO SURRENDER REVOKED OPERATORS LICENSE	MISDEMEANOR B
00423	186.630	RENTING MOTOR VEHICLE TO UNLICENSED OPERATORS	MISDEMEANOR B
00427	186A.070	REG & TITLE REQUIREMENTS VEH NOT OPER ON HWY	MISDEMEANOR A
00432	186.190	FAILURE TO REGISTER TRANSFER OF MOTOR VEHICLE	MISDEMEANOR A
00435	186.510	LICENSE TO BE IN POSSESSION	MISDEMEANOR B
00436	186.540	FAILURE TO NOTIFY ADDRESS CHANGE TO DEPT OF TRANSPORTATION	MISDEMEANOR B
00442	138.665(1)	NO KY MOTOR FUEL USERS LICENSE	MISDEMEANOR A
00445	138.665(1)	NO WEIGHT DISTANCE TAX LICENSE (KYU)	MISDEMEANOR A
00451	186.172	IMPROPER USE OF VOLUNTEER FIREFIGHTER REG PLATE	MISDEMEANOR A
00453	186A.105	MV DEALER OBTAIN INFO PRIOR TO ISSUE OF TEMP REG	MISDEMEANOR A
00454	186A.110	IMPROPER ISSUANCE OF TEMPORARY REGISTRATION	MISDEMEANOR A
00455	186A.235	OWNER TO NOTIFY CLERK OF RESIDENCE/NAME CHANGE	MISDEMEANOR A
00457	186A.295	OWNER TO SURRENDER TITLE ON DESTROYED VEH/TRAILER	MISDEMEANOR A
00458	186A.530	FAILURE OF SELLER OF VEHICLE TO DISCLOSE TITLE BRAND	MISDEMEANOR A

00480	304.39-080	FAIL OF OWNER TO MAINTAIN REQ INS/SECURITY 1ST OFF	MISDEMEANOR B
00481	304.39-080	FAIL OF OWNER TO MAINTAIN REQ INS/SEC 2ND OR > OFFENSE	MISDEMEANOR A
00482	304.99-060	FAILURE OF NON-OWNER OPER TO MAINTAIN REQ INS/SEC, 1ST OFF	MISDEMEANOR B
00483	304.99-060	FAILURE OF NON-OWNER OPER TO MAINTAIN REQ INS/SEC, 2ND OFF	MISDEMEANOR A
00484	304.39-080	OWNER PERMIT ANOTHER TO OP MTR VEH W/O REQ INS/SEC, 1ST OFF	MISDEMEANOR B
00485	304.39-080	OWNER PERMIT ANOTHER TO OP MTR VEH W/O REQ INS/SEC, 2ND OFF	MISDEMEANOR A
00490	189.930	FAIL TO GIVE RIGHT-OF-WAY TO EMERGENCY STOPPED VEHICLE	MISDEMEANOR B
00507	189.930	FOLLOWING EMERGENCY VEHICLE TOO CLOSELY	MISDEMEANOR B
00529	138.720	EXCISE TAXES PROHIBITED ACTS, ALL OTHER VIOLATIONS	MISDEMEANOR A
00530	186.640	DRIVING WITHOUT LICENSE/NEGLIGENCE IN ACCIDENT	MISDEMEANOR B
00532	189.860(2)	OPERATE OFF-ROAD VEHICLE ON PRIVATE/PUBLIC LAND W/O CONSENT	MISDEMEANOR A
00549	186.695	REGISTRATION OF TRAILERS-EXCEPTION-SEE NOTE 1	MISDEMEANOR A
00550	190.090	DEFINITION "MOTOR VEHICLE RETAIL INSTALLMENT SALES ACT"	MISDEMEANOR A
00551	190.100	INSTALLMENT CONTRACT	MISDEMEANOR A
00552	190.110	FINANCE CHARGES - RATES	MISDEMEANOR A
00553	190.120	BUYER PRE-PYMT PRIOR TO MATURITY-REC REFUND	MISDEMEANOR A
00554	190.130	WHEN HOLDER MAY EXTEND SCHEDULED PAYMENTS, SERVICE FEE	MISDEMEANOR A
00555	190.140	CIT OF "MOTOR VEHICLE RETAIL INSTALLMENT SALES ACT"	MISDEMEANOR A
00557	190.030	MOTOR VEHICLE DEALER, LICENSE REQUIRED	MISDEMEANOR B
00558	190.033	MOTOR VEHICLE DEALER INSURANCE/BOND REQUIRED	MISDEMEANOR B
00559	190.035	MOTOR VEHICLE DEALER, FIXED SALES BUILDING REQUIRED	MISDEMEANOR B
00560	190.038	MOTOR VEHICLE MANUFACTURER PROVIDE INFO ON SERVICE/REPAIR	MISDEMEANOR B
00561	190.070	MOTOR VEHICLE MANUFACTURER/DEALER.ETC, PROHIBITED PRACTICES	MISDEMEANOR B
00562	190.080	MOTOR VEHICLE PREVIOUS CONSUMER/OWNER INFO & NOTICE	MISDEMEANOR B
00563	190.990(1)	DISCLOSURE OF MILEAGE UPON TRANSFER OF VEHICLE	MISDEMEANOR B
00571	304.47-020(2)(a)	FRAUDULENT INSURANCE ACTS, UNDER $300	MISDEMEANOR A
00600	309.000	PROHIBITING THE PRACTICE OF ART THERAPY	MISDEMEANOR A
00605	177.230	HITCHHIKING ON LIMITED ACCESS FACILITIES	MISDEMEANOR B
00635	434.415	INSTAL COMPONENT INFLAT RESTRANT SYS N/DESGN W/FED SAFE REG	MISDEMEANOR A
00701	514.100	UNAUTHORIZED USE OF MOTOR VEHICLE-1ST OFFENSE	MISDEMEANOR A
00719	138.725(1)	FAILURE TO ADD TAXABLE UNIT TO TAXABLE INVENTORY	MISDEMEANOR A
00720	138.720(1)	FAIL TO PAY EXCISE TAX IMPOSED	MISDEMEANOR A
00721	138.720(2)	FAIL/NEGLECT/REFUSE TO FILE EXCISE TAX RETURN	MISDEMEANOR A
00722	138.720(3)	MAKE FALSE STATEMENT ON RECORD/RETURN, EXCISE TAXES	MISDEMEANOR A
00724	138.720(4)	CONDUCT ACTS THAT REQUIRE LICENSE W/O LICENSE, EXCISE TAXES	MISDEMEANOR A
00727	138.720(5)	ASSIGN/ATTEMPT TO ASSIGN A LICENSE, EXCISE TAXES	MISDEMEANOR A
00728	138.720	OPER ON INACTIVE/CANCELLED/REVOKED WEIGHT DIST TAX LICENSE	MISDEMEANOR A
00729	138.720	OPER ON INACTIV/CANCEL/REVOK MTR FUEL TAX LIC (KIT OR IFTA)	MISDEMEANOR A
01006	516.070	CRIMINAL POSSESSION OF FORGED INSTRUMENT-3RD DEGREE	MISDEMEANOR A
01009	516.130	UNLAWFUL USE OF SLUGS - 2ND DEGREE	MISDEMEANOR B
01101	517.020	DECEPTIVE BUSINESS PRACTICES	MISDEMEANOR A
01102	517.030	FALSE ADVERTISING	MISDEMEANOR A
01103	517.040	BAIT ADVERTISING	MISDEMEANOR A
01104	517.050	FALSIFYING BUSINESS RECORDS	MISDEMEANOR A
01105	517.060	DEFRAUDING SECURED BUSINESS CREDITORS U/$100	MISDEMEANOR A
01106	517.070	DEFRAUDING JUDGEMENT CREDITORS	MISDEMEANOR A
01107	517.080	FRAUD IN INSOLVENCY	MISDEMEANOR A
01108	517.090	ISSUING A FALSE FINANCIAL STATEMENT	MISDEMEANOR A
01110	514.060	THEFT OF SERVICES	MISDEMEANOR A
01111	514.090	THEFT OF LABOR	MISDEMEANOR A
01112	514.040	THEFT BY DECEPTION-INCL COLD CHECKS U/$300	MISDEMEANOR A
01113	514.050	THEFT OF PROPERTY LOST/MISLAID/DELIVERED BY MISTAKE	MISDEMEANOR A
01114	514.120	OBSCURING THE IDENTITY OF A MACHINE U/$300	MISDEMEANOR A
01115	253.130	UNAUTHORIZED USE OF REGISTER BRAND-LIVESTOCK	MISDEMEANOR A
01116	253.990	ALTERING OR DEFACING BRANDS - CATTLE	MISDEMEANOR A
01119	514.080	THEFT BY EXTORTION	MISDEMEANOR A
01120	514.065	POSS/USE/TRANSFER DEVICE FOR THEFT OF SERVICES-1ST OFFENSE	MISDEMEANOR A
01200	514.070	THEFT BY FAILURE TO MAKE REQUIRED DISPOSITION OF PROPERTY-M	MISDEMEANOR A
01201	517.110	MISAPPLICATION OF ENTRUSTED PROPERTY	MISDEMEANOR A
01300	514.110	RECEIVING STOLEN PROPERTY U/$300	MISDEMEANOR A
01402	512.030	CRIMINAL MISCHIEF-2ND DEGREE	MISDEMEANOR A
01403	512.040	CRIMINAL MISCHIEF-3RD DEGREE	MISDEMEANOR B
01404	525.110(1)	DESECRATION OF VENERATED OBJECTS-2ND DEGREE	MISDEMEANOR A
01405	512.050	CRIMINAL USE OF NOXIOUS SUBSTANCE	MISDEMEANOR B
01409	164.980	IMPERSONATION SAFETY/SECURITY OFC-PUBLIC INST HIGHER ED	MISDEMEANOR B
01410	164.377	UNLAWFUL DUPLICATION OF UNIVERSITY KEY	MISDEMEANOR A
01414	164.483	VIOL (POST SECOND EDUC INST) PROVISION (MICHAEL MINGER ACT)	MISDEMEANOR B
01501	527.020	CARRYING A CONCEALED DEADLY WEAPON	MISDEMEANOR A
01502	527.030	DEFACING A FIREARM	MISDEMEANOR A
01504	527.050	POSSESSION OF DEFACED FIREARM	MISDEMEANOR A
01600	529.020	PROSTITUTION	MISDEMEANOR B
01604	529.070	PERMITTING PROSTITUTION	MISDEMEANOR B
01605	529.080	LOITERING FOR PROSTITUTION PURPOSES-2ND > OFFENSE	MISDEMEANOR B
01713	531.020	DISTRIBUTION OF OBSCENE MATTER-1 UNIT OF MATERIAL	MISDEMEANOR B
01714	531.020	DISTRIBUTION OF OBSCENE MATTER >1 UNIT OF MATTER	MISDEMEANOR A
01716	531.050	ADVERTISING OBSCENE MATERIAL	MISDEMEANOR B
01717	531.060	PROMOTING SALE OF OBSCENITY-1ST OFFENSE	MISDEMEANOR B
01722	531.060	PROMOTING SALE OBSCENITY-2ND OFFENSE	MISDEMEANOR A
01905	224.99-010	DEPOSIT REFUSE/WASTE IN RECEPT W/O OWNER PERMISSION	MISDEMEANOR B
01906	224.99-010	DEPOSIT LITTER INTO RECEPTACLE & LET ELEMENTS CARRY IT AWAY	MISDEMEANOR B
01907	224.20-765	EMISSION CONTROL ACT (NO INSPECTION)	MISDEMEANOR A
01908	224.20-765	EMISSION CONTROL ACT (EXCESS FEE)	MISDEMEANOR A
01910	224.20-765	EMISSION CONTROL ACT (IMPROPER ISSUE)	MISDEMEANOR A
01930	528.070	PERMITTING GAMBLING	MISDEMEANOR B
01931	528.080	POSSESSION OF A GAMBLING DEVICE	MISDEMEANOR A
01938	528.110	HORSE RACING, MESSENGER BETS PROHIBITED	MISDEMEANOR A
01939	528.120	OFF-TRACK ACCEPTANCE OF MONEY FOR PARI-MUTUEL WAGERING	MISDEMEANOR A
01957	227.990(3)	KNOWINGLY/WILLFULLY VIOLATE KRS 227.550 TO 227.660	MISDEMEANOR A
01958	227.990(4)	VIOLATION OF KRS 227.702 TO 227.750	MISDEMEANOR A
02000	530.050	NON-SUPPORT	MISDEMEANOR A
02013	530.070	UNLAWFUL TRANSACTION W/MINOR-3RD DEGREE	MISDEMEANOR A
02030	209.990(1)	FAILURE TO REPORT ABUSE/NEGLECT/EXPLOIT OF ADULT	MISDEMEANOR B
02036	209.990(7)	KNOWINGLY/WANTON/RECKLESS EXPLOIT OF ADULT BY PERSON U/$300	MISDEMEANOR A
02040	205.8461	PROVID KNOW SOLICIT/REC/OFF REMUNERATION MED AST BNFTS<$300	MISDEMEANOR A
02043	205.8463	PRESENT FRAUD CLAIMS TO DEFRAUD KMAP <$300	MISDEMEANOR A
02070	216B.305	ADVERTISE/SOLICIT/OPERATE BOARDING HOME W/O REGISTRATION	MISDEMEANOR A
02071	216B.305	AID/ABET OPERATION OF BOARDING HOME W/O REGISTRATION	MISDEMEANOR A
02201	244.085(5)	USE OF FALSE ID TO PURCHASE ALCOHOL BY MINOR 2ND OR > OFF	MISDEMEANOR A
02202	242.230(2)	ILLEGAL POSSESSION OF ALCOHOL IN DRY TERRITORY - 1ST OFF	MISDEMEANOR B
02203	242.230(1)	ILLEGAL SALE/GIVE ALCOHOL, DRY TERRITORY-1ST OFFENSE	MISDEMEANOR B
02204	242.260	ILLEGAL TRANSPORT/DELIVERY ALC BEV, DRY TERRITORY-1ST OFF	MISDEMEANOR B
02205	244.080	SELLING ALCOHOLIC BEVERAGES TO MINORS-1ST OFFENSE	MISDEMEANOR B
02207	244.080	PERMIT ILLEGAL SALES OF ALCOHOLIC BEVERAGES ON PREMISES	MISDEMEANOR B
02208	244.290	SELLING ALCOHOLIC BEVERAGES ON SUNDAY-1ST OFF	MISDEMEANOR B
02214	244.290(1)	SELLING LIQUOR ON ELECTION DAY-1ST OFF	MISDEMEANOR B
02215	244.120(1)	RETAIL PREMISES WHO HAVE LIQ LIC NOT DISORDERLY-1ST OFFENSE	MISDEMEANOR B
02216	244.290(1)	TIME WHEN RETAIL PREMISE TO CLOSE-STOP SELL LIQUOR	MISDEMEANOR B
02218	244.040	CASH SALES ONLY OF ALCOHOL BEVERAGES TO PERSONS-1ST OFFENSE	MISDEMEANOR B
02219	244.050	TREATING PROHIBITED BY RETAIL LIC NO GIVE AWAY ALC-1ST OFF	MISDEMEANOR B
02220	244.060(1)	LICENSEE TO PURCHASE ALC BEV FROM AUTHORIZED PERON-1ST OFF	MISDEMEANOR B
02221	244.060(2)	LICENSEE TO SELL ALC BEV TO AUTHORIZED PERSONS-1ST OFFENSE	MISDEMEANOR B
02222	244.070	SALE ALC BEV TO PERSON NOT PROVIDING FOR FAMILY-1ST OFFENSE	MISDEMEANOR B
02223	244.090(1)(b)	LIQ LIC NOT EMP PERSON CONVICTED ALC OFF W/2 YRS-1ST OFF	MISDEMEANOR B
02224	244.090(1)(c)	LIQ LIC NOT TO EMPLOY PERSON U/20 YRS OF AGE-1ST OFFENSE	MISDEMEANOR B
02226	244.090(1)(d)	LIQ LIC NOT TO EMPLOY PRIOR REVOKE LICENSEE W/2 YRS-1ST OFF	MISDEMEANOR B
02227	244.110	RETAIL LIQ PREMISE TO FURNISH CLEAR VIEW FROM ENTRY-1ST OFF	MISDEMEANOR B
02229	244.150	LIQ LICENSEE TO KEEP RECORDS-1ST OFFENSE	MISDEMEANOR B
02230	244.170	APPARATUS FOR UNLAWFUL MANUFACTURE ALC BEV-1ST OFFENSE	MISDEMEANOR A
02235	244.300	RETAILER, EXCEPT HOTEL/CLUB, NO CREDIT FOR ALC BEV-1ST OFF	MISDEMEANOR B
02236	244.330	ONE BAR ALLOWED FOR EACH LICENSE, SERVICE BARS-1ST OFFENSE	MISDEMEANOR B
02239	244.340(3)	PACKAGE LIQ RETAILER, NO CONTAINER OPEN/DRANK-1ST OFFENSE	MISDEMEANOR B
02241	244.360	PACKAGE LIQ RETAILER NAME & LICENSE # ON WINDOW-1ST OFFENSE	MISDEMEANOR B
02250	244.040	CASH SALES ONLY OF ALCOHOL BEV TO PERSONS-2ND OR >OFF	MISDEMEANOR A
02251	244.050	TREAT PROHIBIT BY RETAIL LIC, NO GIVE AWAY ALC-2ND OR > OFF	MISDEMEANOR A
02252	244.060(1)	LICENSEE PURCHASE ALC BEV FROM AUTHORIZED PERS-2ND OR > OFF	MISDEMEANOR A
02253	244.060(2)	LICENSEE TO SELL ALC BEV TO AUTHORIZED PERSON-2ND OR > OFF	MISDEMEANOR A
02254	244.070	SALE ALC BEV TO PERSN NOT PROVIDING FOR FAMILY-2ND OR > OFF	MISDEMEANOR A
02258	244.160	PRESENCE OF ALC BEV RAISES PRESUMPTION OF INTENT TO SELL	MISDEMEANOR B
02259	244.125	PROH POSS LOADED GUN IN RM WHERE ALC BEV SOLD-1ST	MISDEMEANOR A
02264	244.090(1)(b)	LIQ LIC NOT EMPLOY PERS CONV ALC OFF W/2 YRS-2ND OR > OFF	MISDEMEANOR A
02265	244.090(1)(c)	LIQ LICENSEE NOT TO EMPLOY PERSON U/20 YRS OLD-2ND OR > OFF	MISDEMEANOR A
02267	244.090(1)(d)	LIQ LIC NOT EMPLY PRIOR REVOKE LICENSEE W/2 YR-2ND OR > OFF	MISDEMEANOR A
02269	244.120(1)	RETAIL PREMISE WHO HAVE LIQ LIC NOT DISORDERLY-2ND OR > OFF	MISDEMEANOR A
02271	244.150	LIQ LICENSEE TO KEEP RECORDS-2ND OR > OFFENSE	MISDEMEANOR A
02274	244.290	SELLING ALCOHOLIC BEVERAGES ON SUNDAY 2ND OR > OFFENSE	MISDEMEANOR A
02275	244.290(1)	SELLING LIQUOR ON ELECTION DAY-2ND OR > OFFENSE	MISDEMEANOR A
02277	244.300	RETAILER EXCEPT HOTEL/CLUB NO CREDIT FOR ALC BEV-2ND OR >	MISDEMEANOR A
02278	244.330	ONE BAR ALLOWED FOR EACH LICENSE, SERVICE BAR-2ND OR > OFF	MISDEMEANOR A
02281	244.340(3)	PACKAGE LIQ RETAILER, NO CONTAINER OPEN/DRANK-2ND OR > OFF	MISDEMEANOR A
02283	244.360	PACKAGE LIQ RETAILER NAME & LICENSE # ON WINDOW-2ND OR >	MISDEMEANOR A
02290	244.087	18 YR OLD STOCK/ARRANGE/SELL ALCOHOL W/O SUPV 1ST OFF	MISDEMEANOR B
02291	244.087	18 YR OLD STOCK/ARRANGE/SELL ALCOHL W/O SUPV 2ND OR > OFF	MISDEMEANOR A
02292	244.090(1)(a)	LIQ LICENSE NOT EMPLOY PERS CONVICT FEL W/I 2 YRS 1ST OFF	MISDEMEANOR B
02293	244.090(1)(a)	LIQ LIC NOT EMPLOY PERSON CONVICT FEL W/I 2 YRS 2ND OR >OFF	MISDEMEANOR A
02370	525.055	DISORDERLY CONDUCT, 1ST DEGREE	MISDEMEANOR A
02371	525.060	DISORDERLY CONDUCT, 2ND DEGREE	MISDEMEANOR B
02380	525.145	DISRUPTING MEETINGS AND PROCESSIONS, 1ST DEGREE	MISDEMEANOR A
02381	525.150	DISRUPTING MEETINGS AND PROCESSIONS, 2ND DEGREE	MISDEMEANOR B
02390	525.155	INTERFERENCE WITH A FUNERAL	MISDEMEANOR B
02401	525.050	UNLAWFUL ASSEMBLY	MISDEMEANOR B
02402	525.080	HARASSING COMMUNICATIONS	MISDEMEANOR B
02403	525.150	DISRUPTING MEETINGS	MISDEMEANOR B
02406	525.140	OBSTRUCTING A HIGHWAY	MISDEMEANOR B
02560	67.790(5)	BUS/EMPL FAIL RETURN/FALSE RETURN/PAY TAX INTENT EVADE TAX	MISDEMEANOR A
02561	67.790(6)	AID/ASSIST BUS/EMP FAIL RET/FALSE RET/PAY TAX INT EVADE TAX	MISDEMEANOR A
02562	67.790	INTENTIONAL INSPECT OF CONF TAXPAYER INFO W/O AUTHORIZATION	MISDEMEANOR A
02563	67.790	DIVULGING CONFIDENTIAL TAXPAYER INFORMATION	MISDEMEANOR B
02593	438.060(1)	CONTAIMINATING WATER COURSE	MISDEMEANOR A
02612	518.020	BRIBERY-COMMERCIAL	MISDEMEANOR A
02614	519.030	COMPOUNDING A CRIME	MISDEMEANOR A
02616	511.060	CRIMINAL TRESPASS-1ST DEGREE	MISDEMEANOR A
02621	512.070	CRIMINAL LITTERING	MISDEMEANOR A
02622	512.060	CRIMINAL POSSESSION OF NOXIOUS SUBSTANCE	MISDEMEANOR B
02624	511.070	CRIMINAL TRESPASS-2ND DEGREE	MISDEMEANOR B
02628	189A.090(2)(a)	DRIVING ON DUI SUSPENDED LICENSE – 1ST OFFENSE	MISDEMEANOR B
02630	523.030	PERJURY-2ND DEGREE	MISDEMEANOR A
02631	530.080	ENDANGERING WELFARE OF INCOMPETENT PERSON	MISDEMEANOR A
02637	525.160	FAILURE TO DISPERSE	MISDEMEANOR B
02638	438.180	FALSE REPRESENTATION OF EMERGENCY-USE OF PARTY LINE	MISDEMEANOR B
02639	523.040	FALSE SWEARING	MISDEMEANOR B
02640	519.040	FALSELY REPORTING AN INCIDENT	MISDEMEANOR A
02644	520.130	HINDERING PROSECUTION OR APPREHENSION-2ND DEGREE	MISDEMEANOR A
02646	519.050	IMPERSONATING A PUBLIC SERVANT	MISDEMEANOR A
02649	234.190	USE/WORK LIQ PETROLEUM CONTAINER W/O OWNER CONSENT-1ST OFF	MISDEMEANOR B
02650	438.210	INTERFERING WITH COMMUNICATIONS	MISDEMEANOR A
02657	519.020	OBSTRUCTING GOVERNMENTAL OPERATIONS	MISDEMEANOR A
02658	522.020	OFFICIAL MISCONDUCT-1ST DEGREE	MISDEMEANOR A
02660	534.060	NON-PAYMENT OF FINES	MISDEMEANOR A
02663	526.040	POSSESSION OF EAVESDROPPING DEVICE	MISDEMEANOR A
02664	432.570	POSS/USE OF RADIO THAT SENDS/RECEIVES POLICE MESSAGES	MISDEMEANOR A
02666	520.060	PROMOTING CONTRABAND-2ND DEGREE	MISDEMEANOR A
02667	518.030	RECEIVING COMMERCIAL BRIBE	MISDEMEANOR A
02669	521.040	RECEIVING UNLAWFUL COMPENSATON	MISDEMEANOR A
02670	438.170	REFUSAL TO YIELD PARTY LINE IN EMERGENCY	MISDEMEANOR B
02673	524.110	SIMULATING LEGAL PROCESS	MISDEMEANOR B
02674	521.030	SOLICITING UNLAWFUL COMPENSATION	MISDEMEANOR B
02679	518.060	TAMPERING WITH/RIGGING SPORTS CONTESTS	MISDEMEANOR A
02681	526.050	TAMPERING WITH PRIVATE COMMUNICATIONS	MISDEMEANOR A
02685	227.710	SALE OR USE OF FIRE WORKS EXCEPT FOR PUB DISPLAY	MISDEMEANOR B
02686	227.720	PUBLIC DISPLAY OF FIREWORKS W/OUT PERMIT	MISDEMEANOR B
02687	523.100	UNSWORN FALSIFICATION TO AUTHORITIES	MISDEMEANOR B
02694	431.510	ACTING AS A BAILS BONDSMAN, 1ST OFFENSE	MISDEMEANOR A
02695	523.110(1)	GIVING OFFICER FALSE NAME OR ADDRESS	MISDEMEANOR B
02696	522.030	OFFICIAL MISCONDUCT - 2ND DEGREE	MISDEMEANOR B
02697	438.240	ABANDONMENT OF REFRIGERATOR W/DOOR ATTACHED	MISDEMEANOR B
02698	438.240	PERMITTING ABANDONMENT OF A REFRIG W/DOOR ATTACHED	MISDEMEANOR B
02699	432.590	DIVERSION OF STATE/FED DONATED FOOD COMMODITIES	MISDEMEANOR A
02705	189.393	DISREGARDING SIGNALS FROM OFFICERS DIRECTING TRAFFIC	MISDEMEANOR B
02710	433.873(1)(a)	DEFACING A CAVE	MISDEMEANOR A
02711	433.873(1)(b)	BREAK/FORCE/TAMPER W/LOCK/GATE TO ENTRANCE TO CAVE	MISDEMEANOR A
02712	433.873(1)(c)	UNLAWFUL OBSTRUCTION OF ENTRY TO CAVE	MISDEMEANOR A
02713	433.873(1)(d)	DEFACE/TAMPER/REMOVE SIGN STATING KRS CAVE PROVISI	MISDEMEANOR A
02714	433.873(1)(e)	DEFACE/DISTURB HISTORIC BURIAL GROUNDS	MISDEMEANOR A
02715	433.875	UNLAWFUL DUMPING IN CAVE	MISDEMEANOR A
02716	433.877	UNLAWFUL REMOVAL OF CAVE ORGANISMS	MISDEMEANOR A
02717	433.881	UNLAWFUL SALE OF SPELEOTHEMS	MISDEMEANOR B
02718	433.879(1)	UNAUTHORIZED EXCAVATION OF A CAVE	MISDEMEANOR A
02719	433.879(3)	IMPROPERLY OBTAINING A CAVE EXCAVATION PERMIT	MISDEMEANOR B
02740	227A.020	FALSE REPRESENTATION/AID AS LICENSED ELECTRICAL CONTRACTOR	MISDEMEANOR A
02805	620.030	FAILURE TO RPT CHILD DEPEND NEGLECT OR ABUSE	MISDEMEANOR B
02806	615.040(4)	NO PERSON/INST SEND CHILD INTO KY FOR ADOPT WO/BON	MISDEMEANOR B
02816	620.050	KNOWINGLY REPORTING CHILD ABUSE FALSELY	MISDEMEANOR B
03940	258.500(11)	DENIAL OF EMERGENCY MEDICAL TREATMENT TO ASSISTANCE DOG	MISDEMEANOR B
03981	246.420	TAMPER/SABOTAGE LIVESTOCK, 2ND OR > OFF	MISDEMEANOR B
03993	260.990	VIOLATION OF WITHDRAW FROM SALE ORD RE SHELL EGG/EGG PROD	MISDEMEANOR B
04000	253.080	BRANDS RESERVED TO STATE, LIVESTOCK, UNLAWFUL USE	MISDEMEANOR A
04004	257.050	VIOL OF QUARANTINE/CONCEALING DISEASED ANIMALS-2ND OR > OFF	MISDEMEANOR B
04006	257.060	IMPORTATION OF DISEASED ANIMALS-2ND OR > OFFENSE	MISDEMEANOR B
04013	257.330	PERMIT REQ FOR AUCTION/COMMUNITY SALE OF CHICKS/POULTRY	MISDEMEANOR A
04014	257.340	LABELING OF CONTAINERS FOR CHICKS OR POULTS	MISDEMEANOR A

04015	257.350	REPORTS OF SALE OF CHICKS/POULTS WITHIN 3 DAYS	MISDEMEANOR A
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04018	257.390	IMPORTATION POULTRY 0/ 5 MOS OF AGE (PULLORUM CONTROL)	MISDEMEANOR A
04019	257.400	NEW HATCHED POULTRY/HATCHING EGGS FROM APPROVED FLOCKS	MISDEMEANOR A
04020	257.410	IMPORTATION OF NEW HATCHED POULTRY/HATCHING EGGS-LABELS	MISDEMEANOR A
04021	257.420	PERMITS FOR HATCHERIES/DEALERS IN CHICKS/EGGS	MISDEMEANOR A
04022	257.490	FAIL TO OBEY LAWFUL ORDER OF STATE VET OR DESIGNEE	MISDEMEANOR B
04029	258.135	DOGS TO BE LICENSED	MISDEMEANOR B
04030	258.145	LICENSES AND TAGS-TAG TO BE AFFIXED TO COLLAR	MISDEMEANOR B
04031	258.165	KENNEL LICENSES AND TAGS	MISDEMEANOR B
04032	258.175	DOGS TO BE KEPT IN KENNEL	MISDEMEANOR B
04033	258.185	RECORDS OF DOGS AND KENNEL LICENSES	MISDEMEANOR B
04034	258.195	EMPLOYMENT OF DOG WARDENS	MISDEMEANOR B
04036	258.245	LICENSED DOGS AS PERSONAL PROPERTY-DESTRUCT PROHIBITED	MISDEMEANOR B
04037	258.255	CONFINEMENT AND CONTROL OF FEMALE DOG WHEN IN HEAT	MISDEMEANOR B
04038	258.265	CONFINEMENT AND CONTROL OF DOGS AT NIGHT	MISDEMEANOR B
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04048	261.320	SELECTION OF VETERINARIAN FOR A STOCKYARD	MISDEMEANOR B
04065	246.240	DAIRY PRODUCTS, COLLECT & PUBLISH INFO, FAIL TO COMPLY	MISDEMEANOR B
04066	246.510	LICENSE REQUIRED FOR SPRAY PAINTERS	MISDEMEANOR A
04070	261.240	MONTHLY STOCKYARD REPORT LIVESTOCK RECEIVED/SOLD	MISDEMEANOR B
04081	257.030	POWERS OF BOARD, VIOL OF REG, NO PENALTY PROVIDED-2ND OR >	MISDEMEANOR B
04100	330.035	AUCTIONEERS LICENSE REQUIRED	MISDEMEANOR B
04101	330.100	AUCTIONEERS PLACE OF BUSINESS/SIGN TO BE ERECTED	MISDEMEANOR B
04121	257.070	ANIMALS TO BE IMPORTED ACCORDING TO REGULATIONS, 2ND OR >	MISDEMEANOR B
04141	246.210(2)	ACCESS OF AGRICULTURE DEPT & AGENTS TO PREMISES, 2ND OR >	MISDEMEANOR A
04201	17.175 (7)	UNAUTHORIZED USE OF DNA DATABASE	MISDEMEANOR A
04798	217.125(3)	FAILURE TO OBTAIN RETAIL FOOD LICENSE FROM CABINET	MISDEMEANOR B
04799	217.125(2)	OPERATING RESTAURANT W/OUT PERMIT	MISDEMEANOR B
05098	177.910	UNAUTHORIZED RECYCLES	MISDEMEANOR A
05099	177.915	IMPROPER SCREENING OF RECYCLING ESTABLISHMENTS	MISDEMEANOR A
05137	186.070	IMPROPER USE OF DEALERS PLATES	MISDEMEANOR A
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05139	186.412(9)	NO PERSON SHALL HAVE MORE THAN ONE OPERATORS LICENSE	MISDEMEANOR B
05140	186.412(5)	90 DAY TEMPORARY OPERATOR'S LICENSE	MISDEMEANOR B
05222	189.231(3)	DISREGARD TRAFFIC REGULATION-2 OR > OFFENSE	MISDEMEANOR B
05712	177.230	REMAIN IN REST AREA > 4 HOUS	MISDEMEANOR A
05724	177.230	STOPPING/STANDING/PARKING ON LTD ACCESS HIGHWAY	MISDEMEANOR A
07100	437.420(1)	ACQUIRING CONTROL OVER ANIMAL W/O CONSENT	MISDEMEANOR A
07101	437.420(1)	ACQUIRING CONTROL OVER ANIMAL FACILITY W/O CONSENT	MISDEMEANOR A
07102	437.420(2)	DAMAGE TO ANIMAL FACILITY	MISDEMEANOR A
07103	437.420(2)	DAMAGE TO ANIMAL FACILITY PROPERTY	MISDEMEANOR A
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07105	437.420(3)	CONCEALING ONESELF IN ANIMAL FACILITY	MISDEMEANOR A
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07401	351.330(16)	USE OF EXPLOSIVES WHEN SAFETY OF PEOPLE/PROPERTY THREATENED	MISDEMEANOR B
07403	351.990	WORKING IN/AT MINE W/O CERTIFICATE ISSUED UNDER KRS 351	MISDEMEANOR A
07404	351.990	EMPLOYING PERSON IN/AT MINE W/O CERTIFICATE UNDER KRS 351	MISDEMEANOR A
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07430	236.990(1)	OPERATING A PRESSURE VESSEL W/O CERT OF INSPECTION	MISDEMEANOR B
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07500	353.520(2)	WASTING OF OIL AND GAS	MISDEMEANOR A
07501	353.520(3)	PRODUCTION OF OIL OR GAS W/OUT PERMIT	MISDEMEANOR A
07502	353.550	FAILURE OIL OR GAS OPERATION TO PROD LEASES,ETC	MISDEMEANOR A
07503	353.590	FAILURE TO POST BOND FOR PERMIT	MISDEMEANOR A
08930	150.305	POSS WILD GAME/RAW FUR (NOT SEASON) INSP COM FROZ FOOD	MISDEMEANOR A
08972	150.092	ENTRY ON LAND TO SHOOT/HUNT/FISH/TRAP W/O CONSENT, 3RD OR >	MISDEMEANOR A
08973	150.092(4)	ENTRY ON LAND CAUSING DAMAGE WHILE HUNT/FISH, ETC.	MISDEMEANOR A
08999	150.362	HUNTING U/INFLUENCE OF ALCOHOL OR OTHER CONT. SUB	MISDEMEANOR A
09004	150.290	SALE OF ANIMALS BY BREEDERS	MISDEMEANOR A
09008	150.370	OPEN SEASON FOR WILDLIFE-POSS OF ANML/RAW FUR-OUT OF SEASON	MISDEMEANOR A
09016	150.660	ESTABLISH PAY LAKES-COMMIS.AUTH. OF LIC.PERMITS	MISDEMEANOR A
09036	150.183	IMPORT/TRANSPORT/POSSESSION OF ENDANGERED SPECIES	MISDEMEANOR A
09038	150.235(3)	NON RES HUNTING/FISHING/TRAPPING W/O LICENSE/PERMIT/STAMP	MISDEMEANOR A
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09055	150.360(2)	HUNTING WITH IMPROPER SHOTGUN-SIZE/PLUGGED/ETC	MISDEMEANOR A
09056	150.360(5)	HUNTING WITH LIGHTS/OTHER ILLEGAL MEANS AT NIGHT	MISDEMEANOR A
09059	150.390	DOGS CHASING/MOLESTING DEER	MISDEMEANOR A
09061	150.360(4)	DISCHARGE FIREARM/OTHER DEVICE UPON/ACROSS A PUBLIC ROAD	MISDEMEANOR A
09062	150.390	ILLEGAL TAKING/PURSUING/MOLESTING ANY DEER/WILDTURKEY/BEAR	MISDEMEANOR A
09073	150.485	LIVE BAIT DEALERS W/O LICENSE	MISDEMEANOR A
09077	150.630	VIOLATION OF LAW PERTAINING TO SHOOTING/HUNTING PRESERVE	MISDEMEANOR A
09090	150.360(1)	ILLEGAL TAKING OF WILDLIFE	MISDEMEANOR A
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09093	150.235(2)	PERMIT SOMEONE ELSE TO USE LICENSE OF ANOTHER	MISDEMEANOR A
09094	150.235(4)	POSSESSING LICENSE WHEN PRIVILEGES ARE REVOKED/SUSPENDED	MISDEMEANOR A
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09605	149.370(1)	FIRE HAZARDS-DISPOSING OF FLAMING OR GLOWING SUBSTANCE	MISDEMEANOR A
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09625	149.385(3)	RAILROADS TO MAINTAIN RIGHT OF WAY	MISDEMEANOR A
09626	149.390	FIRES TO CAPTURE/DESTROY GAME PROHIBITED	MISDEMEANOR A
09627	149.395	OPERATE WASTE MANAGEMENT FACILITIES/OPEN DUMP REGULATED	MISDEMEANOR A
09628	149.400	FIRE HAZARD SEASONS-BURNING BEFORE 4:30 PM LOCAL TIME	MISDEMEANOR A
09629	149.405	ENTRY IN FOREST LAND DURING DROUGHT/EMERGENCY PROCEDURES	MISDEMEANOR A
09630	149.401	LOCAL BURNING BAN	MISDEMEANOR A
09631	149.370(3)	FIRE HAZARDS - SETTING BACKFIRE W/O DIRECT SUPERVISION	MISDEMEANOR A
09632	149.370(4)	FIRE HAZARDS - DEFACING/DESTROY SIGNS OF NAT RESOURCE CAB	MISDEMEANOR A
09633	149.370(5)	FIRE HAZARDS - USING WELDING TORCH/DEVICE W/O PRECAUTIONS	MISDEMEANOR A
09635	149.370(7)	FIRE HAZARDS - POSSESSION OF INCENDIARY/TRACER BULLETS	MISDEMEANOR A
09636	149.370(8)	FIRE HAZARDS - ALL OTHER	MISDEMEANOR A
09650	277.355	KNOW DROP/THROW OBJ AT/ON/IN PATH OF RR VEH ON TRACKS	MISDEMEANOR A
09654	277.355	UNAUTHORIZED CLIMBING ON/IN RR VEH ON TRACK	MISDEMEANOR A
09658	277.355	UNAUT DISRUPT/DELAY/PREVENT OP OF RR VEH ON TRACK	MISDEMEANOR A
09662	277.355	KNOW DEF/DAM/OBST/REM/IMPR OP OF RR GRAD CSG SIG/DEV	MISDEMEANOR A
12986	506.140	CRIMINAL GANG RECRUITMENT - 1ST OFFENSE	MISDEMEANOR A
15000	161.164(1)	POLITICAL ACTIVIES PROHIBITED, EMPLOYEE	MISDEMEANOR A
15001	161.164(2)	POLITICAL ACTIVIES PROHIBITED, SCHOOL BOARD	MISDEMEANOR A
15002	161.164(3)	POLITICAL ACTIVIES PROHIBITED, INFLUENCE	MISDEMEANOR A
15003	161.164(4)	POLITICAL ACTIVIES PROHIBITED, DISCRIMINATION	MISDEMEANOR A
15006	161.661	DISABILITY RETIREMENT, TEACHERS	MISDEMEANOR A
15007	161.690	FALSIFYING RECORDS PROHIBITED, TEACHER RETIREMENT SYSTEM	MISDEMEANOR A
16000	158.035	PROPER IMMUNIZATION PAPER NOT PROVIDED	MISDEMEANOR B
16001	158.990	FAILURE TO REPORT CRIMES ON SCHOOL PROPERTY	MISDEMEANOR A
16052	159.010	PARENT OR CUSTODIAN TO SEND CHILD TO SCHOOL, 3RD OR > OFF	MISDEMEANOR B
16059	159.990	INTENTIONAL BREACH COMPULSORY ATTEND-PARNT/CUST GUARD 3RD>	MISDEMEANOR B
16061	159.990	INTENTIONAL BREACH COMPULSORY ATTEND - OTHER	MISDEMEANOR B
16062	159.270	FALSE REPORT OF SCHOOL CENSUS	MISDEMEANOR B
20200	250.561	COMMERCIAL FEED INSPECTION FEE	MISDEMEANOR A
20240	251.180(2)	FASTENINGS-TAMPERING WITH PROHIBITED	MISDEMEANOR A
20241	251.220	ISSUANCE OF FRAUDULENT RECEIPT	MISDEMEANOR A
20242	251.290	DELIVERY OF GRAIN WHEN RECEIPT OUTSTANDING	MISDEMEANOR A
20243	251.300	OWNER NOT TO SELL/ENCUMBRER GRAIN, AFTER RECEIPT ISSUED	MISDEMEANOR A
20246	251.470	POSTING OF LICENSE-2ND OR > OFFENSE	MISDEMEANOR A
20248	251.480	LICENSEE'S RECORDS-2ND OR > OFFENSE	MISDEMEANOR A
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21209	434.660	FRAUD BY AUTHORIZE PERSON/BUSINESS/FINANCIAL INST U/$100	MISDEMEANOR A
21231	40.991(1)	COLLECT FEE FOR ASSISTING VET PAYMENT	MISDEMEANOR B
21235	64.050(1)	FAILURE OF COUNTY CLERK TO MAKE REPORT/PAY MONEY	MISDEMEANOR B
21241	131.622	SALE/DIST/POSS/IMPORT CIGARETTES STAMPED IN VIOL OF 131.612	MISDEMEANOR A
21282	341.990(5)	MAKE FALSE STATEMENT TO OBTAIN INCREASE OF BENEFITS U/$100	MISDEMEANOR A
21283	341.990(6)	MAKE FALSE STATEMENT TO PREVENT REDUCTION OF BENEFIT U/$100	MISDEMEANOR A
21284	341.370(2)	DISQUALIFICATIONS-FALSE STATEMENT-RECEIVE BENEFITS	MISDEMEANOR A
21290	434.670	FAILURE TO FURNISH GOOD, ETC U/$100 WITHIN 6 MO PERIOD	MISDEMEANOR A
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21293	138.146	EVIDNCE CIG TAX PAY, SPEC PENALTY NOT PROVIDED-2ND OR > OFF	MISDEMEANOR A
21295	138.195	LIC REQ CIG DEALRS, SPEC PENALTY NOT PROVIDED-2ND OR > OFF	MISDEMEANOR A
21297	138.195(8)	LIC REQ CIG DEALRS, FAIL TO SUPPLY INFO-2ND OR > OFFENSE	MISDEMEANOR A
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21301	234.430(2)	FAIL MAKE FUEL STATEMENT-1ST OFFENSE	MISDEMEANOR A
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21309	234.430(6)	VIOLATE ANY OTHER PROVISION KRS 234.310-440-1ST OFFENSE	MISDEMEANOR A
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26001	231.100	CO JUDGE TO FIX HOURS OF OPERATION-PLACES OF ENTERTAINMENT	MISDEMEANOR B
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59982	311.990(6)	WILLFUL OBSTRUCTION OF MEDICAL LIENSURE BOARD/CHS	MISDEMEANOR A
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60343	311.810	FRAUDULENTLY PRACTICING PODIATRY	MISDEMEANOR A
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60360	367.46955	PROHIBITED TELEPHONE SOLICIT ACTS & PRACTICES 1ST OFFENSE	MISDEMEANOR B
60361	367.46955	PROHIBITED TELEPHONE SOLICIT ACTS & PRACTICES 2ND OR > OFF	MISDEMEANOR A
60365	367.990(24)	USE ZERO CALL LIST FOR PUR/OTH PROVIS 367.46951/367.46999	MISDEMEANOR A
60370	309.3535	PRACTICING MASSAGE THERAPY W/O LICENSE	MISDEMEANOR B
60381	313.040	FALSE APPLICATION FOR DENTIST LIENSE, 2ND OR > OFF	MISDEMEANOR A
60390	323.990	FALSIFYING APPLICATION FOR CERTIFICATE/RENEWAL AS ARCHITECT	MISDEMEANOR A
60391	323.990	PRACTICING ARCHITECTURE W/O LICENSE	MISDEMEANOR A
60395	311.676	IMPROPER USE OF ACUPUNCTURE CERTIFICATION	MISDEMEANOR A
60418	121.065	SELLING POLITICAL ADV AT HIGHER RATE THAN OTHER AD	MISDEMEANOR A
60520	11A.990(3)	MALICIOUS FILING A FALSE CHARGE OF MISCONDUCT	MISDEMEANOR A
60705	6.686(6)	FILING FALSE COMPLAINT OF LEGISLATOR MISCONDUCT	MISDEMEANOR A
60711	6.731(1)	LEGISLATOR USE OF INFLUENCE-CONFLICT PERSONAL VS PUBLIC	MISDEMEANOR A
60713	6.731(3)	LEGISLATOR USING POSITION TO GAIN PRIVILEGES	MISDEMEANOR A
60714	6.731(4)	LEGISLATOR USE PUBLIC FUNDS-PRIVATE GAIN	MISDEMEANOR A
60715	6.731(5)	LEGISLATOR USE PUBLIC FUNDS-POLITICAL CAMPAIGN ACTIVITY	MISDEMEANOR A
60735	6.751(1)	LEGISLATOR ACCEPT MONEY LEGISLATIVE DUTIES-EXCEPT BY LAW	MISDEMEANOR A
60736	6.751(2)	LEGISLATOR ACCEPT ANYTHING OF VALUE FROM LEG AGENT	MISDEMEANOR B
60745	6.797(2)(b)	INTENTIONALLY FILE FALSE FINANCIAL INFO W/ETHICS COMMISSION	MISDEMEANOR A
60882	316.990	AID W/O LICENSE/IMPERSONATING FUNERAL DIRECTOR	MISDEMEANOR A
60980	317B.015	VIOLATION OF PROVISIONS RELATING TO ESTETICIANS	MISDEMEANOR A
61000	318.030	PLUMBING LICENSE REQUIRED	MISDEMEANOR B
61001	318.100	ADVERTISING AS A PLUMBER BY NON-LICENSEE	MISDEMEANOR B
61002	318.110	COMPANY HAVING LICENSED PLUMBER TO ENGAGE IN PLUMBING	MISDEMEANOR B
61003	318.120	EMPLOYMENT OF UNLICENSED PLUMBER	MISDEMEANOR B
61004	318.130	KY STATE PLUMBING CODE-RULES AND REGULATIONS	MISDEMEANOR B
61005	318.134	INSTALLATION PERMITS	MISDEMEANOR B
61006	318.160	INSTALLATION PLANS AND SPECIFICATIONS	MISDEMEANOR B
61007	318.165	REQUISITES FOR PROVIDING PERMANENT WATER SUPPLY	MISDEMEANOR B
61008	318.200	WATER HEATING DEVICES-SERIAL NUMBERS	MISDEMEANOR B
70206	238.995(1)	CONDUCTING CHARITABLE GAMING W/O REQUIRED LICENSE	MISDEMEANOR A
70208	238.995(2)	MAK FALSE STMTS IN APP/RECORDS OF CHARITABLE GAMING	MISDEMEANOR A
70210	238.995(3)	ENGAGE CONDUCT TO CORRUPT OUTCOME CHARITABE GAME < $300	MISDEMEANOR A
70212	238.995(4)	DIVERT CHARITABLE GAMING FUNDS FOR FINANCIAL BENEFIT < $300	MISDEMEANOR A
70214	238.995(2)	FALSIFYING BUSINESS RECORDS OF CHARITABLE ORGANIZATION	MISDEMEANOR A
70250	368.020	LICENSE REQ-BUSINESS OF CASHING CHECKS	MISDEMEANOR A
70251	368.080(2)	POSTING OF LICENSE-BUSINESS OF CASHING CHECKS	MISDEMEANOR A
70260	380.000	VIOLATION OF DEBT ADJUSTMENTS ACT	MISDEMEANOR B
71262	434.655	FRAUD USE CRED CARD AFTER REPORT LOST/STOLEN U/$300 W/6MO	MISDEMEANOR A
71263	434.580	THEFT-RECEIPT OF STOLEN CREDIT/DEBIT CARD-1 CARD	MISDEMEANOR A
71264	434.580	THEFT-RECEIPT OF STOLEN CREDIT/DEBIT CARD-2 OR MORE CARDS	MISDEMEANOR A
71265	434.590	RECEIPT OF CREDIT CARD LOST/ETC W/INTENT TO USE/TRANSFER	MISDEMEANOR A
71266	434.610	CONTROL OVER CREDIT CARD AS SECURITY FOR DEBT	MISDEMEANOR A
71267	434.650	FRAUDULENT USE OF CREDIT CARDS U/$100 W/6 MO PERIOD	MISDEMEANOR A
71268	434.640	UNAUTHORIZED SIGNATURE ON A CREDIT CARD	MISDEMEANOR A
73301	421.080	EVADING PROCESS PROHIBITED	MISDEMEANOR A
73303	431.585	UNLAWFUL DISCLOSURE OF INFORMATION-CRIME STOPPERS	MISDEMEANOR A

BAIL SCHEDULE FOR MISDEMEANORS BY KENTUCKY REVISED STATUTE (KRS) (VERSION B)

KRS	UOR	SUMMARY DESCRIPTION	
117.085	60081	SPECIAL BALLOTS-OFFICER FAILING TO FURNISH	MISDEMEANOR A
117.0863	60111	PREPARED INACCURATE VOTER ASSIST FORM - 1ST OFFENSE	MISDEMEANOR A
117.235(1)	60089	PERSONS PERMITTED IN VOTING ROOM-PROHIBITED ACTIVITIES	MISDEMEANOR A
117.235(3)	60075	NO PERSON DO ELECTIONEERING W/I 300 FEET OF POLLING PLACE	MISDEMEANOR A
117.235(4)	60093	VOTER NOT TALK W/OTHERS ABOUT CANDIDATE/ISSUE-VOTING PLACE	MISDEMEANOR A
117.255	60051	INSTRUCT/ASSIST/CERTIFICATION VOTER ASSIST, 1ST OFFENSE	MISDEMEANOR A
117.995(4)	60071	ELECTION OFFICER WHO VIOLATES AN ELECTION LAW 1ST	MISDEMEANOR A
119.045	59801	INTERFERING W/REGISTRATION	MISDEMEANOR A
119.056	59802	ALTERATION/MUTILATION/SUPPRESSION OF NOMINATION PAPERS	MISDEMEANOR A
119.155(2)	59803	PREVENTING VOTER FROM CASTING BALLOT-INTERFER W/ELECTION	MISDEMEANOR A
119.165(2)	59804	KNOWINGLY VOTING IN WRONG PRECINCT	MISDEMEANOR A
119.195(2)	60247	VOTER KNOWINGLY ATTEMPT TO LEAVE ELECTION ROOM W/BALLOT	MISDEMEANOR A
119.205(3)	60105	PERSON MAKE/SOLICIT/ACCEPT/RECEIVE PYMT-PUBLIC QUEST BALLOT	MISDEMEANOR B
119.205(5)	59810	FAIL TO REPORT/MAKE PAYMENT BY CHECK FOR TRANSPORT OF VOTER	MISDEMEANOR B
119.207	59811	PROVIDE COMPENSATION RELATIVE TO REGISTRATION OF VOTERS	MISDEMEANOR B
119.225	59805	DENIAL RIGHTS INSPECTORS BY COUNTY BD OF ELECTIONS	MISDEMEANOR A
119.245	59806	VIOLATE LAW/FAIL TO PERFORM DUTY BY BD OF ELECTION MEMBER	MISDEMEANOR B
119.265	59808	VIOLATE ELECTION DUTES BY PUBLIC OFFICER	MISDEMEANOR B
119.325	59809	GRAND JURY SUMMONS REFUSE/PRODUCE EVID OF CORRUPT PRACTICES	MISDEMEANOR A
11A.990(3)	60520	MALICIOUS FILING A FALSE CHARGE OF MISCONDUCT	MISDEMEANOR A
121.065	60418	SELLING POLITICAL ADV AT HIGHER RATE THAN OTHER AD	MISDEMEANOR A
131.190	60145	VIOL CONFIDENTIALITY OF TAX RETURNS	MISDEMEANOR A
131.622	21241	SALE/DIST/POSS/IMPORT CIGARETTES STAMPED IN VIOL OF 131.612	MISDEMEANOR A
131.990(2)	60263	DIVULGING CONFIDENTIAL TAXPAYER INFORMATION/STATE TAX	MISDEMEANOR A
131.990(2)(C)	60258	VIOL OF INTENTIONAL UNAUTHORIZED INSPECTION	MISDEMEANOR A
138.146	21293	EVIDNCE CIG TAX PAY, SPEC PENALTY NOT PROVIDED-2ND OR > OFF	MISDEMEANOR A
138.195	21295	LIC REQ CIG DEALRS, SPEC PENALTY NOT PROVIDED-2ND OR > OFF	MISDEMEANOR A
138.195(10)	21299	LIC REQ, CIG DEALERS, KEEP/SUBMIT RECORDS OF SHIPMENTS	MISDEMEANOR A
138.195(8)	21297	LIC REQ CIG DEALRS, FAIL TO SUPPLY INFO-2ND OR > OFFENSE	MISDEMEANOR A
138.280	21340	FAILURE TO PAY GAS TAX TO STATE-1ST OFFENSE	MISDEMEANOR A
138.300	21341	FAIL TO MAKE RETURNS/PAY TAX/KEEP RECORDS FOR TAX PURPOSE	MISDEMEANOR A
138.310	21342	DEALER/TRANSPORTER LICENSE REQUIRED DISPLAY	MISDEMEANOR A
138.354(1)	21343	FALSE APPLICATION FOR GAS TAX REFUND	MISDEMEANOR A
138.460	21344	INTENTIONALLY EVADE PAYMENT OF MOTOR VEH USAGE TAX U/$250	MISDEMEANOR B
138.460	21345	INTENTIONALLY EVADE PAYMENT OF MOTOR VEH USAGE TAX O/$250	MISDEMEANOR A
138.465	21346	FAILURE OF SELLER TO DELIVER REGISTRATION W/ASSIGNMENT FORM	MISDEMEANOR A
138.665(1)	00442	NO KY MOTOR FUEL USERS LICENSE	MISDEMEANOR A
138.665(1)	00445	NO WEIGHT DISTANCE TAX LICENSE (KYU)	MISDEMEANOR A
138.720	00729	OPER ON INACTIV/CANCEL/REVOK MTR FUEL TAX LIC (KIT OR IFTA)	MISDEMEANOR A
138.720	00529	EXCISE TAXES PROHIBITED ACTS, ALL OTHER VIOLATIONS	MISDEMEANOR A
138.720	00728	OPER ON INACTIVE/CANCELLED/REVOKED WEIGHT DIST TAX LICENSE	MISDEMEANOR A
138.720(1)	00720	FAIL TO PAY EXCISE TAX IMPOSED	MISDEMEANOR A
138.720(2)	00721	FAIL/NEGLECT/REFUSE TO FILE EXCISE TAX RETURN	MISDEMEANOR A
138.720(3)	00722	MAKE FALSE STATEMENT ON RECORD/RETURN, EXCISE TAXES	MISDEMEANOR A
138.720(4)	00724	CONDUCT ACTS THAT REQUIRE LICENSE W/O LICENSE, EXCISE TAXES	MISDEMEANOR A
138.720(5)	00727	ASSIGN/ATTEMPT TO ASSIGN A LICENSE, EXCISE TAXES	MISDEMEANOR A
138.725(1)	00719	FAILURE TO ADD TAXABLE UNIT TO TAXABLE INVENTORY	MISDEMEANOR A
149.040(2)	09601	INJURE/INTERFERE W/MANAGEMENT OF LAND OF NAT RESOURCE CAB.	MISDEMEANOR B
149.370(1)	09605	FIRE HAZARDS-DISPOSING OF FLAMING OR GLOWING SUBSTANCE	MISDEMEANOR A
149.370(2)	09606	FIRE HAZARDS-SMOKING IN TIMBERLAND DURING EMERGENCY	MISDEMEANOR A

149.370(3)	09631	FIRE HAZARDS - SETTING BACKFIRE W/O DIRECT SUPERVISION	MISDEMEANOR A
149.370(4)	09632	FIRE HAZARDS - DEFACING/DESTROY SIGNS OF NAT RESOURCE CAB	MISDEMEANOR A
149.370(7)	09635	FIRE HAZARDS - POSSESSION OF INCENDIARY/TRACER BULLETS	MISDEMEANOR A
149.370(8)	09636	FIRE HAZARDS - ALL OTHER	MISDEMEANOR A
149.370(5)	09633	FIRE HAZARDS - USING WELDING TORCH/DEVICE W/O PRECAUTIONS	MISDEMEANOR A
149.385(1)	09623	SAWMILL W/I 150 FT/SAWDUST PILE W/I 100 FEET OF TIMBERLAND	MISDEMEANOR A
149.385(3)	09625	RAILROADS TO MAINTAIN RIGHT OF WAY	MISDEMEANOR A
149.390	09626	FIRES TO CAPTURE/DESTROY GAME PROHIBITED	MISDEMEANOR A
149.395	09627	OPERATE WASTE MANAGEMENT FACILITIES/OPEN DUMP REGULATED	MISDEMEANOR A
149.400	09628	FIRE HAZARD SEASONS-BURNING BEFORE 4:30 PM LOCAL TIME	MISDEMEANOR A
149.401	09630	LOCAL BURNING BAN	MISDEMEANOR A
149.405	09629	ENTRY IN FOREST LAND DURING DROUGHT/EMERGENCY PROCEDURES	MISDEMEANOR A
150.092	08972	ENTRY ON LAND TO SHOOT/HUNT/FISH/TRAP W/O CONSENT, 3RD OR >	MISDEMEANOR A
150.092(4)	08973	ENTRY ON LAND CAUSING DAMAGE WHILE HUNT/FISH, ETC.	MISDEMEANOR A
150.183	09036	IMPORT/TRANSPORT/POSSESSION OF ENDANGERED SPECIES	MISDEMEANOR A
150.235(2)	09093	PERMIT SOMEONE ELSE TO USE LICENSE OF ANOTHER	MISDEMEANOR A
150.235(3)	09038	NON RES HUNTING/FISHING/TRAPPING W/O LICENSE/PERMIT/STAMP	MISDEMEANOR A
150.235(4)	09094	POSSESSING LICENSE WHEN PRIVILEGES ARE REVOKED/SUSPENDED	MISDEMEANOR A
150.290	09004	SALE OF ANIMALS BY BREEDERS	MISDEMEANOR A
150.300	09052	DOG/GUN ON PROPAGATION FARM/REFUGE/HATCHERY-DESTROY SIGNS	MISDEMEANOR A
150.305	08930	POSS WILD GAME/RAW FUR (NOT SEASON) INSP COM FROZ FOOD	MISDEMEANOR A
150.360(1)	09090	ILLEGAL TAKING OF WILDLIFE	MISDEMEANOR A
150.360(2)	09055	HUNTING WITH IMPROPER SHOTGUN-SIZE/PLUGGED/ETC	MISDEMEANOR A
150.360(3)	09091	TAKING WILDLIFE FROM A VEHICLE	MISDEMEANOR A
150.360(4)	09061	DISCHARGE FIREARM/OTHER DEVICE UPON/ACROSS A PUBLIC ROAD	MISDEMEANOR A
150.360(5)	09056	HUNTING WITH LIGHTS/OTHER ILLEGAL MEANS AT NIGHT	MISDEMEANOR A
150.362	08999	HUNTING U/INFLUENCE OF ALCOHOL OR OTHER CONT. SUB	MISDEMEANOR A
150.370	09008	OPEN SEASON FOR WILDLIFE-POSS OF ANML/RAW FUR-OUT OF SEASON	MISDEMEANOR A
150.390	09062	ILLEGAL TAKING/PURSUING/MOLESTING ANY DEER/WILDTURKEY/BEAR	MISDEMEANOR A
150.390	09059	DOGS CHASING/MOLESTING DEER	MISDEMEANOR A
150.485	09073	LIVE BAIT DEALERS W/O LICENSE	MISDEMEANOR A
150.520	09503	METHOD OF TAKING MUSSELS, 1ST OFFENSE	MISDEMEANOR B
150.520	09504	METHOD OF TAKING MUSSELS, 2ND OFFENSE	MISDEMEANOR A
150.520	09505	METHOD OF TAKING MUSSELS, 3RD OR > OFFENSE	MISDEMEANOR A
150.630	09077	VIOLATION OF LAW PERTAINING TO SHOOTING/HUNTING PRESERVE	MISDEMEANOR A
150.660	09016	ESTABLISH PAY LAKES-COMMIS.AUTH. OF LIC.PERMITS	MISDEMEANOR A
154A.080(4)	39403	LOTTERY, OFFICER/EMPLOYEE MAY NOT REPRESENT VENDOR FOR 2 YR	MISDEMEANOR A
154A.440(1)	39407	LOTTERY, SELL TICKET FOR > THAN AUTHORIZED PRICE-2ND > OFF	MISDEMEANOR B
154A.990(1)	39411	LOTTERY, SELLING TICKET TO A PERSON U/18 YRS-2ND OR > OFF	MISDEMEANOR B
158.035	16000	PROPER IMMUNIZATION PAPER NOT PROVIDED	MISDEMEANOR B
158.990	16001	FAILURE TO REPORT CRIMES ON SCHOOL PROPERTY	MISDEMEANOR A
159.010	16052	PARENT OR CUSTODIAN TO SEND CHILD TO SCHOOL, 3RD OR > OFF	MISDEMEANOR B
159.270	16062	FALSE REPORT OF SCHOOL CENSUS	MISDEMEANOR B
159.990	16061	INTENTIONAL BREACH COMPULSORY ATTEND - OTHER	MISDEMEANOR B
159.990	16059	INTENTIONAL BREACH COMPULSORY ATTEND-PARNT/CUST GUARD 3RD>	MISDEMEANOR B
161.164(1)	15000	POLITICAL ACTIVIES PROHIBITED, EMPLOYEE	MISDEMEANOR A
161.164(2)	15001	POLITICAL ACTIVIES PROHIBITED, SCHOOL BOARD	MISDEMEANOR A
161.164(3)	15002	POLITICAL ACTIVIES PROHIBITED, INFLUENCE	MISDEMEANOR A
161.164(4)	15003	POLITICAL ACTIVIES PROHIBITED, DISCRIMINATION	MISDEMEANOR A
161.661	15006	DISABILITY RETIREMENT, TEACHERS	MISDEMEANOR A
161.690	15007	FALSIFYING RECORDS PROHIBITED, TEACHER RETIREMENT SYSTEM	MISDEMEANOR A
164.377	01410	UNLAWFUL DUPLICATION OF UNIVERSITY KEY	MISDEMEANOR A
164.483	01414	VIOL (POST SECOND EDUC INST) PROVISION (MICHAEL MINGER ACT)	MISDEMEANOR B
164.980	01409	IMPERSONATION SAFETY/SECURITY OFC-PUBLIC INST HIGHER ED	MISDEMEANOR B
17.175 (7)	04201	UNAUTHORIZED USE OF DNA DATABASE	MISDEMEANOR A
177.230	05712	REMAIN IN REST AREA > 4 HOUS	MISDEMEANOR A
177.230	05724	STOPPING/STANDING/PARKING ON LTD ACCESS HIGHWAY	MISDEMEANOR A
177.230	00605	HITCHHIKING ON LIMITED ACCESS FACILITIES	MISDEMEANOR B
177.300	00260	IMPROPERLY TURNING, DRIVE LANE, OR ENTERING LTD ACC HIGHWAY	MISDEMEANOR B
177.305	00180	NO TARP ON TOP OF COAL TRUCK ON LIMITED ACCESS HIGHWAY	MISDEMEANOR B
177.910	05098	UNAUTHORIZED RECYCLES	MISDEMEANOR A
177.915	05099	IMPROPER SCREENING OF RECYCLING ESTABLISHMENTS	MISDEMEANOR A
186.070	05137	IMPROPER USE OF DEALERS PLATES	MISDEMEANOR A
186.150	05138	RESIDENTS NOT TO USE LICENSE OF OTHER STATES	MISDEMEANOR A
186.172	00451	IMPROPER USE OF VOLUNTEER FIREFIGHTER REG PLATE	MISDEMEANOR A
186.190	00432	FAILURE TO REGISTER TRANSFER OF MOTOR VEHICLE	MISDEMEANOR A
186.200	00414	TRANSFER OF MOTOR VEHICLE WITHOUT BILL OF SALE	MISDEMEANOR A
186.410(1)	00380	NO OPERATORS/MOPED LICENSE	MISDEMEANOR B
186.410(2)	00398	OPERATING VEHICLE WITH EXPIRED OPERATORS LICENSE	MISDEMEANOR B
186.412	00396	30 DAY TEMPORARY LICENSE O/21 YEARS OLD	MISDEMEANOR B
186.412(5)	05140	90 DAY TEMPORARY OPERATOR'S LICENSE	MISDEMEANOR B
186.412(9)	05139	NO PERSON SHALL HAVE MORE THAN ONE OPERATORS LICENSE	MISDEMEANOR B
186.480	00399	FAILURE TO COMPLY WITH OPERATOR LICENSE REINSTATEMENT	MISDEMEANOR B
186.510	00435	LICENSE TO BE IN POSSESSION	MISDEMEANOR B
186.540	00436	FAILURE TO NOTIFY ADDRESS CHANGE TO DEPT OF TRANSPORTATION	MISDEMEANOR B
186.610(1)	00417	DISPLAY/POSSESSOIN OF CANCELLED/FICTITIOUS OPERATOR LICENSE	MISDEMEANOR B
186.610(2)	00418	PERMIT USE OF OPER LIC BY ONE NOT ENTITLED THERETO	MISDEMEANOR B
186.610(3)	00419	REPRESENTING AS ONES OWN ANOTHERS OPER LIC	MISDEMEANOR B
186.610(4)	00422	FAILURE TO SURRENDER REVOKED OPERATORS LICENSE	MISDEMEANOR B
186.610(5)	00420	FALSE STATEMENT/FRAUD IN APPLICATION FOR OPERATOR LICENSE	MISDEMEANOR B
186.620(1)	00404	PERMIT UNLICENSED OPERATOR TO OPERATE MOTOR VEHICLE	MISDEMEANOR B
186.620(2)	00403	OPERATING ON SUSPENDED/REVOKED OPERATORS LICENSE	MISDEMEANOR B
186.630	00423	RENTING MOTOR VEHICLE TO UNLICENSED OPERATORS	MISDEMEANOR B
186.640	00530	DRIVING WITHOUT LICENSE/NEGLIGENCE IN ACCIDENT	MISDEMEANOR B
186.695	00549	REGISTRATION OF TRAILERS-EXCEPTION-SEE NOTE 1	MISDEMEANOR A
186.990(10)	28201	OPERATE VEH BEARING DEALER PLATE, EVADE TAX/REG FEE-1ST OFF	MISDEMEANOR A
186.990(12)	28203	RESIDENT REGISTER/TITLE VEH OTHER STATE-EVADE VEH TAX U/100	MISDEMEANOR A
186A.040	50260	UNAUTHORIZED RELEASE/DISCLOSURE OF INSURANCE INFORMATION	MISDEMEANOR A
186A.070	00427	REG & TITLE REQUIREMENTS VEH NOT OPER ON HWY	MISDEMEANOR A
186A.100	50228	NONE/IMPROPER USE OF TEMPORARY TAG WHEN REQUIRED	MISDEMEANOR A
186A.105	00453	MV DEALER OBTAIN INFO PRIOR TO ISSUE OF TEMP REG	MISDEMEANOR A
186A.110	00454	IMPROPER ISSUANCE OF TEMPORARY REGISTRATION	MISDEMEANOR A
186A.215(2)	50257	FAIL OF TRANSFEREE OF VEH TO PROMPTLY APPLY FOR NEW TITLE	MISDEMEANOR A
186A.215(4)	50259	TRANSFEROR NOTIFY CO CLERK IF TRANSFEREE NOT SUBMIT DOC	MISDEMEANOR A
186A.220(1)	50251	MOTOR VEH DEALER REQ TO NOTIFY CLERK	MISDEMEANOR A
186A.220(2)	50252	MOTOR VEH DEALER REQ TO OBTAIN DOCUMENTS	MISDEMEANOR A
186A.220(3)	50253	MOTOR VEH DEALER REQ TO EXECUTE ASSIGNMENT	MISDEMEANOR A
186A.220(4)	50254	MOTOR VEH DEALER REQ TO PROPERLY ASSIGN CERTIF OF TITLE	MISDEMEANOR A
186A.220(5)	50255	MOTOR VEH DEALER REQ TO GIVE TITLE TO PURCHASER	MISDEMEANOR A
186A.235	00455	OWNER TO NOTIFY CLERK OF RESIDENCE/NAME CHANGE	MISDEMEANOR A
186A.295	00457	OWNER TO SURRENDER TITLE ON DESTROYED VEH/TRAILER	MISDEMEANOR A
186A.530	00458	FAILURE OF SELLER OF VEHICLE TO DISCLOSE TITLE BRAND	MISDEMEANOR A
189.110(8)	00421	INSTALLATION OF NON COMPLIANCE TINTING ON VEHICLE	MISDEMEANOR B
189.231(3)	05222	DISREGARD TRAFFIC REGULATION-2 OR > OFFENSE	MISDEMEANOR B
189.370	00116	PASSING LOADING/UNLOADING SCHOOL/CHURCH BUS-1ST OFFENSE	MISDEMEANOR B
189.378(4)	00186	FAILURE TO YIELD RIGHT OF WAY TO FUNERAL PROCESSION	MISDEMEANOR B
189.393	02705	DISREGARDING SIGNALS FROM OFFICERS DIRECTING TRAFFIC	MISDEMEANOR B
189.550	00134	SCHOOL/CHURCH BUS FAILING TO STOP AT RR CROSSINGS	MISDEMEANOR B
189.565	00125	FLAMMABLE LIA/EXPLOSIVE TRANSPORT FAIL TO STOP AT RR CROSS	MISDEMEANOR B
189.860(2)	00532	OPERATE OFF-ROAD VEHICLE ON PRIVATE/PUBLIC LAND W/O CONSENT	MISDEMEANOR A
189.920	00246	IMPROPER EMERGENCY/SAFETY LIGHTS	MISDEMEANOR B
189.930	00507	FOLLOWING EMERGENCY VEHICLE TOO CLOSELY	MISDEMEANOR B
189.930	00127	FAILURE TO GIVE RIGHT OF WAY TO EMERGENCY VEHICLE	MISDEMEANOR B
189.930	00490	FAIL TO GIVE RIGHT-OF-WAY TO EMERGENCY STOPPED VEHICLE	MISDEMEANOR B
189.940	00208	IMPROPER USE OF SIREN	MISDEMEANOR A
189.950	00216	IMPROPER SOUND DEVICE (WHISTLE, BELL, SIREN)	MISDEMEANOR B
189.950	00200	USING FLASHING LIGHT/SIREN ON NON EMERGENCY VEHICLE	MISDEMEANOR B
189A.090(2)(a)	02628	DRIVING ON DUI SUSPENDED LICENSE – 1ST OFFENSE	MISDEMEANOR B
189A.345(2)	00190	ENABLING VEH/MTRCYC EQUIP W/IGNITION INTERLOCK DEV, 1ST	MISDEMEANOR B
189A.345(3)	00192	INSTALL/TAMPER W/IGNITION INTERLOCK DEV TO MAKE DEFECTIVE	MISDEMEANOR B
189A.345(4)	00194	DIRECT/INSTRCT PERSONS TO INSTALL DEFECTIVE INTERLOCK DEV	MISDEMEANOR B
189A.430(3)	00183	FAILURE TO DISPLAY HARDSHIP DRIVING PRIVILEGE DECAL	MISDEMEANOR B
189A.440(2)	00184	UNAUTHORIZED USE OF VEHICLE UNDER HARDSHIP DRIVERS LICENSE	MISDEMEANOR A
189A.440(3)	00185	FALSE APPLICATION FOR HARDSHIP DRIVERS LICENSE	MISDEMEANOR A
190.030	00557	MOTOR VEHICLE DEALER, LICENSE REQUIRED	MISDEMEANOR B
190.033	00558	MOTOR VEHICLE DEALER INSURANCE/BOND REQUIRED	MISDEMEANOR B
190.035	00559	MOTOR VEHICLE DEALER, FIXED SALES BUILDING REQUIRED	MISDEMEANOR B
190.038	00560	MOTOR VEHICLE MANUFACTURER PROVIDE INFO ON SERVICE/REPAIR	MISDEMEANOR B
190.070	00561	MOTOR VEHICLE MANUFACTURER/DEALER.ETC, PROHIBITED PRACTICES	MISDEMEANOR B
190.080	00562	MOTOR VEHICLE PREVIOUS CONSUMER/OWNER INFO & NOTICE	MISDEMEANOR B
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244.090(1)(c)	02224	LIQ LIC NOT TO EMPLOY PERSON U/20 YRS OF AGE-1ST OFFENSE	MISDEMEANOR B
244.090(1)(d)	02267	LIQ LIC NOT EMPLY PRIOR REVOKE LICENSEE W/2 YR-2ND OR > OFF	MISDEMEANOR A
244.090(1)(d)	02226	LIQ LIC NOT TO EMPLOY PRIOR REVOKE LICENSEE W/2 YRS-1ST OFF	MISDEMEANOR B
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309.3535	60370	PRACTICING MASSAGE THERAPY W/O LICENSE	MISDEMEANOR B
311.281	60336	FAILING TO TEST FOR HIV	MISDEMEANOR A
311.375(1)	59985	UNAUTHORIZED USE OF TITLE DOCTOR/DR, 1ST OFFENSE	MISDEMEANOR B
311.375(1)	59986	UNAUTHORIZED USE OF TITLE DOCTOR/DR, 2ND OR > OFFENSE	MISDEMEANOR A
311.375(2)	59988	UNAUTH USE OF DOCTOR/DR ON WRIT W/O DEG DESIG, 2ND OR > OFF	MISDEMEANOR B
311.606	59989	FAILURE TO REPORT ACTIONS TAKEN AGAINST LICENSED PHYSICIANS	MISDEMEANOR B
311.676	60395	IMPROPER USE OF ACUPUNCTURE CERTIFICATION	MISDEMEANOR A
311.723(2)	60338	PERFORM ABORTION CONTRARY TO REGULATIONS	MISDEMEANOR A
311.732	60339	PERF OF ABORTION UPON MINOR; CONSENT REQUIREMENT	MISDEMEANOR A
311.732	60340	RELEASE INFO/DOCUMENTS RELATIE PERF OF ABORTION/MINOR	MISDEMEANOR B
311.800	59990	PERF/PERMIT PERFORM ABORTION PUBLIC OWNED HOSP/HEALTH CARE	MISDEMEANOR A
311.810	60343	FRAUDULENTLY PRACTICING PODIATRY	MISDEMEANOR A
311.810	60342	DISCRIMINATION FOR REFUSAL TO SUBMIT TO ABORTION PROHIBITED	MISDEMEANOR A
311.820	59991	ABORTION REF/COUNSELING AGENCY CHG/ACCEPT FEE ABORTION REF	MISDEMEANOR A
311.990(24)(a)	59981	FAILURE TEST ORGANS/TISSUE TRANSPLANT/OR VIOL CONT 311.281	MISDEMEANOR A
311.990(3)	59992	PRACTICING PODIATRY IN VIOLATION OF 311.380 TO 311.510	MISDEMEANOR A
311.990(6)	59982	WILLFUL OBSTRUCTION OF MEDICAL LIENSURE BOARD/CHS	MISDEMEANOR A
313.020	60197	NOT TO PRACTICE DENISTRY W/O LICENSE	MISDEMEANOR B
313.040	60381	FALSE APPLICATION FOR DENTIST LIENSE, 2ND OR > OFF	MISDEMEANOR A
313.140	60199	UNPROFESSIONAL CONDUCT, DENISTRY-2ND OR > OFFENSE	MISDEMEANOR A
313.190	60201	PRACTICE DENTISTRY PROHIB IF LICENSE SUSPENDED-2ND OR > OFF	MISDEMEANOR A
313.230	60203	DENTIST FAILURE TO DISPLAY LICENSE/CERTIFICATE-2ND OR > OFF	MISDEMEANOR A
313.240	60205	PROFESSIONAL SERVICE CORP, DENISTRY-2ND OR > OFFENSE	MISDEMEANOR A
313.243	60207	DUTIES TO REPORT NAMES OF ASSTISTANTS, DENISTRY-2ND OR> OFF	MISDEMEANOR A
313.247	60209	LAB PROCEDURE WORK ORDER REQ FOR DENTAL LAB-2ND OR > OFF	MISDEMEANOR A
313.307	60210	REG OF DENTAL HYGIENISTS, LIC IN COUNTY-2ND OR > OFFENSE	MISDEMEANOR A
313.310	60211	LICENSE REQ FOR DENTAL HYGIENIST, DISPLAY-2ND OR > OFFENSE	MISDEMEANOR A
313.310	60219	DENTAL HYGIENIST MUST HAVE/DISPLAY LICENSE, 1ST OFF	MISDEMEANOR B
313.410	60212	LICENSE TO PRACTICE AS DENTAL SPECIALIST REQ-2ND OR > OFF	MISDEMEANOR A
313.530	60223	OPERATION OF DENTAL LAB W/O REGISTRATION PROH-2ND OR > OFF	MISDEMEANOR A
314.031(1)	59962	KNOWINGLY POSE AS LICENSED NURSE	MISDEMEANOR A
314.031(1)	59960	KNOWINGLY PRACTICE/REPRESENT NURSING W/O LICENSE, 1ST OFF	MISDEMEANOR A
314.035(1)	59964	PROVIDING DIALYSIS CARE W/O CURRENT CREDENTIALS, 1ST	MISDEMEANOR A
316.990	60882	AID W/O LICENSE/IMPERSONATING FUNERAL DIRECTOR	MISDEMEANOR A
317B.015	60980	VIOLATION OF PROVISIONS RELATING TO ESTETICIANS	MISDEMEANOR A
318.030	61000	PLUMBING LICENSE REQUIRED	MISDEMEANOR B
318.100	61001	ADVERTISING AS A PLUMBER BY NON-LICENSEE	MISDEMEANOR B
318.110	61002	COMPANY HAVING LICENSED PLUMBER TO ENGAGE IN PLUMBING	MISDEMEANOR B
318.120	61003	EMPLOYMENT OF UNLICENSED PLUMBER	MISDEMEANOR B
318.130	61004	KY STATE PLUMBING CODE-RULES AND REGULATIONS	MISDEMEANOR B
318.134	61005	INSTALLATION PERMITS	MISDEMEANOR B
318.160	61006	INSTALLATION PLANS AND SPECIFICATIONS	MISDEMEANOR B
318.165	61007	REQUISITES FOR PROVIDING PERMANENT WATER SUPPLY	MISDEMEANOR B
318.200	61008	WATER HEATING DEVICES-SERIAL NUMBERS	MISDEMEANOR B
320.990	60163	VIOLATION OF PROVISIONS RELATING TO OPTOMETRISTS	MISDEMEANOR B
323.990	60391	PRACTICING ARCHITECTURE W/O LICENSE	MISDEMEANOR A
323.990	60390	FALSIFYING APPLICATION FOR CERTIFICATE/RENEWAL AS ARCHITECT	MISDEMEANOR A
324.020(2)	21324	ENGAGE IN REAL ESTATE BROKERAGE W/O LICENSE, 1ST OFF	MISDEMEANOR A
324A.030(1)	60350	APPRAISAL WITHOUT A LICENSE	MISDEMEANOR A
329A.015	21322	PRIVATE INVESTIGATOR W/O LICENSE, 1ST OFFENSE	MISDEMEANOR A
330.035	04100	AUCTIONEERS LICENSE REQUIRED	MISDEMEANOR B
330.100	04101	AUCTIONEERS PLACE OF BUSINESS/SIGN TO BE ERECTED	MISDEMEANOR B
335.030	60191	LICENSE REQUIRED FOR CERTIFIED PROFESSIONAL COUNSELOR	MISDEMEANOR A
341.370(2)	21284	DISQUALIFICATIONS-FALSE STATEMENT-RECEIVE BENEFITS	MISDEMEANOR A
341.990(5)	21282	MAKE FALSE STATEMENT TO OBTAIN INCREASE OF BENEFITS U/$100	MISDEMEANOR A
341.990(6)	21283	MAKE FALSE STATEMENT TO PREVENT REDUCTION OF BENEFIT U/$100	MISDEMEANOR A
350.029	07407	INTERSTATE MINING COMPACT VIOLATIONS	MISDEMEANOR A
351.330(16)	07401	USE OF EXPLOSIVES WHEN SAFETY OF PEOPLE/PROPERTY THREATENED	MISDEMEANOR B
351.990	07403	WORKING IN/AT MINE W/O CERTIFICATE ISSUED UNDER KRS 351	MISDEMEANOR A
351.990	07405	OPERATOR FAILING TO SUPERVISE MINE TRAINEE	MISDEMEANOR A
351.990	07404	EMPLOYING PERSON IN/AT MINE W/O CERTIFICATE UNDER KRS 351	MISDEMEANOR A
353.520(2)	07500	WASTING OF OIL AND GAS	MISDEMEANOR A
353.520(3)	07501	PRODUCTION OF OIL OR GAS W/OUT PERMIT	MISDEMEANOR A
353.550	07502	FAILURE OIL OR GAS OPERATION TO PROD LEASES,ETC	MISDEMEANOR A
353.590	07503	FAILURE TO POST BOND FOR PERMIT	MISDEMEANOR A
359.090(2)	60165	IMPROPER INFLUENCE OF INSPECTOR/WEIGHER/REGISTRAR	MISDEMEANOR A
362.2-208	59951	SIGNING FALSE RECORD IN MATERIAL DEL TO SEC OF STATE	MISDEMEANOR B
364.090	60171	FRAUDULENTLY PLACE BRAND ON TIMBER NOT HIS OWN	MISDEMEANOR A
365.015	60173	CERTIFICATE OF ASSUMED NAMES VIOLATIONS	MISDEMEANOR B
365.020	52501	PRICE DISCRIMINATION BETWEEN LOCALITIES	MISDEMEANOR A
365.030	52503	UNDERSELLING TO DESTROY COMPETITION	MISDEMEANOR A
365.050	52504	UNFAIR TRADE PRACTICES	MISDEMEANOR A
365.241	25241	PROHIBIT COMMERCE IN COUNTERFEIT GOODS/SVCS > 25, 1ST OFF	MISDEMEANOR A
365.250	52500	FAILURE TO REGISTER/REPORT PURCHASE OF COPPER, ETC.	MISDEMEANOR B
365.990(9)	60172	FAILURE TO SECURE REQUIRED PERMIT	MISDEMEANOR A
367.46955	60361	PROHIBITED TELEPHONE SOLICIT ACTS & PRACTICES 2ND OR > OFF	MISDEMEANOR A
367.46955	60360	PROHIBITED TELEPHONE SOLICIT ACTS & PRACTICES 1ST OFFENSE	MISDEMEANOR B
367.990(24)	60365	USE ZERO CALL LIST FOR PUR/OTH PROVIS 367.46951/367.46999	MISDEMEANOR A
368.020	70250	LICENSE REQ-BUSINESS OF CASHING CHECKS	MISDEMEANOR A
368.080(2)	70251	POSTING OF LICENSE-BUSINESS OF CASHING CHECKS	MISDEMEANOR A
376.060	21367	SALE/MORTGAGE OF PROPERTY SUBJECT TO LIEN	MISDEMEANOR A
376.070	21368	CONTRACTOR/ARCHITECT TO APPLY PAYMENTS TO CLAIM	MISDEMEANOR A
380.000	70260	VIOLATION OF DEBT ADJUSTMENTS ACT	MISDEMEANOR B
40.991(1)	21231	COLLECT FEE FOR ASSISTING VET PAYMENT	MISDEMEANOR B
402.010	60185	MARRIAGE OF RELATIVES	MISDEMEANOR B
402.010	60187	MARRIAGE OF RELATIVES IF CONTINE COHABIT AFTER 1ST OFFENSE	MISDEMEANOR A
405.465	60214	VIOL COURT ORDERED ASSIGNMENT PARENTS CHILD SUPPORT PAYMENT	MISDEMEANOR A
405.467	60215	VIOL OF WITHHOLDING ORDER ISSUED FOR CHILD SUPPORT	MISDEMEANOR A
421.080	73301	EVADING PROCESS PROHIBITED	MISDEMEANOR A
431.510	02694	ACTING AS A BAILS BONDSMAN, 1ST OFFENSE	MISDEMEANOR A
431.585	73303	UNLAWFUL DISCLOSURE OF INFORMATION-CRIME STOPPERS	MISDEMEANOR A
432.570	02664	POSS/USE OF RADIO THAT SENDS/RECEIVES POLICE MESSAGES	MISDEMEANOR A
432.590	02699	DIVERSION OF STATE/FED DONATED FOOD COMMODITIES	MISDEMEANOR A
433.873(1)(a)	02710	DEFACING A CAVE	MISDEMEANOR A

433.873(1)(b)	02711	BREAK/FORCE/TAMPER W/LOCK/GATE TO ENTRANCE TO CAVE	MISDEMEANOR A
433.873(1)(c)	02712	UNLAWFUL OBSTRUCTION OF ENTRY TO CAVE	MISDEMEANOR A
433.873(1)(d)	02713	DEFACE/TAMPER/REMOVE SIGN STATING KRS CAVE PROVISI	MISDEMEANOR A
433.873(1)(e)	02714	DEFACE/DISTURB HISTORIC BURIAL GROUNDS	MISDEMEANOR A
433.875	02715	UNLAWFUL DUMPING IN CAVE	MISDEMEANOR A
433.877	02716	UNLAWFUL REMOVAL OF CAVE ORGANISMS	MISDEMEANOR A
433.879(1)	02718	UNAUTHORIZED EXCAVATION OF A CAVE	MISDEMEANOR A
433.879(3)	02719	IMPROPERLY OBTAINING A CAVE EXCAVATION PERMIT	MISDEMEANOR B
433.881	02717	UNLAWFUL SALE OF SPELEOTHEMS	MISDEMEANOR B
434.415	00635	INSTAL COMPONENT INFLAT RESTRANT SYS N/DESGN W/FED SAFE REG	MISDEMEANOR A
434.442(1)	21208	FRAUDULENT USE OF EDUCATIONAL RECORD	MISDEMEANOR A
434.580	71263	THEFT-RECEIPT OF STOLEN CREDIT/DEBIT CARD-1 CARD	MISDEMEANOR A
434.580	71264	THEFT-RECEIPT OF STOLEN CREDIT/DEBIT CARD-2 OR MORE CARDS	MISDEMEANOR A
434.590	71265	RECEIPT OF CREDIT CARD LOST/ETC W/INTENT TO USE/TRANSFER	MISDEMEANOR A
434.610	71266	CONTROL OVER CREDIT CARD AS SECURITY FOR DEBT	MISDEMEANOR A
434.640	71268	UNAUTHORIZED SIGNATURE ON A CREDIT CARD	MISDEMEANOR A
434.650	71267	FRAUDULENT USE OF CREDIT CARDS U/$100 W/6 MO PERIOD	MISDEMEANOR A
434.655	71262	FRAUD USE CRED CARD AFTER REPORT LOST/STOLEN U/$300 W/6MO	MISDEMEANOR A
434.660	21209	FRAUD BY AUTHORIZE PERSON/BUSINESS/FINANCIAL INST U/$100	MISDEMEANOR A
434.670	21290	FAILURE TO FURNISH GOOD, ETC U/$100 WITHIN 6 MO PERIOD	MISDEMEANOR A
434.690	21291	RECEIV GOOD, ETC BY FRAUD VIA 434.690 U/$100 WITHIN 6 MO	MISDEMEANOR A
434.851	51262	UNLAWFUL ACCESS TO COMPUTER, 3RD DEGREE	MISDEMEANOR A
434.853	51263	UNLAWFUL ACCESS TO COMPUTER, 4TH DEGREE	MISDEMEANOR B
436.185(4)	60136	EXHIBITION OF WALKING HORSES, BURNS/DRUGS/ETC-1ST OFFENSE	MISDEMEANOR B
436.185(4)	60137	EXHIBITION OF WALKING HORSES, BURNS/DRUGS/ETC-2 OR > OFF	MISDEMEANOR B
437.420(1)	07101	ACQUIRING CONTROL OVER ANIMAL FACILITY W/O CONSENT	MISDEMEANOR A
437.420(1)	07100	ACQUIRING CONTROL OVER ANIMAL W/O CONSENT	MISDEMEANOR A
437.420(2)	07104	DAMAGE TO ANIMAL IN ANIMAL FACILITY	MISDEMEANOR A
437.420(2)	07102	DAMAGE TO ANIMAL FACILITY	MISDEMEANOR A
437.420(2)	07103	DAMAGE TO ANIMAL FACILITY PROPERTY	MISDEMEANOR A
437.420(3)	07105	CONCEALING ONESELF IN ANIMAL FACILITY	MISDEMEANOR A
437.420(4)	07106	REFUSAL TO LEAVE ANIMAL FACILITY	MISDEMEANOR A
438.060(1)	02593	CONTAIMINATING WATER COURSE	MISDEMEANOR A
438.170	02670	REFUSAL TO YIELD PARTY LINE IN EMERGENCY	MISDEMEANOR B
438.180	02638	FALSE REPRESENTATION OF EMERGENCY-USE OF PARTY LINE	MISDEMEANOR B
438.210	02650	INTERFERING WITH COMMUNICATIONS	MISDEMEANOR A
438.240	02697	ABANDONMENT OF REFRIGERATOR W/DOOR ATTACHED	MISDEMEANOR B
438.240	02698	PERMITTING ABANDONMENT OF A REFRIG W/DOOR ATTACHED	MISDEMEANOR B
45A.335	60076	TRUSTEE HAVE INTEREST IN CONSTRUCTION W/STATE UNIVERSITY	MISDEMEANOR B
45A.340	60078	CONFLICT OF INTEREST BY STATE EMPLOYEE	MISDEMEANOR B
506.140	12986	CRIMINAL GANG RECRUITMENT - 1ST OFFENSE	MISDEMEANOR A
511.060	02616	CRIMINAL TRESPASS-1ST DEGREE	MISDEMEANOR A
511.070	02624	CRIMINAL TRESPASS-2ND DEGREE	MISDEMEANOR B
512.030	01402	CRIMINAL MISCHIEF-2ND DEGREE	MISDEMEANOR A
512.040	01403	CRIMINAL MISCHIEF-3RD DEGREE	MISDEMEANOR B
512.050	01405	CRIMINAL USE OF NOXIOUS SUBSTANCE	MISDEMEANOR B
512.060	02622	CRIMINAL POSSESSION OF NOXIOUS SUBSTANCE	MISDEMEANOR B
512.070	02621	CRIMINAL LITTERING	MISDEMEANOR A
514.030	23059	THEFT BY UNLAWFUL TAKING/DISP-FROM AUTO	MISDEMEANOR A
514.030	23049	THEFT BY UNLAWFUL TAKING/DISP-PARTS FROM VEHICLE	MISDEMEANOR A
514.030	23039	THEFT BY UNLAWFUL TAKING/DISP-SHOPLIFTING	MISDEMEANOR A
514.030	23029	THEFT BY UNLAWFUL TAKING/DISP-PURSESNATCHING	MISDEMEANOR A
514.030	23019	THEFT BY UNLAWFUL TAKING/DISP-POCKETPICKING	MISDEMEANOR A
514.030	23269	THEFT BY UNLAWFUL TAKING/DISP-BICYCLES	MISDEMEANOR A
514.030	23079	THEFT BY UNLAWFUL TAKING/DISP-COIN MACHINE	MISDEMEANOR A
514.030	23089	THEFT BY UNLAWFUL TAKING-BUILDING	MISDEMEANOR A
514.030	24049	THEFT BY UNLAWFUL TAKING/DISP-AUTO	MISDEMEANOR A
514.030	23299	THEFT BY UNLAWFUL TAKING/DISP-ALL OTHERS	MISDEMEANOR A
514.030	23289	THEFT BY UNLAWFUL TAKING/DISP-LIVESTOCK	MISDEMEANOR A
514.030	23279	THEFT BY UNLAWFUL TAKING/DISP-FARM EQUIPMENT	MISDEMEANOR A
514.040	01112	THEFT BY DECEPTION-INCL COLD CHECKS U/$300	MISDEMEANOR A
514.050	01113	THEFT OF PROPERTY LOST/MISLAID/DELIVERED BY MISTAKE	MISDEMEANOR A
514.060	01110	THEFT OF SERVICES	MISDEMEANOR A
514.065	01120	POSS/USE/TRANSFER DEVICE FOR THEFT OF SERVICES-1ST OFFENSE	MISDEMEANOR A
514.070	01200	THEFT BY FAILURE TO MAKE REQUIRED DISPOSITION OF PROPERTY-M	MISDEMEANOR A
514.080	01119	THEFT BY EXTORTION	MISDEMEANOR A
514.090	01111	THEFT OF LABOR	MISDEMEANOR A
514.100	00701	UNAUTHORIZED USE OF MOTOR VEHICLE-1ST OFFENSE	MISDEMEANOR A
514.110	01300	RECEIVING STOLEN PROPERTY U/$300	MISDEMEANOR A
514.120	01114	OBSCURING THE IDENTITY OF A MACHINE U/$300	MISDEMEANOR A
516.040	25023	FORGERY-3RD DEGREE	MISDEMEANOR A
516.070	01006	CRIMINAL POSSESSION OF FORGED INSTRUMENT-3RD DEGREE	MISDEMEANOR A
516.110	25092	CRIMINAL SIMULATION, 2ND DEGREE	MISDEMEANOR A
516.130	01009	UNLAWFUL USE OF SLUGS - 2ND DEGREE	MISDEMEANOR B
517.020	01101	DECEPTIVE BUSINESS PRACTICES	MISDEMEANOR A
517.030	01102	FALSE ADVERTISING	MISDEMEANOR A
517.040	01103	BAIT ADVERTISING	MISDEMEANOR A
517.050	01104	FALSIFYING BUSINESS RECORDS	MISDEMEANOR A
517.060	01105	DEFRAUDING SECURED BUSINESS CREDITORS U/$100	MISDEMEANOR A
517.070	01106	DEFRAUDING JUDGEMENT CREDITORS	MISDEMEANOR A
517.080	01107	FRAUD IN INSOLVENCY	MISDEMEANOR A
517.090	01108	ISSUING A FALSE FINANCIAL STATEMENT	MISDEMEANOR A
517.110	01201	MISAPPLICATION OF ENTRUSTED PROPERTY	MISDEMEANOR A
518.020	02612	BRIBERY-COMMERCIAL	MISDEMEANOR A
518.030	02667	RECEIVING COMMERCIAL BRIBE	MISDEMEANOR A
518.060	02679	TAMPERING WITH/RIGGING SPORTS CONTESTS	MISDEMEANOR A
519.020	02657	OBSTRUCTING GOVERNMENTAL OPERATIONS	MISDEMEANOR A
519.030	02614	COMPOUNDING A CRIME	MISDEMEANOR A
519.040	02640	FALSELY REPORTING AN INCIDENT	MISDEMEANOR A
519.050	02646	IMPERSONATING A PUBLIC SERVANT	MISDEMEANOR A
520.060	02666	PROMOTING CONTRABAND-2ND DEGREE	MISDEMEANOR A
520.130	02644	HINDERING PROSECUTION OR APPREHENSION-2ND DEGREE	MISDEMEANOR A
521.030	02674	SOLICITING UNLAWFUL COMPENSATION	MISDEMEANOR B
521.040	02669	RECEIVING UNLAWFUL COMPENSATON	MISDEMEANOR A
522.020	02658	OFFICIAL MISCONDUCT-1ST DEGREE	MISDEMEANOR A
522.030	02696	OFFICIAL MISCONDUCT - 2ND DEGREE	MISDEMEANOR B
523.030	02630	PERJURY-2ND DEGREE	MISDEMEANOR A
523.040	02639	FALSE SWEARING	MISDEMEANOR B
523.100	02687	UNSWORN FALSIFICATION TO AUTHORITIES	MISDEMEANOR B
523.110(1)	02695	GIVING OFFICER FALSE NAME OR ADDRESS	MISDEMEANOR B
524.110	02673	SIMULATING LEGAL PROCESS	MISDEMEANOR B
524.130	50241	UNAUTHORIZED PRACTICE OF LAW	MISDEMEANOR B
525.050	02401	UNLAWFUL ASSEMBLY	MISDEMEANOR B
525.055	02370	DISORDERLY CONDUCT, 1ST DEGREE	MISDEMEANOR A
525.060	02371	DISORDERLY CONDUCT, 2ND DEGREE	MISDEMEANOR B
525.080	02402	HARASSING COMMUNICATIONS	MISDEMEANOR B
525.110(1)	01404	DESECRATION OF VENERATED OBJECTS-2ND DEGREE	MISDEMEANOR A
525.140	02406	OBSTRUCTING A HIGHWAY	MISDEMEANOR B
525.145	02380	DISRUPTING MEETINGS AND PROCESSIONS, 1ST DEGREE	MISDEMEANOR A
525.150	02403	DISRUPTING MEETINGS	MISDEMEANOR B
525.150	02381	DISRUPTING MEETINGS AND PROCESSIONS, 2ND DEGREE	MISDEMEANOR B
525.155	02390	INTERFERENCE WITH A FUNERAL	MISDEMEANOR B
525.160	02637	FAILURE TO DISPERSE	MISDEMEANOR B
526.040	02663	POSSESSION OF EAVESDROPPING DEVICE	MISDEMEANOR A
526.050	02681	TAMPERING WITH PRIVATE COMMUNICATIONS	MISDEMEANOR A
526.060	57081	DIVULGING ILLEGALLY OBTAINED INFORMATION	MISDEMEANOR A
527.020	01501	CARRYING A CONCEALED DEADLY WEAPON	MISDEMEANOR A
527.030	01502	DEFACING A FIREARM	MISDEMEANOR A
527.050	01504	POSSESSION OF DEFACED FIREARM	MISDEMEANOR A
527.100	52201	POSS,MANUF,TRANSPRT HANDGUN WITH EXC FOR UNLAWFUL	MISDEMEANOR A
528.030	39101	PROMOTING GAMBLING, 2ND DEGREE	MISDEMEANOR A
528.060	39130	POSSESSION OF GAMBLING RECORDS, 2ND DEGREE	MISDEMEANOR A
528.070	01930	PERMITTING GAMBLING	MISDEMEANOR B
528.080	01931	POSSESSION OF A GAMBLING DEVICE	MISDEMEANOR A
528.110	01938	HORSE RACING, MESSENGER BETS PROHIBITED	MISDEMEANOR A
528.120	01939	OFF-TRACK ACCEPTANCE OF MONEY FOR PARI-MUTUEL WAGERING	MISDEMEANOR A
529.020	01600	PROSTITUTION	MISDEMEANOR B
529.040	40190	PROMOTING PROSTITUTION	MISDEMEANOR A
529.070	01604	PERMITTING PROSTITUTION	MISDEMEANOR B
529.080	01605	LOITERING FOR PROSTITUTION PURPOSES-2ND > OFFENSE	MISDEMEANOR B
530.050	02000	NON-SUPPORT	MISDEMEANOR A
530.070	02013	UNLAWFUL TRANSACTION W/MINOR-3RD DEGREE	MISDEMEANOR A
530.080	02631	ENDANGERING WELFARE OF INCOMPETENT PERSON	MISDEMEANOR A
531.020	01714	DISTRIBUTION OF OBSCENE MATTER >1 UNIT OF MATTER	MISDEMEANOR A
531.020	01713	DISTRIBUTION OF OBSCENE MATTER-1 UNIT OF MATERIAL	MISDEMEANOR B
531.030	37201	DISTRIBUTION OBSCENE MATTER TO MINORS-1ST OFFENSE	MISDEMEANOR A
531.050	01716	ADVERTISING OBSCENE MATERIAL	MISDEMEANOR B
531.060	01717	PROMOTING SALE OF OBSCENITY-1ST OFFENSE	MISDEMEANOR B
531.060	01722	PROMOTING SALE OBSCENITY-2ND OFFENSE	MISDEMEANOR A
534.060	02660	NON-PAYMENT OF FINES	MISDEMEANOR A
6.686(6)	60705	FILING FALSE COMPLAINT OF LEGISLATOR MISCONDUCT	MISDEMEANOR A
6.731(1)	60711	LEGISLATOR USE OF INFLUENCE-CONFLICT PERSONAL VS PUBLIC	MISDEMEANOR A
6.731(3)	60713	LEGISLATOR USING POSITION TO GAIN PRIVILEGES	MISDEMEANOR A
6.731(4)	60714	LEGISLATOR USE PUBLIC FUNDS-PRIVATE GAIN	MISDEMEANOR A
6.731(5)	60715	LEGISLATOR USE PUBLIC FUNDS-POLITICAL CAMPAIGN ACTIVITY	MISDEMEANOR A
6.751(1)	60735	LEGISLATOR ACCEPT MONEY LEGISLATIVE DUTIES-EXCEPT BY LAW	MISDEMEANOR A
6.751(2)	60736	LEGISLATOR ACCEPT ANYTHING OF VALUE FROM LEG AGENT	MISDEMEANOR B
6.797(2)(b)	60745	INTENTIONALLY FILE FALSE FINANCIAL INFO W/ETHICS COMMISSION	MISDEMEANOR A
615.040(4)	02806	NO PERSON/INST SEND CHILD INTO KY FOR ADOPT WO/BON	MISDEMEANOR B
620.030	02805	FAILURE TO RPT CHILD DEPEND NEGLECT OR ABUSE	MISDEMEANOR B
620.050	02816	KNOWINGLY REPORTING CHILD ABUSE FALSELY	MISDEMEANOR B
64.050(1)	21235	FAILURE OF COUNTY CLERK TO MAKE REPORT/PAY MONEY	MISDEMEANOR B
67.790	02562	INTENTIONAL INSPECT OF CONF TAXPAYER INFO W/O AUTHORIZATION	MISDEMEANOR A
67.790	02563	DIVULGING CONFIDENTIAL TAXPAYER INFORMATION	MISDEMEANOR B
67.790(5)	02560	BUS/EMPL FAIL RETURN/FALSE RETURN/PAY TAX INTENT EVADE TAX	MISDEMEANOR A
67.790(6)	02561	AID/ASSIST BUS/EMP FAIL RET/FALSE RET/PAY TAX INT EVADE TAX	MISDEMEANOR A
72.020	22150	FAILURE OF PERSON/HOSPITAL/INST TO REPORT DEATH OF PERSON	MISDEMEANOR B

BAIL SCHEDULE FOR CLASS D FELONIES BY UOR CODES (VERSION C)[1]

UOR	KRS	SUMMARY DESCRIPTION
23010	514.030	THEFT BY UNLAWFUL TAKING/DISP-POCKETPICKING 0/$300 – **1ST OFFENSE**
23020	514.030	THEFT BY UNLAWFUL TAKING/DISP-PURSESNATCHING 0/$300 – **1ST OFFENSE**
23030	514.030	THEFT BY UNLAWFUL TAKING/DISP-SHOPLIFTING 0/$300 – **1ST OFFENSE**
23040	514.030	THEFT BY UNLAWFUL TAKING/DISP-PARTS FROM VEHICLE 0/$300 – **1ST OFFENSE**
23050	514.030	THEFT BY UNLAWFUL TAKING/DISP-FROM AUTO 0/$300 – **1ST OFFENSE**
23070	514.030	THEFT BY UNLAWFUL TAKING/DISP-COIN MACHINE 0/$300 – **1ST OFFENSE**
23080	514.030	THEFT BY UNLAWFUL TAKING/DISP-BUILDING 0/$300 – **1ST OFFENSE**
23200	514.040	THEFT BY DECEPTION-INCLUDE COLD CHECKS 0/$300 – **1ST OFFENSE**
23210	514.050	THEFT OF PROPERTY LOST/MISLAID/DELIVERED BY MISTAKE 0/$300 – **1ST OFFENSE**
23220	514.060	THEFT OF SERVICES 0/$300 – **1ST OFFENSE**
23225	514.065	POSS/USE/TRANSFER DEVICE FOR THEFT OF SERVICE-2ND OR > OFF
23230	514.070	THEFT BY FAILURE TO MAKE REQUIRED DISPOSITION OF PROPERTY 0/$300 – **1ST OFFENSE**
23235	514.120	OBSCURING THE IDENTITY OF A MACHINE 0/$300 – **1ST OFFENSE**
23240	514.080	THEFT BY EXTORTION – **1ST OFFENSE**
23250	514.090	THEFT OF LABOR 0/$300 – **1ST OFFENSE**
23260	514.030	THEFT BY UNLAWFUL TAKING/DISP-BICYCLES 0/$300 – **1ST OFFENSE**
23265	514.140	THEFT OF MAIL MATTER – **1ST OFFENSE**
23270	514.030	THEFT BY UNLAWFUL TAKING/DISP-FARM EQUIPMENT 0/$300 – **1ST OFFENSE**
23280	514.030	THEFT BY UNLAWFUL TAKING/DISP-LIVESTOCK 0/$300 – **1ST OFFENSE**
23290	514.030	THEFT BY UNLAWFUL TAKING/DISP-ALL OTHERS 0/$300 – **1ST OFFENSE**
24040	514.030	THEFT BY UNLAWFUL TAKING/DISP-AUTO 0/$300 – **1ST OFFENSE**
28030	514.110	RECEIVING STOLEN PROPERTY 0/$300 – **1ST OFFENSE**
28040	514.150	POSSESSION OF STOLEN MAIL MATTER – **1ST OFFENSE**

BAIL SCHEDULE FOR CLASS D FELONIES BY KENTUCKY REVISED STATUTE (KRS) (VERSION D)[2]

KRS	UOR	SUMMARY DESCRIPTION
514.030	24040	THEFT BY UNLAWFUL TAKING/DISP-AUTO 0/$300 – **1ST OFFENSE**
514.030	23270	THEFT BY UNLAWFUL TAKING/DISP-FARM EQUIPMENT 0/$300 – **1ST OFFENSE**
514.030	23290	THEFT BY UNLAWFUL TAKING/DISP-ALL OTHERS 0/$300 – **1ST OFFENSE**
514.030	23070	THEFT BY UNLAWFUL TAKING/DISP-COIN MACHINE 0/$300 – **1ST OFFENSE**
514.030	23020	THEFT BY UNLAWFUL TAKING/DISP-PURSESNATCHING 0/$300 – **1ST OFFENSE**
514.030	23030	THEFT BY UNLAWFUL TAKING/DISP-SHOPLIFTING 0/$300 – **1ST OFFENSE**
514.030	23040	THEFT BY UNLAWFUL TAKING/DISP-PARTS FROM VEHICLE 0/$300 – **1ST OFFENSE**
514.030	23050	THEFT BY UNLAWFUL TAKING/DISP-FROM AUTO 0/$300 – **1ST OFFENSE**
514.030	23080	THEFT BY UNLAWFUL TAKING/DISP-BUILDING 0/$300 – **1ST OFFENSE**
514.030	23010	THEFT BY UNLAWFUL TAKING/DISP-POCKETPICKING 0/$300 – **1ST OFFENSE**
514.030	23260	THEFT BY UNLAWFUL TAKING/DISP-BICYCLES 0/$300 – **1ST OFFENSE**
514.030	23280	THEFT BY UNLAWFUL TAKING/DISP-LIVESTOCK 0/$300 – **1ST OFFENSE**
514.040	23200	THEFT BY DECEPTION-INCLUDE COLD CHECKS 0/$300 – **1ST OFFENSE**
514.050	23210	THEFT OF PROPERTY LOST/MISLAID/DELIVERED BY MISTAKE 0/$300 – **1ST OFFENSE**
514.060	23220	THEFT OF SERVICES 0/$300 – **1ST OFFENSE**
514.065	23225	POSS/USE/TRANSFER DEVICE FOR THEFT OF SERVICE-2ND OR > OFF
514.070	23230	THEFT BY FAILURE TO MAKE REQUIRED DISPOSITION OF PROPERTY 0/$300 – **1ST OFFENSE**
514.080	23240	THEFT BY EXTORTION – **1ST OFFENSE**
514.090	23250	THEFT OF LABOR 0/$300 – **1ST OFFENSE**
514.110	28030	RECEIVING STOLEN PROPERTY 0/$300 – **1ST OFFENSE**
514.120	23235	OBSCURING THE IDENTITY OF A MACHINE 0/$300 – **1ST OFFENSE**
514.140	23265	THEFT OF MAIL MATTER – **1ST OFFENSE**
514.150	28040	POSSESSION OF STOLEN MAIL MATTER – **1ST OFFENSE**

[1] **Dependant upon authorization from the Legislature.**
[2] **Dependant upon authorization from the Legislature.**

PROPOSED AMENDMENTS TO THE RULES OF THE SUPREME COURT

Included in the Proposed Rules Amendments to the Supreme Court Rules is the Court's latest review of the KBA Ethics 2000 Committee's work on the Rules of Professional Conduct, the most significant set of potential changes since the adoption of those rules. The Proposed new comments and changes to the Court's current comments on these Proposed Rules are available on the KBA website at www.kybar.org, and are not included herein.

A. KENTUCKY RULES OF PROFESSIONAL CONDUCT

I. SCR 3.130 Kentucky Rules of Professional Conduct

The proposed new rule SCR 3.130 shall read:

Preamble and Scope

Preamble: A Lawyer's Responsibilities

(1) A lawyer, as a member of the legal profession, is a representative of clients, an officer of the legal system and a public citizen having special responsibility for the quality of justice.

(2) As a representative of clients, a lawyer performs various functions. As advisor, a lawyer provides a client with an informed understanding of the client's legal rights and obligations and explains their practical implications. As advocate, a lawyer zealously asserts the client's position under the rules of the adversary system. As negotiator, a lawyer seeks a result advantageous to the client but consistent with requirements of honest dealings with others. As an evaluator, a lawyer acts by examining a client's legal affairs and reporting about them to the client or to others.

(3) In addition to these representational functions, a lawyer may serve as a third-party neutral, a nonrepresentational role helping the parties to resolve a dispute or other matter. Some of these Rules apply directly to lawyers who are or have served as third-party neutrals. See, e.g., Rules 1.12 and 2.4. In addition, there are Rules that apply to lawyers who are not active in the practice of law or to practicing lawyers even when they are acting in a nonprofessional capacity. For example, a lawyer who commits fraud in the conduct of a business is subject to discipline for engaging in conduct involving dishonesty, fraud, deceit or misrepresentation. See Rule 8.4.

(4) In all professional functions a lawyer shall be competent, prompt and diligent. A lawyer shall maintain communication with a client concerning the representation. A lawyer shall keep in confidence information relating to representation of a client except so far as disclosure is required or permitted by the Rules of Professional Conduct or other law.

(5) A lawyer's conduct shall conform to the requirements of the law, both in professional service to clients and in the lawyer's business and personal affairs. A lawyer shall use the law's procedures only for legitimate purposes and not to harass or intimidate others. A lawyer shall demonstrate respect for the legal system and for those who serve it, including judges, other lawyers and public officials. While it is a lawyer's duty, when necessary, to challenge the rectitude of official action, it is also a lawyer's duty to uphold legal process.

(6) As a public citizen, a lawyer should seek improvement of the law, access to the legal system, the administration of justice and the quality of service rendered by the legal profession. As a member of a learned profession, a lawyer should cultivate knowledge of the law beyond its use for clients, employ that knowledge in reform of the law and work to strengthen legal education. In addition, a lawyer should further the public's understanding of and confidence in the rule of law and the justice system because legal institutions in a constitutional democracy depend on popular participation and support to maintain their authority. A lawyer should be mindful of deficiencies in the administration of justice and of the fact that the poor, and sometimes persons who are not poor, cannot afford adequate legal assistance. Therefore, all lawyers should devote professional time and resources and use civic influence to ensure equal access to our system of justice for all those who because of economic or social barriers cannot afford or secure adequate legal counsel. A lawyer should aid the legal profession in pursuing these objectives and should help the bar regulate itself in the public interest.

(7) Many of a lawyer's professional responsibilities are prescribed in the Rules of Professional Conduct, as well as substantive and procedural law. However, a lawyer is also guided by personal conscience and the approbation of professional peers. A lawyer should strive to attain the highest level of skill, to improve the law and the legal profession and to exemplify the legal profession's ideals of public service.

(8) A lawyer's responsibilities as a representative of clients, an officer of the legal system and a public citizen are usually harmonious. Thus, when an opposing party is well represented, a lawyer can be a zealous advocate on behalf of a client and at the same time assume that justice is being done. So also, a lawyer can be sure that preserving client confidences ordinarily serves the public interest because people are more likely to seek legal advice, and thereby heed their legal obligations, when they know their communications will be private.

(9) In the nature of law practice, however, conflicting responsibilities are encountered. Virtually all difficult ethical problems arise from conflict between a lawyer's responsibilities to clients, to the legal system and to the lawyer's own interest in remaining an ethical person while earning a satisfactory living. The Rules of Professional Conduct often prescribe terms for resolving such conflicts. Within the framework of these Rules, however, many difficult issues of professional discretion can arise. Such issues must be resolved through the exercise of sensitive professional and moral judgment guided by the basic principles underlying the Rules. These principles include the lawyer's obligation zealously to protect and pursue a client's legitimate interests, within the bounds of the law, while maintaining a professional, courteous and civil attitude toward all persons involved in the legal system.

(10) The legal profession is largely self-governing. Although other professions also have been granted powers of self-government, the legal profession is unique in this respect because of the close relationship between the profession and the processes of government and law enforcement. This connection is manifested in the fact that ultimate authority over the legal profession is vested largely in the courts.

(11) To the extent that lawyers meet the obligations of their professional calling, the occasion for government regulation is obviated. Self-regulation also helps maintain the legal profession's independence from government domination. An independent legal profession is an

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important force in preserving government under law, for abuse of legal authority is more readily challenged by a profession whose members are not dependent on government for the right to practice.

(12) 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.

(13) Lawyers play a vital role in the preservation of society. The fulfillment of this role requires an understanding by lawyers of their relationship to our legal system. The Rules of Professional Conduct, when properly applied, serve to define that relationship.

Scope

(14) The Rules of Professional Conduct are rules of reason. They should be interpreted with reference to the purposes of legal representation and of the law itself. Some of the Rules are imperatives, cast in the terms "shall" or "shall not." These define proper conduct for purposes of professional discipline. Others, generally cast in the term "may," are permissive and define areas under the Rules in which the lawyer has discretion to exercise professional judgment. No disciplinary action should be taken when the lawyer chooses not to act or acts within the bounds of such discretion. Other Rules define the nature of relationships between the lawyer and others. The Rules are thus partly obligatory and disciplinary and partly constitutive and descriptive in that they define a lawyer's professional role. Many of the Comments use the term "should." Comments do not add obligations to the Rules but provide guidance for practicing in compliance with the Rules.

(15) The Rules presuppose a larger legal context shaping the lawyer's role. That context includes court rules and statutes relating to matters of licensure, laws defining specific obligations of lawyers and substantive and procedural law in general. The Comments are sometimes used to alert lawyers to their responsibilities under such other law.

(16) Compliance with the Rules, as with all law in an open society, depends primarily upon understanding and voluntary compliance, secondarily upon reinforcement by peer and public opinion and finally, when necessary, upon enforcement through disciplinary proceedings. The Rules do not, however, exhaust the moral and ethical considerations that should inform a lawyer, for no worthwhile human activity can be completely defined by legal rules. The Rules simply provide a framework for the ethical practice of law.

(17) Furthermore, for purposes of determining the lawyer's authority and responsibility, principles of substantive law external to these Rules determine whether a client-lawyer relationship exists. Most of the duties flowing from the client-lawyer relationship attach only after the client has requested the lawyer to render legal services and the lawyer has agreed to do so. But there are some duties, such as that of confidentiality under Rule 1.6, that attach when the lawyer agrees to consider whether a client-lawyer relationship shall be established. See Rule 1.18. Whether a client-lawyer relationship exists for any specific purpose can depend on the circumstances and may be a question of fact.

(18) Under various legal provisions, including constitutional, statutory and common law, the responsibilities of government lawyers may include authority concerning legal matters that ordinarily reposes in the client in private client-lawyer relationships. For example, a lawyer for a government agency may have authority on behalf of the government to decide upon settlement or whether to appeal from an adverse judgment. Such authority in various respects is generally vested in the attorney general and the state's attorney in state government, and their federal counterparts, and the same may be true of other government law officers. Also, lawyers under the supervision of these officers may be authorized to represent several government agencies in intragovernmental legal controversies in circumstances where a private lawyer could not represent multiple private clients. These Rules do not abrogate any such authority.

(19) Failure to comply with an obligation or prohibition imposed by a Rule is a basis for invoking the disciplinary process. The Rules presuppose that disciplinary assessment of a lawyer's conduct will be made on the basis of the facts and circumstances as they existed at the time of the conduct in question and in recognition of the fact that a lawyer often has to act upon uncertain or incomplete evidence of the situation. Moreover, the Rules presuppose that whether or not discipline should be imposed for a violation, and the severity of a sanction, depend on all the circumstances, such as the willfulness and seriousness of the violation, extenuating factors and whether there have been previous violations.

(20) Violation of a Rule should not itself give rise to a cause of action against a lawyer nor should it create any presumption in such a case that a legal duty has been breached. In addition, violation of a Rule does not necessarily warrant any other nondisciplinary remedy, such as disqualification of a lawyer in pending litigation. The Rules are designed to provide guidance to lawyers and to provide a structure for regulating conduct through disciplinary agencies. They are not designed to be a basis for civil liability. Furthermore, the purpose of the Rules can be subverted when they are invoked by opposing parties as procedural weapons. The fact that a Rule is a just basis for a lawyer's self-assessment, or for sanctioning a lawyer under the administration of a disciplinary authority, does not imply that an antagonist in a collateral proceeding or transaction has standing to seek enforcement of the Rule. Nevertheless, since the Rules do establish standards of conduct by lawyers, a lawyer's violation of a Rule may be evidence of breach of the applicable standard of conduct.

(21) The Comment accompanying each Rule explains and illustrates the meaning and purpose of the Rule. The Preamble and this note on Scope provide general orientation. The Comments are intended as guides to interpretation, but the text of each Rule is authoritative.

II. SCR 3.130(1.0) [TERMINOLOGY]Terminology

The proposed amendments to SCR 3.130(1.0) are:

[(1)**]** (a) "Belief" or "believes" denotes that the person involved actually supposed the fact in question to be true. A person's belief may be inferred from circumstances.

[(2)**]** **[**"Consult" or "consultation" denotes communication of information reasonably sufficient to permit the client to appreciate the significance of the matter in question.**]**

(b) "Confirmed in writing," when used in reference to the informed consent of a person, denotes informed consent that is given in

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writing by the person or a writing that a lawyer promptly transmits to the person confirming an oral informed consent. See paragraph (e) for the definition of an informed consent. If it is not feasible to obtain or transmit the writing at the time the person gives informed consent, then the lawyer must obtain or transmit it within a reasonable time thereafter.

[(3)**]** (c) "Firm" or "law firm" denotes a lawyer or lawyers in a **[**private firm**]**, law partnership, professional corporation, sole proprietorship or other association authorized to practice law; or lawyers employed in a legal services organization or the legal department of a corporation or other organization **[**and lawyers employed in a legal services organization**]**.

[(4)**]** (d) "Fraud" or "fraudulent" denotes conduct **[**having**]** that is fraudulent under the substantive or procedural law of the applicable jurisdiction and has a purpose to deceive [and not merely negligent misrepresentation or failure to apprise another of relevant information].

(e) "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.

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

[(6)**]** (g) "Partner" denotes a member of a partnership,**[**and**]** a shareholder in a law firm organized as a professional corporation, or a member of an association authorized to practice law.

[(7)**]** (h) "Reasonable" or "reasonably" when used in relation to conduct by a lawyer denotes the conduct of a reasonably prudent and competent lawyer.

[(8)**]** (i) "Reasonable belief" or "reasonably believes" when used in reference to a lawyer denotes that the lawyer believes the matter in question and that the circumstances are such that the belief is reasonable.

[(9)**]** (j) "Reasonably should know" when used in reference to a lawyer denotes that a lawyer of reasonable prudence and competence would ascertain the matter in question.

(k) "Screened" denotes the isolation of a lawyer from any participation in a matter through the timely imposition of procedures within a firm that are reasonably adequate under the circumstances to protect information that the isolated lawyer is obligated to protect under these Rules or other law.

[(10)**]** (l) "Substantial" when used in reference to degree or extent denotes a material matter of clear and weighty importance.

(m) "Tribunal" denotes a court, an arbitrator in a binding arbitration proceeding or a legislative body, administrative agency, disciplinary or admissions entity created by the Supreme Court, or other body acting in an adjudicative capacity. A legislative body, administrative agency or other body acts in an adjudicative capacity when a neutral official, after the presentation of evidence or legal argument by a party or parties, will render a binding legal judgment directly affecting a party's interests in a particular matter.

(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.

B. CLIENT-LAWYER RELATIONSHIP

I. SCR 3.130(1.1) Competence

The proposed amendments to SCR 3.130(1.1) are:

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

II. SCR 3.130(1.2) Scope of representation and allocation of authority between client and lawyer

The proposed amendments to SCR 3.130(1.2) are:

(a) **[**(A)**]** Subject to paragraphs (c) and (d), a lawyer shall abide by a client's decisions concerning the objectives of representation**[**, subject to paragraphs (c), (d) and (e),**]** and, as required by Rule 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation. A lawyer shall abide by a client's decision whether to **[**accept an offer of settlement of**]** settle a matter. In a criminal case, the lawyer shall abide by the client's decision, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial and whether the client will testify.

(b) A lawyer's representation of a client, including representation by appointment, does not constitute an endorsement of the client's political, economic, social or moral views or activities.

(c) A lawyer may limit the **[**objectives**]** scope of the representation if the limitation is reasonable under the circumstances and the client **[**consents after consultation**]** gives informed consent.

(d) A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent, but a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning or application of the law.

[(e) When a lawyer knows that a client expects assistance not permitted by the Rules of professional conduct or other law, the lawyer shall **[**inform**]** consult with the client regarding the relevant limitations on the lawyer's conduct.

III. SCR 3.130(1.3) Diligence

The proposed amendments to SCR 3.130(1.3) are:

A lawyer shall act with reasonable diligence and promptness in representing a client.

IV. SCR 3.130(1.4) Communication

The proposed amendments to SCR 3.130(1.4) are:

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(a) A lawyer shall [should keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.]:

(1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in Rule 1.0(e), is required by these Rules;

(2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;

(3) keep the client reasonably informed about the status of the matter;

(4) promptly comply with reasonable requests for information; and

(5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.

(b) A lawyer shall [should] explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

V. SCR 3.130(1.5) Fees

The proposed amendments to SCR 3.130(1.5) are:

(a) A [lawyer's fee] lawyer shall [be reasonable] not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses. [Some]The factors to be considered in determining the reasonableness of a fee include the following:

(1) [The] the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;

(2) [The] the likelihood that the acceptance of the particular employment will preclude other employment by the lawyer;

(3) [The] the fee customarily charged in the locality for similar legal services;

(4) [The] the amount involved and the results obtained;

(5) [The] the time limitations imposed by the client or by the circumstances;

(6) [The] the nature and length of the professional relationship with the client;

(7) [The] the experience, reputation, and ability of the lawyer or lawyers performing the services; and

(8) [Whether] whether the fee is fixed or contingent.

(b) [When the lawyer has not regularly represented the client,] The scope of the representation and the basis or rate of the fee and expenses for which the client will be responsible shall [should]be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation, except when the lawyer will charge a regularly represented client on the same basis or rate. Any changes in the basis or rate of the fee or expenses shall also be communicated to the client.

(c) A fee may be contingent on the outcome of the matter for which the service is rendered, except in a matter in which a contingent fee is prohibited by paragraph (d) or other law. Such a fee must meet the requirements of Rule 1.5(a). A contingent fee agreement shall be in a writing signed by the client and [should]shall state the method by which the fee is to be determined, including the percentage or percentages that shall accrue to the lawyer in the event of settlement, trial or appeal[,]; litigation and other expenses to be deducted from the recovery[,]; and whether such expenses are to be deducted before or after the contingent fee is calculated. The agreement must clearly notify the client of any expenses for which the client will be liable whether or not the client is the prevailing party. Upon [recovery of any amount in]conclusion of a contingent fee matter, the lawyer shall provide the client with a written statement stating the outcome of the matter and, if there is a recovery, showing the remittance to the client and the method of its determination.

(d) A lawyer shall not enter into an arrangement for, charge, or collect:

(1) [Any] any fee in a domestic relations matter, the payment or amount of which is contingent upon the securing of a divorce or upon the amount of alimony, maintenance, support, or property settlement in lieu thereof, provided this does not apply to liquidated sums in arrearage; or

(2) [A] a contingent fee for representing a defendant in a criminal case.

(e) A division of a fee between lawyers who are not in the same firm may be made only if:

(1) [(a)The] the division is in proportion to the services performed by each lawyer, or [(b) By written agreement with the client], each lawyer assumes joint responsibility for the representation; [and]

(2) [The] the client [is advised of and does not object to the participation of all the lawyers involved] agrees to the arrangement and the agreement is confirmed in writing; and

(3) [The] the total fee is reasonable.

(f) A fee may be designated as a non-refundable retainer. A non-refundable retainer fee agreement shall be in a writing signed by the client evidencing the client's informed consent, and shall state the dollar amount of the retainer, its application to the scope of the representation and the time frame in which the agreement will exist. Depending upon all of the circumstances, the client may be entitled to a return of some portion of the fee, even a non-refundable retainer.

(g) The reasonableness of a fee shall be determined at the time the agreement is entered into, during the representation, and at the conclusion of the representation.

VI. SCR 3.130(1.6) Confidentiality of information

The proposed amendments to SCR 3.130(1.6) are:

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(a) A lawyer shall not reveal information relating to the representation of a client unless the client [consents after consultation, except for disclosures that are] gives informed consent, the disclosure is impliedly authorized in order to carry out the representation[, and except as stated in] or the disclosure is permitted by paragraph (b).

(b) A lawyer may reveal [such] information relating to the representation of a client to the extent the lawyer reasonably believes necessary:

(1) [To] to prevent [the client from committing a criminal act that the lawyer believes is likely to result in imminent] reasonably certain death or substantial bodily harm;[or]

(2) to prevent the client from committing a crime or fraud that is reasonably certain to result in substantial injury to the financial interests or property of another and in furtherance of which the client has used or is using the lawyer's services;

(3) to prevent, mitigate or rectify substantial injury to the financial interests or property of another that is reasonably certain to result or has resulted from the client's commission of a crime or fraud in furtherance of which the client has used the lawyer's services;

(4) to secure legal advice about the lawyer's compliance with these Rules;

[(2)] (5) [To] to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client, to establish a defense to a criminal charge or civil claim against the lawyer based upon conduct in which the client was involved, or to respond to allegations in any proceeding, including a disciplinary proceeding, concerning the lawyer's representation of the client; or

[(3)] (6) [To] to comply with other law or a court order.

VII. SCR 3.130(1.7) Conflict of interest:[general rule] current clients

The proposed amendments to SCR 3.130(1.7) are:

[(a) A lawyer shall not represent a client if the representation of that client will be directly adverse to another client, unless:

(1) The lawyer reasonably believes the representation will not adversely affect the relationship with the other client; and

(2) Each client consents after consultation.

(b) A lawyer shall not represent a client if the representation of that client may be materially limited by the lawyer's responsibilities to another client or to a third person, or by the lawyer's own interests, unless:

(1) The lawyer reasonably believes the representation will not be adversely affected; and

(2) The client consents after consultation. When representation of multiple clients in a single matter is undertaken, the consultation shall include explanation of the implications of the common representation and the advantages and risks involved.]

(a) Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:

(1) the representation of one client will be directly adverse to another client; or

(2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.

(b) Notwithstanding the existence of a concurrent conflict of interest under paragraph (a), a lawyer may represent a client if:

(1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;

(2) the representation is not prohibited by law;

(3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal; and

(4) each affected client gives informed consent, confirmed in writing. The consultation shall include an explanation of the implications of the common representation and the advantages and risks involved.

VIII. SCR 3.130(1.8) Conflict of interest: [prohibited transactions] current clients: specific rules

The proposed amendments to SCR 3.130(1.8) are:

(a) A lawyer shall not enter into a business transaction with a client or knowingly acquire an ownership, possessory, security or other pecuniary interest adverse to a client unless:

(1) [The] the transaction and terms on which the lawyer acquires the interest are fair and reasonable to the client and are fully disclosed and transmitted in writing [to the client] in a manner [which] that can be reasonably understood by the client;

(2) [The] the client is advised in writing of the desirability of seeking and is given a reasonable opportunity to seek the advice of independent legal counsel [in] on the transaction; and

(3) [The] the client [consents] gives informed consent, in a writing [thereto] signed by the client, to the essential terms of the transaction and the lawyer's role in the transaction, including whether the lawyer is representing the client in the transaction.

(b) A lawyer shall not use information relating to representation of a client to the disadvantage of the client unless the client [consents after consultation] gives informed consent, except as permitted or required by [Rule 1.6 or Rule 3.3] these Rules.

(c) A lawyer shall not solicit any substantial gift from a client, including a testamentary gift, or prepare on behalf of a client an instrument giving the lawyer or a person related to the lawyer [as parent, child, sibling, or spouse] any substantial gift [from a client, including a testamentary] unless the lawyer or other recipient of the gift[, except where the client] is related to the [donee] client. For purposes of this paragraph, related persons include a spouse, child, grandchild, parent, grandparent or other relative or individual with whom the lawyer or the client maintains a close, familial relationship.

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(d) Prior to the conclusion of representation of a client, a lawyer shall not make or negotiate an agreement giving the lawyer literary or media rights to a portrayal or account based in substantial part on information relating to the representation.

(e) A lawyer shall not provide financial assistance to a client in connection with pending or contemplated litigation, except that:

(1) **[**A**]** a lawyer may advance court costs and expenses of litigation, the repayment of which may be contingent on the outcome of the matter; and

(2) **[**A**]** a lawyer representing an indigent client may pay court costs and expenses of litigation on behalf of the client.

(f) A lawyer shall not accept compensation for representing a client from one other than the client unless:

(1) **[**Such compensation is in accordance with an agreement between the client and the third party or**]** the client **[**consents after consultation**]** gives informed consent;

(2) **[**There**]** there is no interference with the lawyer's independence of professional judgment or with the client-lawyer relationship; and

(3) **[**Information**]** information relating to representation of a client is protected as required by Rule 1.6.

(g) A lawyer who represents two or more clients shall not participate in making an aggregate settlement of the claims of or against the clients, or in a criminal case an aggregated agreement as to guilty or nolo contendere pleas, unless each client **[**consents after consultation, including**]** gives informed consent, in a writing signed by the client. The lawyer's disclosure **[**of**]** shall include the existence and nature of all the claims or pleas involved and of the participation of each person in the settlement.

(h) A lawyer shall not:

(1) make an agreement prospectively limiting the lawyer's liability to a client for malpractice unless **[**permitted by law and**]** the client is independently represented in making the agreement**[**,**]**; or

(2) settle a claim or potential claim for such liability with an unrepresented client or former client **[**without first advising**]** unless that person is advised in writing **[**that**]** of the desirability of seeking and is given a reasonable opportunity to seek the advice of independent **[**representation is appropriate**]** legal counsel in connection therewith.

[(i) A lawyer related to another lawyer as parent, child, sibling or spouse shall not represent a client in a representation directly adverse to a person whom the lawyer knows is represented by the other lawyer except upon consent by the client after consultation regarding the relationship.

(j)**]** (i) A lawyer shall not acquire a proprietary interest in the cause of action or subject matter of litigation the lawyer is conducting for a client, except that the lawyer may:

(1) **[**Acquire**]** acquire a lien **[**granted**]** authorized by law to secure the lawyer's fee or expenses; and

(2) **[**Contract**]** contract with a client for a reasonable contingent fee in a civil case.

(j) A lawyer shall not have sexual relations with a client unless a consensual sexual relationship existed between them before the client-lawyer relationship commenced.

(k) While lawyers are associated in a firm, a prohibition in the foregoing paragraphs (a) through (i) that applies to any one of them shall apply to all of them.

VIII. SCR 3.130(1.9) [Conflict of Interest:] Duties to former [client] clients

The proposed amendments to SCR 3.130(1.9) are:

(a) A lawyer who has formerly represented a client in a matter shall not thereafter**[**: (a) Represent**]** represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client unless the former client **[**consents after consultation**]** gives informed consent, confirmed in writing.

(b) A lawyer shall not knowingly **[**Represent**]** represent a person in the same or a substantially related matter in which a firm with which the lawyer formerly was associated had previously represented a client

(1) whose interests are materially adverse to that person; and

(2) about whom the lawyer had acquired information protected by Rules 1.6 and 1.9(c) that is material to the matter;

unless the former client **[**consents after consultation**]** gives informed consent, confirmed in writing.

(c) A lawyer who has formerly represented a client in a matter **[**of**]** or whose present or former firm has formerly represented a client in a matter shall not thereafter:

(1) use information relating to the representation to the disadvantage of the former client except as **[**Rule 1.6 or Rule 3.3**]** these Rules would permit or require with respect to a client, or when the information has become generally known; or

(2) reveal information relating to the representation except as **[**Rule 1.6 or Rule 3.3**]** these Rules would permit or require with respect to a client.

IX. SCR 3.130 (1.10) [Imputed disqualification] Imputation of conflicts of interest: general rule

The proposed amendments to SCR 3.130(1.10) are:

(a) While lawyers are associated in a firm, none of them shall knowingly represent a client when any one of them practicing alone would be prohibited from doing so by Rules 1.7**[**, 1.8(c),**]** or 1.9 **[**or 2.2**]**, unless the prohibition is based on a personal interest of the prohibited lawyer and does not present a significant risk of materially limiting the representation of the client by the remaining lawyers in the firm.

(b) When a lawyer has terminated an association with a firm, the firm is not prohibited from thereafter representing a person with interests materially adverse to those of a client represented by the formerly

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associated lawyer and not currently represented by the firm, unless:

(1) [The] the matter is the same or substantially related to that in which the formerly associated lawyer represented the client; and

(2) [Any] any lawyer remaining in the firm has information protected by Rules 1.6 and 1.9[(b)] (c) that is material to the matter.

(c) A disqualification prescribed by this rule may be waived by the affected client under the conditions stated in Rule 1.7.

(d) A firm is not disqualified from representation of a client if the only basis for disqualification is representation of a former client by a lawyer presently associated with the firm, sufficient to cause that lawyer to be disqualified pursuant to Rule 1.9 and:

(1) the disqualified lawyer is screened from any participation in the matter and is apportioned no specific part of the fee therefrom; and

(2) written notice is given to the former client.

(e) The disqualification of lawyers associated in a firm with former or current government lawyers is governed by Rule 1.11.

XII. SCR 3.130(1.11) [Successive government] Special conflicts of interest for former and current government officers and [private employment] employees

The proposed amendments to SCR 3.130(1.11) are:

(a) Except as law may otherwise expressly permit, a lawyer who has formerly served as a public officer or employee of the government:

(1) is subject to Rule 1.9(c); and

(2) shall not otherwise represent a [private] client in connection with a matter in which the lawyer participated personally and substantially as a public officer or employee, unless the appropriate [public body or] government agency [consents after consultation] gives its informed consent, confirmed in writing, to the representation.

(b) [No] When a lawyer is disqualified from representation under paragraph (a), no lawyer in a firm with which that lawyer is associated may knowingly undertake or continue representation in such a matter unless:

(1) [The] the disqualified lawyer is timely screened from any participation in the matter and is apportioned no part of the fee therefrom; and

(2) [Written] written notice is promptly given to the appropriate private public body or government agency to enable it to ascertain compliance with the provisions of this Rule.

[(b)] (c) Except as law may otherwise expressly permit, a lawyer having information that the lawyer knows is confidential government information about a person acquired when the lawyer was a public officer or employee, may not represent a private client whose interests are adverse to that person in a matter in which the information could be used to the material disadvantage of that person. As used in this Rule, the term "confidential government information" means information that has been obtained under governmental authority and which, at the time this Rule is applied, the government is prohibited by law from disclosing to the public or has a legal privilege not to disclose and which is not otherwise available to the public. A firm with which that lawyer is associated may undertake or continue representation in the matter only if the disqualified lawyer is timely screened from any participation in the matter and is apportioned no part of the fee therefrom.

[(c)] (d) Except as law may otherwise expressly permit, a lawyer currently serving as a public officer or employee [shall not]:

(1) is subject to Rules 1.7 and 1.9; and

(2) shall not:

[(1)] (i) [Participate] participate in a matter in which the lawyer participated personally and substantially while in private practice or nongovernmental employment, unless [under applicable law no one is, or by lawful delegation may be, authorized to act in the lawyer's stead in the matter] the appropriate government agency gives its informed consent, confirmed in writing; or

[(2)] (ii) [Negotiate] negotiate for private employment with any person who is involved as a party or as attorney for a party in a matter in which the lawyer is participating personally and substantially[.], except that a lawyer serving as a law clerk to a judge, other adjudicative officer or arbitrator may negotiate for private employment as permitted by Rule 1.12(b) and subject to the conditions stated in Rule 1.12(b).

[(d)] (e) As used in this [rule] Rule, the term "matter" includes:

(1) [Any] any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest or other particular matter involving a specific party or parties[;], and

(2) [Any] any other matter covered by the conflict of interest rules of the appropriate government agency.

[(e) As used in this rule, the term "confidential government information" means information which has been obtained under governmental authority and which, at the time this rule is applied, the government is prohibited by law from disclosing to the public or has a legal privilege not to disclose, and which is not otherwise available to the public.]

XIII. SCR 3.130(1.12) Former judge[or], arbitrator, mediator or other third-party neutral

The proposed amendments to SCR 3.130(1.12) are:

(a) Except as stated in paragraph (d), a lawyer shall not represent anyone in connection with a matter in which the lawyer participated personally and substantially as a judge or other adjudicative officer[, arbitrator] or law clerk to such a person or as an arbitrator, mediator or other third-party neutral, unless all parties to the proceeding give informed consent [after consultation], confirmed in writing.

(b) A lawyer shall not negotiate for employment with any person who is involved as a party or as attorney for a party in a matter in which the lawyer is participating personally and substantially as a judge or other adjudicative officer, or as an arbitrator, mediator or other third-party neutral. A lawyer serving as a law clerk to a judge[,] or other adjudicative officer [or arbitrator] may negotiate for employment with a

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party or lawyer involved in a matter in which the clerk is participating personally and substantially, but only after the lawyer has notified the judge**[**,**]** or other adjudicative officer **[**or arbitrator**]**.

(c) If a lawyer is disqualified by paragraph (a), no lawyer in a firm with which that lawyer is associated may knowingly undertake or continue representation in the matter unless:

(1) **[**The**]** the disqualified lawyer is timely screened from any participation in the matter and is apportioned no part of the fee therefrom; and

(2) **[**Written**]** written notice is promptly given to the parties and any appropriate tribunal to enable **[**it**]** them to ascertain compliance with the provisions of this Rule.

(d) An arbitrator selected as a partisan of a party in a **[**multimember **]** multimember arbitration panel is not prohibited from subsequently representing that party.

XIV. SCR 3.130(1.13) Organization as client

The proposed amendments to SCR 3.130(1.13) are:

(a) A lawyer employed or retained by an organization represents the organization acting through its duly authorized constituents.

(b) If a lawyer for an organization knows that an officer, employee or other person associated with the organization is engaged in action, intends to act or refuses to act in a matter related to the representation that is a violation of a legal obligation to the organization, or a violation of law **[**which**]** that reasonably might be imputed to the organization, and that is likely to result in substantial injury to the organization, then the lawyer shall proceed as is reasonably necessary in the best interest of the organization. **[**In determining how to proceed, the lawyer shall give due consideration to the seriousness of the violation and its consequences, the scope and nature of the lawyer's representation, the responsibility in the organization and the apparent motivation of the person involved, the policies of the organization concerning such matters and any other relevant considerations. Any measures taken shall be designed to minimize disruption of the organization and the risk of revealing information relating to the representation to persons outside the organization. Such measures may include among others:

(1) Asking reconsideration of the matter;

(2) Advising that a separate legal opinion on the matter be sought for presentation to appropriate authority in the organization; and

(3) Referring **]** Unless the lawyer reasonably believes that it is not necessary in the best interest of the organization to do so, the lawyer shall refer the matter to higher authority in the organization, including, if warranted by the **[**seriousness of the matter, referral**]** circumstances, to the highest authority that can act in behalf of the organization as determined by applicable law.

(c) **[**If,**]** Except as provided in paragraph (d), if,

(1) despite the lawyer's efforts in accordance with paragraph (b), the highest authority that can act on behalf of the organization insists upon or fails to address in a timely and appropriate manner an action, or a refusal to act, that is clearly a violation of law **[**and is likely to result in substantial injury to the organization**]**, and

(2) the lawyer reasonably believes that the violation is reasonably certain to result in substantial injury to the organization, then the lawyer may **[**resign in accordance with Rule 1.16**]** reveal information relating to the representation whether or not Rule 1.6 permits such disclosure, but only if and to the extent the lawyer reasonably believes necessary to prevent substantial injury to the organization.

(d) Paragraph (c) shall not apply with respect to information relating to a lawyer's representation of an organization to investigate an alleged violation of law, or to defend the organization or an officer, employee or other constituent associated with the organization against a claim arising out of an alleged violation of law.

(e) A lawyer who reasonably believes that he or she has been discharged because of the lawyer's actions taken pursuant to paragraphs (b) or (c), or who withdraws under circumstances that require or permit the lawyer to take action under either of those paragraphs, shall proceed as the lawyer reasonably believes necessary to assure that the organization's highest authority is informed of the lawyer's discharge or withdrawal.

[(d)**]** (f) In dealing with an organization's directors, officers, employees, members, shareholders or other constituents, a lawyer shall explain the identity of the client when **[**it is apparent**]** the lawyer knows or reasonably should know that the organization's interests are adverse to those of the constituents with whom the lawyer is dealing.

[(e)**]** (g) A lawyer representing an organization may also represent any of its directors, officers, employees, members, shareholders or other constituents, subject to the provisions of Rule 1.7. If the organization's consent to the dual representation is required by Rule 1.7, the consent shall be given by an appropriate official of the organization other than the individual who is to be represented, or by the shareholders.

XV. SCR 3.130(1.14) Client [under a disability] with diminished capacity

The proposed amendments to SCR 3.130(1.14) are:

(a) When a client's **[**ability**]** capacity to make adequately considered decisions in connection with **[**the**]** a representation is **[**impaired**]** diminished, whether because of minority, age, mental **[**disability**]** impairment or for some other reason, the lawyer shall, as far as reasonably possible, maintain a normal client-lawyer relationship with the client.

(b) **[**A lawyer may seek the appointment of a guardian or take other protective action with respect to a client, only when**]** When the lawyer reasonably believes that the client has diminished capacity, is at risk of substantial physical, financial or other harm unless action is taken and cannot adequately act in the client's own interest, the lawyer may take reasonably necessary protective action, including consulting with individuals or entities that have the ability to take action to protect the client and, in appropriate cases, seeking the appointment of a guardian ad litem, conservator or guardian.

(c) Information relating to the representation of a client with diminished capacity is protected by Rule 1.6. When taking protective

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action pursuant to paragraph (b), the lawyer is impliedly authorized under Rule 1.6(a) to reveal information about the client, but only to the extent reasonably necessary to protect the client's interests.

XV. SCR 3.130(1.15) Safekeeping property

The proposed amendments to SCR 3.130(1.15) are:

(a) A lawyer shall hold property of clients or third persons that is in a lawyer's possession in connection with a representation separate from **[**a**]**the lawyer's own property. Funds shall be kept in a separate account maintained in the state where the lawyer's office is situated, or elsewhere with the consent of the client, **[**or**]** third person, or both in the event of claim by each to the property. The separate account referred to in the preceding sentence shall be maintained in a bank which has agreed to notify the Kentucky Bar Association in the event that any overdraft occurs in the account. Other property shall be identified as such and appropriately safeguarded. Complete records of such account funds and other property shall be kept by the lawyer and shall be preserved for a period of five years after termination of the representation.

(b) Upon receiving funds or other property in which a client or third person has an interest, a lawyer shall promptly notify the client, **[**or**]** third person, or both in the event of claims by each to the property. Except as stated in this Rule or otherwise permitted by law or by agreement with the client, third person, or both in the event of a claim by each to the property, a lawyer shall promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive and, upon request by the client or third person, shall promptly render a full accounting regarding such property.

(c) When in the course of representation a lawyer is in possession of property in which **[**both**]** two or more persons (one of whom may be the lawyer) **[**and another person**]** claim interests, the property shall be kept separate by the lawyer until **[**there is an accounting and severance of their interests. If a dispute arises concerning their respective interests, the portion in dispute shall be kept separate by the lawyer until**]** the dispute is resolved. The lawyer shall promptly distribute all portions of the property as to which the interests are not in dispute.

(d) A lawyer may deposit the lawyer's own funds in **[**an**]**a client trust account for the **[**limited**]**sole purpose of **[**minimizing**]**paying bank service charges on that account, but only in an amount necessary for that purpose. **[**A lawyer may also participate in an IOLTA program authorized by law or court rule.**]**

(e) A lawyer shall deposit into a client trust account legal fees and expenses that have been paid in advance, to be withdrawn by the lawyer only as fees are earned or expenses incurred.

XVII. SCR 3.130(1.16) Declining or terminating representation

The proposed amendments to SCR 3.130(1.16) are:

(a) Except as stated in paragraph (c), a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if:

(1) **[**The**]** the representation will result in violation of the Rules of Professional Conduct or other law; or

(2) **[**The**]** the lawyer's physical or mental condition materially impairs the lawyer's ability to represent the client; or

(3) **[**The**]** the lawyer is discharged.

(b) Except as stated in paragraph (c), a lawyer may withdraw from representing a client if:

(1) withdrawal can be accomplished without material adverse effect on the interests of the client**[**,**]**; or**[** if:**]**

[(1)**]** (2) **[**The**]** the client persists in a course of action involving the lawyer's services that the lawyer reasonably believes is criminal or fraudulent; or

[(2)**]** (3) **[**The**]** the client has used the lawyer's services to perpetrate a crime or fraud; or

[(3)**]** (4) **[**The**]** the client insists upon **[**pursuing an objective**]** taking action that the lawyer considers repugnant or **[**imprudent**]** with which the lawyer has a fundamental disagreement; or

[(4)**]** (5) **[**The**]** the client fails substantially to fulfill an obligation to the lawyer regarding the lawyer's services and has been given reasonable warning that the lawyer will withdraw unless the obligation is fulfilled; or

[(5)**]** (6) **[**The**]** the representation will result in an unreasonable financial burden on the lawyer or has been rendered unreasonably difficult by the client; or

[(6)**]** (7) **[**Other**]** other good cause for withdrawal exists.

(c) A lawyer must comply with applicable law requiring notice to or permission of a tribunal when terminating a representation. When ordered to do so by a tribunal, a lawyer shall continue representation notwithstanding good cause for terminating the representation.

(d) Upon termination of representation, a lawyer shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for employment of other counsel, surrendering papers and property to which the client is entitled and refunding any advance payment of fee or expense that has not been earned or incurred. The lawyer may retain papers relating to the client to the extent permitted by other law.

XVIII. SCR 3.130(1.17) Sale of law practice

The proposed new rule SCR 3.130(1.17) shall read:

A lawyer or a law firm may sell or purchase a law practice, or a field of practice, including good will, if the following conditions are satisfied:

(a) The seller ceases to engage in:

(1) the private practice of law; or

(2) the field(s) of practice sold; or

(3) the practice of law in the geographic area in which the practice has been conducted, all as the seller and purchaser may agree, all as the seller and purchaser may agree.

(b) The entire practice, or the entire field of practice is sold to

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one or more lawyers or law firms;

(c) The seller gives written notice to each of the seller's clients regarding:

(1) the proposed sale;

(2) the client's right to retain other counsel or to take possession of the file; and

(3) the fact that the client's consent to the transfer of the client's files will be presumed if the client does not take any action or does not otherwise object within ninety (90) days of the date the notice was sent.

(d) The fees charged clients shall not be increased by reason of the sale.

(e) If a client with active matters cannot be given notice, the file(s) of that client may be transferred to the purchaser only upon entry of an order by the circuit court in the county of the principal place of business of the seller. The seller may disclose to the court in camera information relating to the representation only to the extent necessary to obtain an order authorizing the transfer of the file. Notification of the entry of the order shall be sent to the Kentucky Bar Association.

(f) In the event the sale includes files that are closed matters, and the attorney has mailed notice to the client's last known address, the client's consent to the transfer of the client's files will be presumed if the client does not take any action or does not otherwise object within ninety (90) days of the date the notice was sent.

XIX. SCR 3.130(1.18) Duties to prospective client

The proposed new rule SCR 3.130(1.18) shall read:

(a) A person who discusses with a lawyer the possibility of forming a client-lawyer relationship with respect to a matter is a prospective client.

(b) Even when no client-lawyer relationship ensues, a lawyer who has had discussions with a prospective client shall not use or reveal information learned in the consultation, except as Rule 1.9 would permit with respect to information of a former client.

(c) A lawyer subject to paragraph (b) shall not represent a client with interests materially adverse to those of a prospective client in the same or a substantially related matter if the lawyer received information from the prospective client that could be significantly harmful to that person in the matter, except as provided in paragraph (d). If a lawyer is disqualified from representation under this paragraph, no lawyer in a firm with which that lawyer is associated may knowingly undertake or continue representation in such a matter, except as provided in paragraph (d).

(d) When the lawyer has received disqualifying information as defined in paragraph (c), representation is permissible if:

(1) both the affected client and the prospective client have given informed consent, confirmed in writing, or;

(2) the lawyer who received the information took reasonable measures to avoid exposure to more disqualifying information than was reasonably necessary to determine whether to represent the prospective client; and

(i) the disqualified lawyer is timely screened from any participation in the matter and is apportioned no part of the fee therefrom; and

(ii) written notice is promptly given to the prospective client.

C. COUNSELOR

I. SCR 3.130(2.1) Advisor

The proposed amendments to SCR 3.130(1.3) are:

In representing a client, a lawyer shall exercise independent professional judgment and render candid advice. In rendering advice, a lawyer may refer not only to law but to other considerations such as moral, economic, social and political factors, that may be relevant to the client's situation.

II. [SCR 3.130(2.2) Intermediary]

The proposed deletion of SCR 3.130(2.2) reads:

[(a) A lawyer may only act as intermediary between clients if:

(1) The lawyer consults with each client concerning the implications of the common representation, including the advantages and risks involved, and the effect on the attorney-client privileges, and obtains each client's consent to the common representation;

(2) The lawyer reasonably believes that the matter can be resolved on terms compatible with the clients' best interests, that each client will be able to make adequately informed decisions in the matter and that there is little risk of material prejudice to the interests of any of the clients if the contemplated resolution is unsuccessful; and

(3) The lawyer reasonably believes that the common representation can be undertaken impartially and without improper effect on other responsibilities the lawyer has to any of the clients.

(b) While acting as intermediary, the lawyer shall consult with each client concerning the decisions to be made and the considerations relevant in making them, so that each client can make adequately informed decisions.

(c) A lawyer shall withdraw as intermediary if any of the clients so requests, or if any of the conditions stated in paragraph (a) is no longer satisfied. Upon withdrawal, the lawyer shall not continue to represent any of the clients in the matter that was the subject of the intermediation.**]**

III. SCR 3.130(2.3) Evaluation for use by third persons

The proposed amendments to SCR 3.130(2.3) are:

(a) A lawyer may **[**undertake**]** provide an evaluation of a matter affecting a client for the use of someone other than the client if**[**: (1) The**]** the lawyer reasonably believes that making the evaluation is compati-

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ble with other aspects of the lawyer's relationship with the client[; and].

[(2)] (b) When the lawyer knows or reasonably should know that the evaluation is likely to affect the client's interests materially and adversely, the lawyer shall not provide the evaluation unless[The] the client [consents after consultation] gives informed consent.

[(b)] (c) Except as disclosure is [required] authorized in connection with a report of an evaluation, information relating to the evaluation is otherwise protected by Rule 1.6.

IV. SCR 3.130(2.4) Lawyer serving as third-party neutral

The proposed new rule SCR 3.130(2.4) shall read:

(a) A lawyer serves as a third-party neutral when the lawyer assists two or more persons who are not clients of the lawyer to reach a resolution of a dispute or other matter that has arisen between them. Service as a third-party neutral may include service as an arbitrator, a mediator or in such other capacity as will enable the lawyer to assist the parties to resolve the matter.

(b) A lawyer serving as a third-party neutral shall inform unrepresented parties that the lawyer is not representing them. When the lawyer knows or reasonably should know that a party does not understand the lawyer's role in the matter, the lawyer shall explain the difference between the lawyer's role as a third-party neutral and a lawyer's role as one who represents a client.

D. ADVOCATE

I. SCR 3.130(3.1) Meritorious claims and contentions

The proposed amendments to SCR 3.130(3.1) are:

A lawyer shall not knowingly bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis in law and fact for doing so that is not frivolous, which includes a good faith argument for an extension, modification or reversal of existing law. A lawyer for the defendant in a criminal proceeding, or the respondent in a proceeding that could result in incarceration, may nevertheless so defend the proceeding as to require that every element of the case be established.

II. SCR 3.130(3.2) Expediting litigation

The proposed amendments to SCR 3.130(3.2) are:

A lawyer shall make reasonable efforts to expedite litigation consistent with the interests of the client.

III. SCR 3.130(3.3) Candor toward the tribunal

The proposed amendments to SCR 3.130(3.3) are:

(a) A lawyer shall not knowingly:

(1) [Make] make a false statement of [material] fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the lawyer;

[(2) Fail to disclose a material fact to the tribunal when disclosure is necessary to avoid a fraud being perpetrated upon the tribunal;]

(2) fail to disclose to the tribunal 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; or

[(4)] (3) [Offer] offer evidence that the lawyer knows to be false. If a lawyer, the lawyer's client, or a witness called by the lawyer, has offered material evidence and the lawyer comes to know of its falsity, the lawyer shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal. A lawyer may refuse to offer evidence, other than the testimony of a defendant in a criminal matter, that the lawyer reasonably believes is false.

(b) A lawyer who represents a client in an adjudicative proceeding and who knows that a person intends to engage, is engaging or has engaged in criminal or fraudulent conduct related to the proceeding shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal.

[(b)] (c) The duties stated in [paragraph] paragraphs (a) and (b) continue to the conclusion of the proceeding, and apply even if compliance requires disclosure of information otherwise protected by Rule 1.6.

[(c) A lawyer may refuse to offer evidence that the lawyer reasonably believes is false.]

(d) In an ex parte proceeding, a lawyer shall inform the tribunal of all material facts known to the lawyer which will enable the tribunal to make an informed decision, whether or not the facts are adverse.

[(e) The obligation of the advocate under these rules is subordinate to such constitutional requirements as may be announced by the courts.]

IV. SCR 3.130(3.4) Fairness to opposing party and counsel

The proposed amendments to SCR 3.130(3.4) are:

A lawyer shall not:

(a) [Unlawfully] unlawfully obstruct another party's access to evidence or unlawfully alter, destroy or conceal a document or other material having potential evidentiary value. A lawyer shall not counsel or assist another person to do any such act;

(b) [Knowingly or intentionally] falsify evidence, counsel or assist a witness to testify falsely, or offer an inducement to a witness that is prohibited by law;

(c) [Knowingly or intentionally] knowingly disobey an obligation under the rules of a tribunal except for an open refusal based on an assertion that no valid obligation exists;

(d) [In] in pretrial procedure, [knowingly or intentionally] make a frivolous discovery request or deliberately fail to make reasonably diligent effort to comply with a legally proper discovery request by an opposing party;

(e) [In] in trial, [knowingly or intentionally] allude to any matter that the lawyer does not reasonably believe is relevant or that will not

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be supported by admissible evidence, assert personal knowledge of facts in issue except when testifying as a witness, or state a personal opinion as to the justness of a cause, the credibility of a witness, the culpability of a civil litigant or the guilt or innocence of an accused; or

(f) [Present] present, participate in presenting, or threaten to present criminal or disciplinary charges solely to obtain an advantage in any civil or criminal matter[.] ;or

(g) 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 [an employee or] other agent of a client; and

(2) the lawyer reasonably believes that the person's interests will not be adversely affected by refraining from giving such information.

V. SCR 3.130(3.5) Impartiality and decorum of the tribunal

The proposed amendments to SCR 3.130(3.5) are:

A lawyer shall not:

(a) [Seek] seek to influence a judge, juror, prospective juror or other official by means prohibited by law;

(b) [Communicate] communicate ex parte with such a person [as to the merits of the cause except as permitted] during the proceeding unless authorized to do so by law or court order;

(c) communicate with a juror or prospective juror after discharge of the jury if:

(1) the communication is prohibited by law, local rule, or court order;

(2) the juror has made known to the lawyer a desire not to communicate; or

(3) the communication involves misrepresentation, coercion, duress or harassment; or

[(c)] (d) [Engage] engage in conduct intended to disrupt a tribunal.

VI. SCR 3.130(3.6) Trial publicity

The proposed amendments to SCR 3.130(3.6) are:

(a) A lawyer who is participating or has participated in the investigation or litigation of a matter shall not make an extrajudicial statement that [a reasonable person would expect to] the lawyer knows or reasonably should know will be disseminated by means of public communication [if the lawyer knows or reasonably should know that]it and will have a substantial likelihood of materially prejudicing an adjudicative proceeding in the matter.

[(b) A statement referred to in paragraph (a) ordinarily is likely to have such an effect when it refers to a civil matter triable to a jury, a criminal matter, or any other proceeding that could result in incarceration, and the statement relates to:

(1) The character, credibility, reputation or criminal record of a party, suspect in a criminal investigation or witness, or the identity of a witness, or the expected testimony of a party or witness;

(2) In a criminal case or proceeding that could result in incarceration, the possibility of a plea of guilty to the offense or the existence or contents of any confession, admission, or statement given by a defendant or suspect or that person's refusal or failure to make a statement;

(3) The performance or results of any examination or test or the refusal or failure of a person to submit to an examination or test, or the identity or nature of physical evidence expected to be presented;

(4) Any opinion as to the guilt or innocence of a defendant or suspect in a criminal case or proceeding that could result in incarceration;

(5) Information the lawyer knows or reasonably should know is likely to be inadmissible as evidence in a trial and would if disclosed create a substantial risk of prejudicing an impartial trial; or

(6) The fact that a defendant has been charged with a crime, unless there is included therein a statement explaining that the charge is merely an accusation and that the defendant is presumed innocent until and unless proven guilty.

(c)](b) Notwithstanding [paragraphs] paragraph (a)[and(b)(1-5)], a lawyer [involved in the investigation or litigation of a matter] may state[without elaboration]:

(1) [The general nature of] the claim, offense or defense involved and, except when prohibited by law, the identity of the persons involved;

(2) [The] information contained in a public record;

(3) [That] that an investigation of the matter is in progress[, including the general scope of the investigation, the offense or claim or defense involved and, except when prohibited by law, the identity of the persons involved];

(4) [The] the scheduling or result of any step in litigation;

(5) [A] a request for assistance in obtaining evidence and information necessary thereto;

(6) [A] a warning of danger concerning the behavior of a person involved, when there is reason to believe that there exists the likelihood of substantial harm to an individual or to the public interest; and

(7) [In] in a criminal case, in addition to subparagraphs (1) through (6):

(i) [The] the identity, residence, occupation and family status of the accused;

(ii) [If] if the accused has not been apprehended,

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information necessary to aid in apprehension of that person;

(iii) [The] the fact, time and place of arrest; and

(iv) [The] the identity of investigating and arresting officers or agencies and the length of the investigation.

(c) Notwithstanding paragraph (a), a lawyer may make a statement that a reasonable lawyer would believe is required to protect a client from the substantial undue prejudicial effect of recent publicity not initiated by the lawyer or the lawyer's client. A statement made pursuant to this paragraph shall be limited to such information as is necessary to mitigate the recent adverse publicity.

(d) No lawyer associated in a firm or government agency with a lawyer subject to paragraph (a) shall make a statement prohibited by paragraph (a).

VII. SCR 3.130(3.7) Lawyer as witness

The proposed amendments to SCR 3.130(3.7) are:

(a) A lawyer shall not act as advocate at a trial in which the lawyer is likely to be a necessary witness [except where] unless:

(1) [The] the testimony relates to an uncontested issue;

(2) [The] the testimony relates to the nature and value of legal services rendered in the case; or

(3) [Disqualification] disqualification of the lawyer would work substantial hardship on the client.

(b) A lawyer may act as advocate in a trial in which another lawyer in the lawyer's firm is likely to be called as a witness unless precluded from doing so by Rule 1.7 or Rule 1.9.

VIII. SCR 3.130(3.8) Special responsibilities of a prosecutor

The proposed amendments to SCR 3.130(3.8) are:

The prosecutor [at all stages of a proceeding] in a criminal case shall:

(a) [R]refrain from prosecuting a charge that the prosecutor knows is not supported by probable cause;

(b) [M]make reasonable efforts to assure that the accused has been advised of the right to, and the procedure for obtaining, counsel and has been given reasonable opportunity to obtain counsel;

(c) [M]make timely disclosure to the defense of all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense, and, in connection with sentencing, disclose to the defense and to the tribunal all unprivileged mitigating information known to the prosecutor, except when the prosecutor is relieved of this responsibility by a protective order of the tribunal;

(d) not subpoena a lawyer in a grand jury or other criminal proceeding to present evidence about a past or present client unless the prosecutor reasonably believes:

(1) the information sought is not protected from disclosure by any applicable privilege;

(2) the evidence sought is essential to the successful completion of an ongoing investigation or prosecution; and

(3) there is no other feasible alternative to obtain the information;

(e) except for statements that are necessary to inform the public of the nature and extent of the prosecutor's action and that serve a legitimate law enforcement purpose, refrain from making extrajudicial comments that have a substantial likelihood of heightening public condemnation of the accused and exercise reasonable care to prevent investigators, law enforcement personnel, employees or other persons assisting or associated with the prosecutor in a criminal case from making an extrajudicial statement that the prosecutor would be prohibited from making under Rule 3.6 or this Rule.

IX. SCR 3.130(3.9) Advocate in nonadjudicative proceedings

The proposed amendments to SCR 3.130(3.9) are:

A lawyer representing a client before a legislative body or administrative [tribunal] agency in a nonadjudicative proceeding shall disclose that the appearance is in a representative capacity and shall conform to the provisions of Rules 3.3(a) through (c), 3.4(a) through (c), and 3.5.

E. TRANSACTIONS WITH PERSONS OTHER THAN CLIENTS

I. SCR 3.130(4.1) Truthfulness in statements to others

The proposed amendments to SCR 3.130(4.1) are:

In the course of representing a client a lawyer:

(a) shall not knowingly make a false statement of material fact or law to a third person; and

(b) if a false statement of material fact or law has been made, shall take reasonable remedial measures to avoid assisting a fraudulent or criminal act by a client including, if necessary, disclosure of a material fact, unless prohibited by Rule 1.6.

II. SCR 3.130(4.2) Communication with person represented by counsel

The proposed amendments to SCR 3.130(4.2) are:

In representing a client, a lawyer shall not communicate about the subject of the representation with a [party] person the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized to do so by law [to do so] or a court order.

III. SCR 3.130(4.3) Dealing with unrepresented person

The proposed amendments to SCR 3.130(4.3) are:

In dealing on behalf of a client with a person who is not represented by counsel, a lawyer shall not state or imply that the lawyer is disinterested. When the lawyer knows or reasonably should know that the unrepresented person misunderstands the lawyer's role in the matter,

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the lawyer shall make reasonable efforts to correct the misunderstanding. The lawyer shall not give legal advice to an unrepresented person. The lawyer may suggest that the unrepresented person secure counsel.

IV. SCR 3.130(4.4) Respect for rights of third persons

The proposed amendments to SCR 3.130(4.4) are:

(a) In representing a client, a lawyer shall not **[**knowingly**]** use means that have no substantial purpose other than to embarrass, delay, or burden a third person, or **[**knowingly**]** use methods of obtaining evidence that violate the legal rights of such a person.

(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.

F. LAW FIRMS AND ASSOCIATIONS

I. SCR 3.130(5.1) Responsibilities of [a partner] partners, managers [or] and supervisory [lawyer] lawyers

The proposed amendments to SCR 3.130(5.1) are:

(a) A partner in a law firm, and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a law firm, shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that all lawyers in the firm conform to the Rules of Professional Conduct.

(b) A lawyer having direct supervisory authority over another lawyer shall make reasonable efforts to ensure that the other lawyer conforms to the Rules of Professional Conduct.

(c) A lawyer shall be responsible for another lawyer's violation of the Rules of Professional Conduct if:

(1) **[**The**]** the lawyer orders or, with knowledge of the specific conduct, ratifies the conduct involved; or

(2) **[**The**]** the lawyer is a partner or has comparable managerial authority in the law firm in which the other lawyer practices, or has direct supervisory authority over the other lawyer, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

III. SCR 3.130(5.3) Responsibilities regarding nonlawyer assistants

The proposed amendments to SCR 3.130(5.3) are:

With respect to a nonlawyer employed or retained by or associated with a lawyer:

(a) **[**A**]** a partner, and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a law firm shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that the person's conduct is compatible with the professional obligations of the lawyer;

(b) **[**A**]** a lawyer having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer; and

(c) **[**A**]** a lawyer shall be responsible for conduct of such a person that would be a violation of the Rules of Professional Conduct if engaged in by a lawyer only if:

(1) **[**The**]** the lawyer orders or, with the knowledge of the specific conduct, ratifies the conduct involved; or

(2) **[**The**]** the lawyer is a partner or has comparable managerial authority in the law firm in which the person is employed, or has direct supervisory authority over the person, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

III. SCR 3.130(5.4) Professional independence of a lawyer

The proposed amendments to SCR 3.130(5.4) are:

(a) A lawyer or law firm shall not share legal fees with a nonlawyer, except that:

(1) **[**An**]** an agreement by a lawyer with the lawyer's firm, partner, or associate may provide for the payment of money, over a reasonable period of time after the lawyer's death, to the lawyer's estate or to one or more specified persons;

[(2) A lawyer who undertakes to complete unfinished legal business of a deceased lawyer may pay to the estate of the deceased lawyer that proportion of the total compensation which fairly represents the services rendered by the deceased lawyer; and**]**

(2) a lawyer who purchases the practice of a deceased, disabled, or disappeared lawyer may, pursuant to the provisions of Rule 1.17, pay to the estate or other representative of that lawyer the agreed-upon purchase price;

(3) **[**A**]** a lawyer or law firm may include nonlawyer employees in a compensation or retirement plan, even though the plan is based in whole or in part on a profit-sharing arrangement; and

(4) a lawyer may share court-awarded legal fees with a nonprofit organization not owned or directed by the lawyer that employed, retained or recommended employment of the lawyer in the matter.

(b) A lawyer shall not form a partnership with a nonlawyer if any of the activities of the partnership consist of the practice of law.

(c) A lawyer shall not permit a person who recommends, employs, or pays the lawyer to render legal services for another to direct or regulate the lawyer's professional judgment in rendering such legal services.

(d) A lawyer shall not practice with or in the form of a profes-

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sional corporation or association authorized to practice law for a profit, if:

(1) **[**A**]** a nonlawyer owns any interest therein, except that a fiduciary representative of the estate of a lawyer may hold the stock or interest of the lawyer for a reasonable time during administration;

(2) a nonlawyer is a corporate director or officer thereof or occupies the position of similar responsibility in any form of association other than a corporation ; or

[(2)**]** (3) **[**A**]** a nonlawyer has the right to direct or control the professional judgment of a lawyer.

IV. SCR 3.130(5.5) Unauthorized practice of law; multijurisdictional practice of law

The proposed amendments to SCR 3.130(5.5) are:

(a) A lawyer shall not **[**(a) P**]**practice law in a jurisdiction **[**where doing so violates**]** in violation of the regulation of the legal profession in that jurisdiction**[**;**]**, or **[**(b)**]** **[**A**]**assist **[**a person who is not a member of the bar**]** another in**[**the performance of activity that constitutes the unauthorized practice of law**]** doing so.

(b) A lawyer who is not admitted to practice in this jurisdiction shall not:

(1) except as authorized by these Rules or other law, establish or maintain an office or other presence in this jurisdiction for the practice of law; or

(2) hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction.

(c) A lawyer admitted in another United States jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may provide legal services on a temporary basis in this jurisdiction if such services:

(1) comply with SCR 3.030(2), or they do not require compliance with SCR 3.030(2), but are legal services before an administrative tribunal or alternative dispute resolution proceeding providing that they are undertaken in association with a lawyer who is admitted to practice in this jurisdiction and who actively participates in the matter, if certification identical to that provided by SCR 3.030(2) is obtained; or

(2) are in, or reasonably related to, a pending or potential proceeding before a tribunal or alternative dispute resolution proceeding in another jurisdiction for a client, or prospective client pursuant to Rule 1.18, if the services arise out of, or are reasonably related to, the lawyer's practice in a jurisdiction in which the lawyer is admitted to practice and are not services for which the forum requires pro hac vice admission pursuant to SCR 3.030(2); or

(3) are not within paragraph (c) (2) and arise out of, or are reasonably related to, the representation of the lawyer's client in the jurisdiction in which the lawyer is admitted.

(d) A lawyer admitted in another United States jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may provide legal services in this jurisdiction that:

(1) comply with SCR 2.111 regarding a Limited Certificate of Admission to Practice Law in this jurisdiction; or

(2) are services that the lawyer is authorized to provide by federal law or other law of this jurisdiction.

(e) A lawyer authorized to provide legal services under this Rule shall be subject to the Kentucky Rules of Professional Conduct and shall comply with SCR 3.030(2) or, if such legal services do not require compliance with that Rule, the lawyer must actively participate in, and assume responsibility for, the representation of the client.

IV. SCR 3.130(5.6) Restrictions on right to practice

The proposed amendments to SCR 3.130(5.6) are:

A lawyer shall not participate in offering or making:

(a) **[**A**]** a partnership or, shareholders, operating, employment, or other similar type of agreement that restricts the right of a lawyer to practice after termination of the relationship, except an agreement concerning benefits upon retirement; or

(b) **[**A**]** an agreement in which a restriction on the lawyer's right to practice is part of the settlement of a client controversy **[**between private parties**]**.

V. SCR 3.130(6.4) Law reform activities affecting client interests

The proposed amendments to SCR 3.130(6.4) are:

A lawyer may serve as a director, officer or member of an organization involved in reform of the law or its administration notwithstanding that the reform may affect the interests of a client of the lawyer. When the lawyer knows that the interests of a client may be materially affected by a decision in which the lawyer participates, **[**the lawyer shall disqualify himself from the matter**]** the lawyer shall disclose that fact but need not identify the client.

VII. SCR 3.130(6.5) Nonprofit and court-annexed limited legal services programs

The new proposed rule SCR 3.130(6.5) shall read:

(a) A lawyer who, under the auspices of a program sponsored by a nonprofit organization or court, provides short-term limited legal services to a client without expectation by either the lawyer or the client that the lawyer will provide continuing representation in the matter:

(1) is subject to Rules 1.7 and 1.9(a) only if the lawyer knows that the representation of the client involves a conflict of interest; and

(2) is subject to Rule 1.10 only if the lawyer knows that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a) with respect to the matter.

(b) Except as provided in paragraph (a)(2), Rule 1.10 is inapplicable to a representation governed by this Rule.

VIII. SCR 3.130(7.02) DEFINITIONS

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The proposed amendments to SCR 3.130(7.2) are:

For the purposes of Rule 7, the following definitions shall apply:

(1) "Advertise" **[**"or advertisement"**]** means to furnish any information or communication containing a lawyer's name or other identifying information, and an "advertisement" is any information containing a lawyer's name or other identifying information, except the following:

(a) A professional card of a lawyer identifying the lawyer by name and giving the lawyer's address(es), telephone number(s), fax number(s), e-mail address(es), but no other information. A professional card of a law firm may also give the names of members and associates, and jurisdictions in which the lawyers are licensed to practice.

(b) A public service broadcast announcement identifying the sponsor as a lawyer or law firm, by name, address(es), telephone number(s), but no other information.

(c) A professional announcement stating new or changed associations or addresses or change of firm name. It shall not state biographical data except to the extent necessary to identify the lawyer or to explain the change in his or her association, but it may state the immediate past position of the lawyer and jurisdictions in which the lawyer is licensed to practice. It may give the names and dates of predecessor firms in a continuing line of succession.

(d) A regularly published professional directory. Each separate office maintained by a lawyer may have a separate listing.

(e) A sign on or near the law office and in the building directory identifying the law office and containing only the information specified in subsection (a) of this section.

(f) A letterhead of a lawyer containing addresses, telephone numbers, fax numbers, email addresses, the name of the law firm, associates, and the jurisdictions in which the lawyer is licensed to practice. A letterhead of a law firm may also give the names of members and associates, and names and dates relating to deceased and retired members. A lawyer may be designated "Of Counsel" on a letterhead if there is a continuing relationship with a lawyer or law firm, other than as a partner or associate. A lawyer or law firm may be designated "General Counsel" or by similar professional reference on stationery of a client if the lawyer or the firm devotes a substantial amount of professional time in the representation of that client. The letterhead of a law firm may give the names and dates of predecessor firms in a continuing line of succession.

(g) Any communication by a lawyer to third parties that is further distributed by a third party who is not in any way controlled by the lawyer, and for which distribution the lawyer pays no consideration, shall be exempt from all the provisions of these Rules except Rule 7.10, 7.15 and 8.3.

(h) Communication to **[**for or on behalf of an existing client shall not be included within the definition herein. It is not the intention of the Rules to designate such communications performed in the regular course of representation of an existing client as advertising.**]** prospective clients as defined in SCR 3.130(1.18) and communication to, for, or on behalf of an existing client shall not be included within the definition herein. It is not the intention of the Rules to designate such communications performed in the regular course of representation of an existing client as advertising.

(i) **[**The inclusion of any truthful information pertaining to national certification by an organization qualifying under *Peel v. Attorney Registration and Disciplinary Commission of Illinois,*, 110 S.Ct. 2281 (1990) shall not disqualify a**]** A communication otherwise exempt under these Rules**[.]**is not disqualified by the inclusion of any truthful information pertaining to national certification by an organization that the attorney demonstrates is qualified to grant such certification, to attorneys who meet objective and consistently applied standards relevant to practice in a particular area of the law.

(j) Information and communication by a lawyer to members of the public in the format of web log journals on the internet that permit real time communication and exchanges on topics of general interest in legal issues, provided there is no reference to an offer by the lawyer to render legal services.

(2) "Legal Services" means the practice of law as defined in SCR 3.020.

(3) "Commission" when used in SCR 3.130(7) means Attorneys' Advertising Commission.

IX. SCR 3.130(7.04) Advertising of fees

The proposed amendments to SCR 3.130(7.4) are:

(1) A lawyer who advertises a fee for routine services and accepts the employment must perform such services for the amount advertised. In addition, a detailed description of what services are included in the "routine services" must be supplied to the Commission with each advertisement and to each prospective client who requests such a description. **[**If the client is required to pay court costs and/or case expenses in addition to the attorney's fee, the advertisement shall state in all capital letters, "COURT COSTS AND CASE EXPENSES WILL BE THE RESPONSIBILITY OF THE CLIENT."**]**

(2) If an advertisement mentions a fee for legal services, including reference to a contingent fee, disclosure shall be made as to the responsibility for court costs and case expenses. If the client is required to pay court costs and/or case expenses in addition to the attorney's fee, the advertisement shall state in all capital letters, "COURT COSTS AND CASE EXPENSES WILL BE THE RESPONSIBILITY OF THE CLIENT."

X. SCR 3.130(7.05) Filing of advertisements

The proposed amendments to SCR 3.130(7.05) are:

No lawyer may advertise unless the lawyer complies with SCR 3.130 (7.02) - (7.50).

(1)(a) A lawyer may employ the following in an advertisement:

1. Name, including name of law firm and names of professional associates, addresses, telephone numbers, fax numbers and e-mail addresses;

2. One or more fields of law in which the lawyer or law firm practices, or a statement that practice is limited to one or more fields of law, to the extent authorized under Rule 7.40;

3. Date and place of birth;

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4. Date and place of admission to the bar of state and federal courts;

5. Schools attended, with dates of graduation, degrees and other scholastic
distinctions;

6. Public or quasi-public offices;

7. Military services;

8. Authorships;

9. Teaching positions;

10. Memberships, offices and committee assignments, in bar associations;

11. Membership and offices in legal fraternities and legal societies;

12. Technical and professional licenses;

13. Memberships in scientific, technical and professional associations and societies;

14. Foreign language ability;

15. Names and addresses of bank references;

16. With their written consent, names of clients regularly represented;

17. Prepaid or group legal services programs in which the lawyer participates;

18. Whether credit cards or other credit arrangements are accepted;

19. Office and telephone answering service hours;

20. Fee for an initial consultation;

21. Availability upon request of a written schedule of fees and/or an estimate of the fee to be charged for specific services;

22. Contingent fee rates provided that the statement discloses whether percentages are computed before or after deduction of court costs and case expenses;

23. Range of fees for services, provided that the statement discloses that the specific fee within the range which will be charged will vary depending upon the particular matter to be handled for each client and the client is entitled to without obligation to an estimate of the fee within the range likely to be charged, in print size equivalent to the largest print used in setting forth the fee information;

24. Hourly rate, provided that the statement discloses that the total fee charged will depend upon the number of hours which must be devoted to the particular matter to be handled for each client and the client is entitled to without obligation an estimate of the fee likely to be charged, in print size at least equivalent to the largest print used in setting forth the fee information;

25. Fixed fees for specific legal services to the extent authorized under these Rules; or

26. Any other information specified in any regulation adopted by the Commission. Any lawyer may petition the Commission for the adoption of such a regulation in which case the petition shall be published as provided in these Rules.

(b) If the advertisement contains only those items listed in SCR 3.130(7.05)(1)(a), the lawyer shall mail or deliver to the Commission, c/o the Director of the Kentucky Bar Association, three (3) copies of the advertisement. If the advertisement is to be published by broadcast media, including radio or television, a fair and accurate representation of the advertisement plus three (3) copies of a typed transcript of the words spoken shall be submitted. Any such advertisement is exempt from a fee for submission. Submission under this subsection shall occur no later than the publication of the advertisement.

(2) If the advertisement does not qualify under SCR 3.130(7.05)(1) for submission without a fee, the lawyer shall mail or deliver to the Commission, c/o the Director of the Kentucky Bar Association, three (3) copies of the advertisement. If the advertisement is to be published by broadcast media, including radio or television, a fair and accurate representation of the advertisement plus three (3) copies of a typed transcript of the words spoken shall be submitted. A filing fee of **[**$50.00**]** $75.00 for each advertisement filed under this subsection shall accompany each submission. Submission under this subsection shall occur no later than the publication of the advertisement. An additional administrative fee of $100.00 may be imposed for late submissions. Additionally, advertisements of more than 100 pages, or longer than 10 minutes of video or audio, will require a supplemental fee of $100.00. The same fees are required if **[**If**]** an advisory opinion has been sought under SCR 3.130(7.06)(1) **[**no additional fee is required**]**.

(3) The fair and accurate representation of a broadcast media advertisement required in SCR 3.130 (7.05)(1) and (2) shall include three (3) copies of a video cassette (VHS), digital video disc (DVD), or audio cassette plus three (3) copies of a typed transcript of the advertisement.

X. SCR 3.130(7.06) Advisory Opinions

The proposed amendments to SCR 3.130(7.06) are:

(1) For any advertisement submitted as required by SCR 3.130(7.05)(2), a lawyer may request an advisory opinion by the Commission before the advertisement is published. Such request shall be in writing made at least 30 days before the advertisement is published. The request shall be accompanied by the filing fee, and any required **[**an**]** administrative fees as set forth in **[**of $50, which is in lieu of the fee required by**]** SCR 3.130(7.05)(2). Within 30 days after such request is received, the Commission shall issue its advisory opinion as to the compliance of the advertisement with the Advertising Rules and Advertising Regulations.

(2) If a lawyer has received an advisory opinion that an advertisement complies with the Advertising Rules and Advertising Regulations, that lawyer shall not be disciplined for any use of that advertisement, except as otherwise provided in SCR 3.130 (7.06)(6).

(3) If a lawyer has requested an advisory opinion and the Commission finds that the advertisement does not comply with the require-

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ments of the Advertising Rules or the Advertising Regulations, the Commission, or its designee, shall issue an advisory letter setting forth the factual and legal basis for the opinion. The lawyer may submit a corrected advertisement under SCR 3.130(7.05)(2) that conforms to the advice in the advisory letter with no additional fee required.

[(4) If the Commission determines that the Advertising Rules or Advertising Regulations have been violated by a lawyer, it shall determine whether the violation can be dealt with administratively, or can be presumed to be intentional. The Commission may address administrative violations. Intentional violations include but are not limited to: (1) publishing the advertisement after receiving notice that the advertisement is in violation of the Advertising Rules or the Advertising Regulations; (2) a manifest indifference to the Advertising Rules or Advertising Regulations; or(3)a pattern of repeated disregard for these Advertising Rules or Advertising Regulations. Intentional violations may be referred to the Inquiry Commission.

(5) If the Commission has notified the lawyer that the advertisement violated the Advertising Rules or Advertising Regulations, and has further determined that the publication of the advertisement may be contrary to the public interest, the Commission or its designee shall notify the lawyer whose advertisement is under Consideration and the Director of the Association. The Director may upon receiving such notification bring an action in compliance with this Rule.

(6)**]**(4) If an advertisement is discovered to be false, misleading or deceptive, or information provided to the Commission in connection with the submission is discovered to be false, misleading or deceptive after the Commission has issued its advisory opinion, it, or its designee, may notify the Advertising lawyer that all prior advisory opinions concerning such advertisement are withdrawn and the advisory opinion shall not constitute a defense to the subsequent use of the advertisement.

XI. SCR 3.130(7.07) Review of Filings

The proposed amendments to SCR 3.130(7.07) are:

(1) For any advertisement on which an advisory opinion has not been sought, the Commission, or its designee, shall review such filings for compliance with the Advertising Rules and Advertising Regulations. If the Commission, or its designee, determines a violation of the Advertising Rules or Advertising Regulations has occurred, it may notify the advertising attorney that a violation has occurred, **[**or**]** and it may refer the matter to the Inquiry Commission.

(2) If the Commission determines that the Advertising Rules or Advertising Regulations have been violated by a lawyer, it shall determine whether the violation can be dealt with administratively, or can be presumed to be intentional. The Commission may address administrative violations. Intentional violations include but are not limited to: (1) publishing the advertisement after receiving notice that the advertisement is in Violation of the Advertising Rules or the Advertising Regulations; (2) a manifest indifference to the Advertising Rules or Advertising Regulations; or (3) a pattern of repeated disregard for these Advertising Rules or Advertising Regulations. Intentional violations may be referred to the Inquiry Commission.

(3) If the Commission has notified the lawyer that the advertisement violated the Advertising Rules or Advertising Regulations, and has further determined that the publication of the advertisement may be contrary to the public interest, the Commission or its designee shall notify the lawyer whose advertisement is under consideration and the Director of the Association. The Director may, upon receiving such notification, bring an action in compliance with this Rule.

XII. SCR 3.130(7.08) Records of the commission [Open records]

The proposed amendments to SCR 3.130(7.08) are:

All advertisements and **[**T**]**the records of all actions taken by the Commission on submitted advertisements shall be available for inspection and copying at the offices of the Bar Association at reasonable times and upon reasonable notice. Any expense incurred shall be borne by the requesting party.

XIII. SCR 3.130(7.09) Direct contact with [Prospective] Potential Clients

The proposed amendments to SCR 3.130(7.09) are:

(1) No lawyer shall directly or **[**indirectly**]** through another person, **[**shall**]** by in person, **[**or by**]** live telephone, or real-time electronic means, initiate contact or solicit professional employment from a potential **[**prospective**]** client **[**with whom the lawyer has no family or direct prior professional relationship.**]** 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.

This Rule shall not prohibit response to inquiries **[**be interpreted to prevent discussions of employment arising out of personal appearances at lectures and seminars by a lawyer which result in inquiries from prospective clients or inquiries**]** initiated by persons who may become **[**prospective**]** potential clients at the time of any other incidental contact not designed or intended by the lawyer to solicit employment.

(2) A lawyer shall not solicit professional employment from a potential **[**prospective**]**client even when not otherwise prohibited by paragraph (1) if:

(a) The potential **[**prospective**]** client has made known to the lawyer a desire not to be solicited by the lawyer; or

(b) the solicitation involves coercion, duress or harassment.

(3) Every written, recorded or electronic communication from a lawyer soliciting professional employment from a potential **[**prospective**]** client known or reasonably believed to be in need of legal services in a particular matter, must contain the words "THIS IS AN ADVERTISEMENT" **[**and with whom the lawyer has no family or direct prior professional relationship, shall conform to Rule 7.15. In addition each written, recorded or electronic communication must contain the words "THIS IS AN ADVERTISEMENT"**]** in all capital letters prominently displayed in type at least as large as the type in the body of the communication**[.]** 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.

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Further, in each such written or recorded or electronic communication the envelope, document, or container, [or electronic device in] by which such communication is transmitted shall contain the word "ADVERTISEMENT" in all capital letters, and in type large enough to be conspicuous and placed in a conspicuous location [at least as large as the name of the addressee] on the same side of the envelope, document, or container [or electronic communication] upon which the lawyer's name and/or address appears. [In the event] If an electronic communication is sent by or on behalf of the lawyer to a potential client in a container or on a disc or other format on which words [typed] may appear, the outside of the container, or disc, or other format shall be marked as provided in this [paragraph]rule. If a [In the event of] recorded telephone, electronic, video, or [radio] digital communication is sent under this rule, [the]a speaker must first [state] recite the language "THE FOLLOWING IS AN ADVERTISEMENT" and shall further state at the end of the communication the language "THIS [RECORDED TELEPHONE CALL/RADIO ANNOUNCEMENT] MESSAGE HAS BEEN AN ADVERTISEMENT".

(4) [Any] No communication pursuant to [Rule]SCR 3.130(7.09)(3) shall be sent to those potential [prospective] clients who have been involved in a disaster as defined in SCR 3.130(7.60) [Article III (1) only after] until thirty (30) days have elapsed from the occurrence of the disaster.

(5) Notwithstanding the prohibitions in SCR 3.130(7.09)(1), a lawyer may participate with a prepaid or group legal service plan operated by an organization not owned or directed by the lawyer that uses in-person or telephone contact to solicit memberships or subscriptions for the plan from persons who are not known to need legal services in a particular manner covered by the plan.

XIV. SCR 3.130(7.15) Communications concerning a lawyer's service

The proposed amendments to SCR 3.130(7.15) are:

A lawyer shall not make a false, deceptive or misleading communication about the lawyer or the lawyer's service. A communication is false, deceptive or misleading if it:

(a) Contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading; or

(b) Is likely to create an unjustified expectation about results the lawyer can achieve, or states or implies that the lawyer can achieve results by means that violate the rules of professional conduct or other law; or

(c) Compares the lawyer's services with other lawyers' services, unless the comparison can be factually substantiated.

XV. SCR 3.130(7.20) Advertising

The proposed amendments to SCR 3.130(7.20) are:

(1) A lawyer may advertise legal services through communications in compliance with these Rules.

(2) A lawyer shall not give anything of value to a non-lawyer for recommending the lawyer's services, except that a lawyer may:

(a) pay the reasonable cost of advertising or communication permitted by this Rule; and,

(b) pay the usual charges of a legal service plan, not to include a division of fees, operated by an organization not owned or directed by the lawyer, or,

(c) pay the usual charges of a not-for-profit or qualified lawyer referral service that has been approved by the highest court in the jurisdiction where the service operates an agency designated by that court or by the Kentucky Bar Association.

(3) Any communication made pursuant to these Rules shall include the name of at least one lawyer licensed in Kentucky, or law firm any of whose members are licensed in Kentucky, responsible for its contents.

(4) Communication by a lawyer with a person or entity with whom that lawyer has [a]an immediate family or [prior professional] current attorney-client relationship, or [in] a communication in response to an inquiry from any person or entity seeking information, shall be exempt from the provisions of [these] the Advertising Rules and the Advertising Regulations, with the exception of [Rule]SCR 3.130(7.15).

(5) If a lawyer or a law firm advertises legal services and a lawyer's name or image is used to present the advertisement, the lawyer must be the lawyer who will actually perform the service advertised unless the advertisement prominently discloses that the service may be performed by other lawyers. If the advertising lawyer or firm is advertising for clients for the purpose of referring the client to another lawyer or firm, that fact must be disclosed prominently in the advertisement.

XVI. SCR 3.130(7.25) Identification of advertisements

The proposed amendments to SCR 3.130(7.25) are:

[The Commission may require the statement] All advertisements must include the words "THIS IS AN ADVERTISEMENT", unless excepted by SCR 3.130(7.09) [For any advertisement that may not be perceived as a quest for clients because of the format, manner of presentation or medium. If the statement is required, it shall be spoken in all audio advertisements at the end thereof and in all other advertisements, shall be in color and size print equal to the lawyer's or firm name and visually present] In recorded telephone, electronic, video, or digital communications, other than television, the speaker must first state "THE FOLLOWING IS AN ADVERTISEMENT" and must further state at the end of the communication "THIS MESSAGE HAS BEEN AN ADVERTISEMENT". All television communication, video recording or digital recording must prominently display the words "THIS IS AN ADVERTISEMENT" on the screen for as long as the lawyer's or firm's name[.] appears on the screen. If a television communication video recording, or digital recording is longer than 60 seconds, the words "THIS IS AN ADVERTISEMENT" must be displayed throughout the entire communication. The words "THIS IS AN ADVERTISEMENT" must be prominently displayed on every page of any advertisement in writing, and displayed without scrolling on the first screen of every page of a website.

XVII. SCR 3.130(7.40) Communication of fields of practice

The proposed amendments to SCR 3.130(7.40) are:

A lawyer may communicate the fact that the lawyer does or does not practice in particular fields of law. A lawyer who concentrates in, limits his or her practice to, or wishes to announce a willingness to

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accept cases in a particular field may [so]advertise or publicly state that information in any manner otherwise permitted by these Rules. Any such advertisement or statement shall be strictly factual and shall not contain any form of the words "certified", "specialist", "expert", or "authority", [. A lawyer shall not state or imply that the lawyer is a specialist] except as follows:

(1) A lawyer admitted to engage in patent practice before the United States Patent and Trademark Office may use the designation "Patent Lawyer" or a substantially similar designation.

(2) A lawyer certified by an appropriate governmental agency in admiralty practice may use the designation "Admiralty", "Proctor in Admiralty", or a substantially similar designation.

(3) A lawyer may [communicate the fact] state or imply that he or she [has achieved a national certificate by an organization qualifying under *Peel v. Attorney Registration and Disciplinary Commission of Illinois,* 110 S.Ct. 2281 (1990), by clearly identifying the certification and the organization that has conferred the distinction, and such] is "certified", a "specialist", an "expert" or "authority" in a particular field of law only if:

(a) the lawyer has been certified as a specialist by an organization that has been approved by an appropriate state authority or by a national organization that the attorney demonstrates is qualified to grant such certification to attorneys who meet objective and consistently applied standards relevant to practice in a particular area of the law; and,

(b) the name of the certifying organization is clearly identified in the communication; and,

(c) if the lawyer is licensed to practice law in Kentucky, the communication must state that Kentucky does not certify specialties in legal fields. The [by clearly identifying the certificate and the organization that has conferred the distinction, and such] communication may occur only for [so] as long as the lawyer remains so certified and in good standing [with the organization].

XVIII. SCR 3.130(7.50) Firm names and letterheads

The proposed amendments to SCR 3.130(7.50) are:

(1) A lawyer shall not use a firm name, letterhead or other professional designation that violates Rule 7.15.

(2) A law firm with offices in more than one jurisdiction may use the same name in each jurisdiction, but identification of the lawyers in an office of the firm shall indicate the jurisdictional limitations on those not licensed to practice in the jurisdiction where the office is located.

(3) The name of a lawyer holding a public office shall not be used in the name of a law firm, or in communications on its behalf, during any period in which the lawyer is not actively and regularly practicing with the firm.

(4) Lawyers may state or imply that they practice in a legal entity only if that is the fact.

(5) The name of a lawyer who is suspended by the Supreme Court from the practice of law may not be used by the law firm in any manner until the lawyer is reinstated. A lawyer who has been permanently disbarred shall not be included in a firm name, letterhead, or any other professional designation or advertisement.

XX. SCR 3.130(7.60) Kentucky Bar Association [Disaster] disaster [Response] response [Plan] plan

The proposed amendments to SCR 3.130(7.60) are:

[ARTICLE I. PURPOSE AND POLICY

(1)] (a) It is the purpose of the Kentucky Disaster Response Plan to:

[(a)] (1) [Address] address the problems that occur when lawyers and non-lawyers, who are not subject to the disciplinary jurisdiction of the [Kentucky Bar] Association and the Kentucky Supreme Court, engage in the provision of legal services, legal advice, and outright solicitation of persons and their families affected by a Disaster [disastrous event.] ;

[(b)] (2) [Provide] provide information to the public regarding the availability of legal services, as well as information regarding the legal rights available to persons affected by disasters.

[(c)] (3) [Monitor] monitor the conduct of all attorneys, both members and non-members of the [Kentucky Bar] Association, and thereby deter violations of the rules of ethical conduct and the rules of the [Kentucky Bar] Association.

[(d)] (4) [Inform] inform the public of the levels of conduct required of members of the [Bar] Association and notify the public that it is improper for attorneys to solicit employment either in person or through runners, agents, solicitors, or others in such a manner as to create direct contact between the attorney seeking such employment and the potential claimant.

[(2)] (b) [I]it is the policy of the Association to encourage and promote the highest ethical standards among attorneys practicing within its borders. Realizing the emotional distress and grief that are inevitable immediately following a [catastrophe] Disaster, the Kentucky Bar Association Disaster Response Plan (hereafter Plan) is established to facilitate the handling of these situations in a manner that best protects the interests of the persons involved as well as the legal community.

[ARTICLE II. DISASTER DEFINED

(1)] (c) [F]for [the] purposes of the [Kentucky Disaster Response] Plan, a "Disaster" shall mean the type of emergency or disaster that draws persons to solicit clients. This includes, but is not limited to, air crash, major fire, explosion, sea disaster, hazardous material contamination, flood, landslide, major rail or traffic accident, earthquake, or other circumstances resulting in substantial loss of life, substantial personal injury, or substantial property damage.

[(2)] (d) It shall be the responsibility of the [immediate] Immediate Past President of the [Kentucky Bar] Association (hereafter Past President) or if the Past President is absent from the state or physically or mentally unable to act, the [Executive] Director of the [Kentucky Bar] Association, or their designee, to identify a Disaster.

[ARTICLE III. MASS DISASTER TASK FORCE]

(e) The Kentucky Mass Disaster Task Force, ([hereinafter] hereafter

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[called the] "Task Force") is hereby [established. (1) There shall be] created from the [Kentucky Bar] Association membership in a sufficient number of "units" [within] at the discretion of the Board [of Governors of the Kentucky Bar Association] to provide [disaster] Disaster services [as contemplated herein]. [(2)] A unit of the Task Force shall consist of at least one member of the Board [of Governors of the Kentucky Bar Association]; one member of the Court of Justice; and one or more additional designees to each unit as appointed by the [Immediate] Past President [of the Kentucky Bar Association].

[ARTICLE IV. DUTIES AND RESPONSIBILITIES

(1)] (f) The Task Force shall meet promptly upon learning of an identified Disaster and shall establish a "legal service information center."

[(2)] (g) The Task Force shall be provided with printed literature identifying the purpose of the Task Force, a press release identifying the unit of the Task Force, and any additional materials and equipment that the [Immediate] Past President, [of the Kentucky Bar Association], the [Executive] Director, [of the Kentucky Bar Association]-or the unit members themselves believe necessary to accomplish their purpose.

[(3)] (h) The units of the Task Force shall be prepared to inform affected persons that:

[(g)] (1) [Decisions] decisions regarding most legal matters and legal claims (other than those [involving the life or health of a person] requiring immediate attention for the preservation of [such] life or health of a person) are generally decisions that are better made after reasonable and thoughtful consideration and after consultation with the appropriate professionals, including attorneys.

[(a)] (2) [Legal] legal services are available to persons affected by Disasters;

[(b)] (3) [Persons] persons and entities who sustain damage by reason of the wrongful conduct of another may be entitled to recover damages;

[(c)] (4) "Statutes of Limitations" exist which apply to various causes of action within the Commonwealth of Kentucky and, in certain circumstances, to Federal causes of action[.] :

(5) [Further,] any person or entity believing he or she has been damaged by the wrongful acts of another should seek legal advice to determine the applicable statute of limitations[.] :

(6) [Finally,] only those persons who have been admitted to practice law in the Commonwealth of Kentucky and those persons who are lawfully associated with them in practice may appear and present claims within the Courts of the Commonwealth of Kentucky;

[(d)] (7) [No] no person affected by a Disaster is obligated by law to furnish [statements] information regarding the occurrence to any representative of the media, or to investigators, insurance agents and adjusters (other than as required by the persons own insurers), attorneys, or other members of the public, except that a person who has [with the exception of those persons who have] observed conduct that may be identified as "criminal activity" is [Such persons are] obligated to furnish information pertaining to criminal activity to lawfully constituted legal authorities;

[(e)] (8) [The] the affected persons [affected] should make a diligent effort to observe all conditions pertaining to the Disaster, and to make such appropriate records or notations as necessary in the circumstances to memorialize their recollections of the Disaster;

[(f)] (9) [If] if there are witnesses to the Disaster, it may be important to obtain the names, addresses, and telephone numbers of those witnesses, and to retain them for future reference; [and]

[(g)] (10) [Further, the information furnished by the unit shall include a notice] that Kentucky law does not certify specialties [of practice;] and that the members of the unit and their partners, associates, members of their firms, and other lawyers associated with them are not permitted to accept employment for the provision of legal services [arising out of any damages claimed as a result of]regarding the Disaster; [and that

(g)] (11) [The] the [service] services provided by the unit [is] are for informational purposes only; and [that]

[(h)] (12) each person or entity interested in legal services should seek the advice of private counsel selected by that person or entity.

[(4)] (i) The Task Force shall investigate to determine if runners, attorneys, or others have been soliciting or attempting to solicit victims, relatives of victims, or others as clients for matters related to the Disaster. The Task Force shall designate from its members a person to receive any complaints or inquiries concerning suspected improper solicitation. [Such person shall, as] As soon as is reasonably practicable, such designee shall furnish such information to the [Executive] Director [of the Kentucky Bar] Association or his designee.

[(5)] (j) The Task Force shall be subject to the following restrictions:

[(a)] (1) [No] no member of the Task Force shall offer [other] specific legal advice to anyone regarding the Disaster, nor shall he refer a person to a particular lawyer or law firm. Upon inquiry and to the extent necessary to respond, a member of the Task Force may refer a person to other agencies or groups for information or assistance.

[(b)] (2) [No] no member of the unit assigned to a particular Disaster, nor any of his partners, members of his firm, associates, or other lawyers associated with the member shall be permitted to accept any employment relating to any matter arising out of that Disaster.

[(c)] (3) [The] the Task Force shall not issue any news releases or make any public statements on behalf of the [Kentucky Bar] Association without the specific prior approval of the [Executive] Director [of the Kentucky Bar Association].

[ARTICLE V. EXPENSES]

(k) [T]the reasonable expenses incurred by each unit member of the Task Force in training and providing services as contemplated herein, as well as the cost of the equipment and supplies necessary to provide the service shall be [deemed to be valid expenses of the Kentucky Bar Association. These funds shall be] paid from the General Fund of the [Kentucky Bar] Association unless the same expenses shall be [deferred] provided from IOLTA funds of the [Kentucky Bar] Association, funds obtained from private sources, grants or donations; or from funds otherwise appropriated by the Kentucky General Assembly, including

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discretionary funds of the Governor of Kentucky or other elected officials. Each unit of the Task Force shall be authorized to obtain when necessary **[**to obtain**]** such secretarial and clerical assistance as appropriate in the circumstances of the particular Disaster.

G. MAINTAINING THE INTEGRITY OF THE PROFESSION

I. SCR 3.130(8.1) Bar admission and disciplinary matters

The proposed amendments to SCR 3.130(8.1) are:

An applicant for admission to the bar, or a lawyer in connection with a bar admission application or in connection with a disciplinary matter, shall not:

(a) **[**Knowingly**]** knowingly make a false statement of material fact; or

(b) **[**Fail**]** fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter, or knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this Rule does not require disclosure of information otherwise protected by Rule 1.6.

II. SCR 3.130(8.3) Reporting professional misconduct

The proposed new rule SCR 3.130(8.3) shall read:

(a) A lawyer who knows that another lawyer has committed a criminal act or has engaged in conduct involving dishonesty, fraud, or deceit that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer shall report such act or conduct to the Association's Bar Counsel.

(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.

(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 while participating in the Kentucky Lawyers Assistance Program.

(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.

(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, shall immediately notify the Director of such event.

III. SCR 3.130[(8.3)](8.4) Misconduct

The proposed amendments to SCR 3.130(8.3 to 8.4) are:

It is professional misconduct for a lawyer to:

(a) **[**Violate**]** violate or attempt to violate the Rules of Professional Conduct, knowingly assist or induce another to do so, or do so through the acts of another;

(b) **[**Commit**]** commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness or fitness as a lawyer in other respects;

(c) **[**Engage**]** engage in conduct involving dishonesty, fraud, deceit or misrepresentation;

(d) engage in conduct that is prejudicial to the administration of justice;

[(d)**]** (e) **[**State] state or imply an ability to influence improperly a government agency or official or to achieve results by means that violate the Rules of Professional Conduct or other law; or

[(e)**]** (f) **[**knowingly**]** knowingly assist a judge or judicial officer in conduct that is a violation of applicable Rules of Judicial Conduct or other law.

IV. SCR 3.130[(8.4)](8.5) [Jurisdiction] Disciplinary authority; choice of law

The proposed amendments to SCR 3.130(8.4 to 8.5) are:

(a) Disciplinary Authority. A lawyer admitted to practice in this jurisdiction is subject to the disciplinary authority of this jurisdiction**[** although engaged in practice elsewhere.**]**, regardless of where the lawyer's conduct occurs. A lawyer not admitted in this jurisdiction is also subject to the disciplinary authority of this jurisdiction if the lawyer provides or offers to provide any legal services in this jurisdiction. A lawyer may be subject to the disciplinary authority of both this jurisdiction and another jurisdiction for the same conduct.

(b) Choice of Law. In any exercise of the disciplinary authority of this jurisdiction, the Rules of Professional Conduct to be applied shall be as follows:

(1) for conduct in connection with a matter pending before a tribunal, the rules of the jurisdiction in which the tribunal sits, unless the rules of the tribunal provide otherwise; and

(2) for any other conduct, the rules of the jurisdiction in which the lawyer's conduct occurred, or, if the predominant effect of the conduct is in a different jurisdiction, the rules of that jurisdiction shall be applied to the conduct. A lawyer shall not be subject to discipline if the lawyer's conduct conforms to the rules of a jurisdiction in which the lawyer reasonably believes the predominant effect of the lawyer's conduct will occur.

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Who would you rather have answering the phone when you need help?

(Left to right) Pete Gullett, Jane Long, Del O'Roark, Bob Breetz

A stranger or someone you know?

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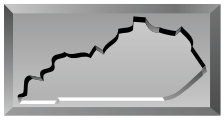

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Supreme Court of Kentucky

IN RE:
ORDER AMENDING

2008-01

IN RE: Amendments to CR 3.02, CR 3.03 and CR 76.42 of the Civil Rules Procedure

IT IS HEREBY ORDERED that, effective July 1, 2008, CR 3.02, CR 3.03 and CR 76.42 of the Civil Rules Procedure are hereby amended as follows:

A. CR 3.02(1),(2)(i) Circuit civil fees and costs

Section (1) and sub-section (i) of section (2) of CR 3.02 shall read:

(1) The filing fees for a civil case in Circuit Court (including original actions of administrative agencies, special districts or boards) shall be paid to the circuit clerk at the time the case is filed and shall be $115.00, except as provided below:

(a) There shall be no filing fees for proceedings for a writ of habeas corpus, proceedings under RCr 11.42, and mental health proceedings under KRS Chapters 202A, 202B and 387.

(b) Fees required by KRS 453.060 and KRS 27A.630 and any other required fees (e.g., court facility fee, library fee) shall be paid in addition to the fees required by this rule.

(2) Additional costs, payable to the circuit clerk at the time the service is requested, shall be charged in Circuit Court civil cases as follows:

(a)	For a jury of six persons	$30.00
(b)	For a jury of more than six	$60.00
(c)	Filing a third party complaint	$30.00
(d)	Preparing a certification, including Act of Congress	$ 5.00
(e)	Providing a copy of a document (per page)	$ .25
(f)	Providing a copy of a video recording (per individual tape, disk or other media)	$20.00

(g)	Providing a copy of an audio recording (per individual tape, disk or other media)	$10.00
(h)	Issuing orders of attachment; executions, writ of possession after judgment	$20.00
(i)	Issuing garnishments	$10.00
(j)	Publishing a notice	As set by Newspaper
(k)	Certified mail fees	As set by Postal Service
(l)	Original deposition, including appearance fees and mileage	Assessed as Costs
(m)	Library fees	As set by KRS 172.180 and KRS 453.060

B. CR 3.03(1),(2) and (3)(h) District civil fees and costs

Sections (1), (2) and sub-section (h) of section (3) of CR 3.03 shall read:

(1) The filing fee for a civil case in District Court shall be paid to the clerk at the time the case is filed and shall be $55.00, except as provided below:

(a) Where the case or controversy does not exceed $1500.00, exclusive of interests and costs (Small Claims), shall be $20.00;

(b) Where the amount in controversy is $500.00 or less and is not filed in small claims court, the fees shall be $30.00;

(c) Where the case involves the probate of an estate, the fees shall be $20.00;

(d) Where the case involves the appointment of guardians, conservators, and curators and is not related to a pending probate proceeding, the fees shall be $20.00 for each application;

(e) Where the matter involves a name change for a natural person, the fees shall be $20.00;

(f) Where the case involves a paternity determination under KRS Chapter 406, the fees shall be $20.00;

(g) Where the case involves mental health proceedings under KRS Chapter 202A, 202B or 387, there shall be no fees except as provided in paragraph (d) of this subsection;

(h) Where the case involves a hearing for a student pursuant to KRS 159.051, there shall be no fees;

(i) Where the case involves filing forcible detainer actions, the fees shall be $20.00; and

(j) Where the case involves filing a petition to marry under KRS 402.020, the fees shall be $5.00.

(k) Fees required by KRS 453.060 and KRS 27A.630 and any other required fees (e.g., court facility fee, library fee) shall be paid in addition to the fee required by this rule.

(2) Appeals to Circuit Court.

(a) The filing fees for an appeal from a district court civil matter to the circuit court shall be $60.00.

(b) In the case of a counterclaim or cross-claim that exceeds the jurisdictional amount of district court requiring transfer to circuit court, additional fees of $60.00 shall be paid by the party filing the counterclaim or cross-claim.

(c) In the case of a counterclaim or cross-claim that exceeds the jurisdictional amount for which the lessened fee is provided in subsection (1)(b) above, but which is not greater than the jurisdiction of District Court, additional fees of $15.00 shall be paid by the party filing such counterclaim or cross-claim.

(d) The fees required by KRS 453.060 shall be paid in addition to the fee required by this rule.

(3) Additional costs, payable to the circuit clerk at the time the service is requested, shall be charged in District Court civil cases as follows:

(a) For a jury of six persons including paternity cases	$30.00
(b) Filing a third party complaint	$30.00
(c) Preparing a certification, including Act of Congress	$ 5.00
(d) Providing a copy of a document (per page)	$ .25
(e) Providing a copy of a video recording (per individual tape, disk or other media)	$20.00
(f) Providing a copy of an audio recording (per individual tape, disk or other media)	$10.00
(g) Issuing orders of attachment; executions, writ of possession after judgment	$20.00
(h) Issuing garnishments	$10.00
(i) Publishing a notice	As set by Newspaper
(j) Certified mail fee	As set by Postal Service
(k) Original deposition, including appearance fees and mileage	Assessed as Costs

(l)	Library fees	As set by KRS 172.180 and KRS 453.060

C. CR 76.42(2)(a)(ii) Costs

Sub-section (a), (ii) of section (2) of CR 76.42 shall read:

(2) Filing fees.

(a) Filing fees for docketing the following in the Court of Appeals or in the Supreme Court shall be:

(i)	Appeal, cross appeal or certification of law	$150.00
(ii)	Appeals or cross appeals from Circuit Court, Family Division, to the Court of Appeals, from orders determining: (a) Paternity (b) Dependency, neglect or abuse (c) Domestic violence (d) Juvenile status offense	$75.00
(iii)	Motion for transfer	$150.00
(iv)	Motion or cross-motion for discretionary review	$150.00
(v)	Petition for rehearing, modification or extension of opinion	$150.00
(vi)	Motion for leave to file amicus curiae brief	$150.00
(vii)	Motion for extension of time for certification of record, for intermediate relief, or for dismissal of an adversary party's appeal, if the filing fee has not been paid theretofore	$150.00
(viii)	Motion for relief under Rules 65.07 or 65.09	$150.00
(ix)	Original proceeding	$150.00
(x)	Motion for reconsideration of a final order or "Opinion and Order" under Rule 76.38	$150.00
(xi)	Petition or cross-petition for review of a decision by the Workers' Compensation Board	$150.00

All sitting. All concur.

ENTERED: MAY 6, 2008.

CHIEF JUSTICE

Michael Losavio

Exporting History, Importing Knowledge

For all the frustrations of the law business, the rule of law here in the United States is one of our great competitive advantages in commerce, scholarship and government. But it's taken quite some time to come to where we are today as seen, for example, in our struggle(s) over civil rights.

So when some wish to export our legal system and others wish to import it, they are talking as much about history, culture, interests and will as they are of an articulated system of laws, rules and procedures. How that all meshes together may determine success, or failure.

Advancing legal reform in the world is a tough, often dangerous effort. It depends on people of countries seeking reform - judges, lawyers, police, politicians, citizens - taking great risks for the cause of justice.

The Sincerest Form of Flattery

Mexico, our third-largest trading partner, hopes to transform its civil law inquisitorial system of criminal justice by adopting elements of our open adversarial system. Mexicans hope oral argument in open court by opposing counsel will speed the judicial process and reduce corruption better than the current system based on written arguments and transcripts given the investigating magistrate for decisions in chambers. Adding the presumption of innocence to the Mexican Constitution may reduce wrongful convictions.

Mexican leaders hope this leads to greater transparency and accountability for everyone before the courts and lessening "automatic justice" for the poor, the vast majority of whom do not have counsel and only see the judge at sentencing. They hope it will reduce "automatic acquittals" for the well-funded, particularly members of organized crime and drug cartels, and reprisals against judges and prosecutors who won't be bought.

The risks are immense; in January, '08 Judge Ernesto Palacios López was assassinated after ordering the arrests of Sinaloa drug cartel members. The police commander who made the arrests was also murdered: http://www.washingtonpost.com/wpdyn/content/article/2008/01/22/AR2008012203439.html.

Too Grim?

Lawyers in Kentucky have never refused a challenge.

Jeff Apperson, the Clerk of U.S. District Court for our Western District, is helping the Mexican states make this transition via strategic planning and briefings of a core group of Mexican state Attorneys General, presidents/staff of state Supreme Courts and law schools that support these reforms.

Again, this is deadly serious business. Apperson's collaborator, Attorney General Patricia González Rodríguez of Chihuahua State, is under constant protection as she's advocated for legal reforms addressing human trafficking, violence against women and drug cartels. And the violence against citizens and police in her largest city, Ciudad Juarez, continues to escalate: http://www.mysanantonio.com/news/mexico/stories/MYSA031608.28A.DrugWar.2e3d868.html.

Apperson is the co-founder of the International Association for Court Association (www.iaca.ws) headquartered in Louisville; it has 65 board members from 30 countries, publishes the *International Journal for Court Administration*, and holds international conferences on court management and reform. Working for United Nations, he served as Chief of Court Management for the International War Crimes Tribunal for the Former Yugoslavia.

Photo by: MILLER PHOTOGRAPHY, Louisville KY U.S.A.

Judge Charles Simpson

Judge Charles Simpson is Chair of the International Judicial Relations Committee of the Judicial Conference of the United States. He was appointed by Chief Justice John Roberts to this position. He is liaison/coordinator to the Open Worlds Program for Central Asia of the Library of Congress (www.openworld.gov). Judge Simpson has hosted several delegations of judges from Russia, Croatia, Moldova, Azerbaijan and the Ukraine here in Kentucky, showing them to the American legal system and culture with the help of the Jefferson Circuit Court and the Louisville Bar Association. He is a delegate of the Federal Judges Association to the International Judges Assoc-

iation and works with the International Judicial Academy.

Many other lawyers and organizations aid in these efforts, from bar associations to the Administrative Office of the Courts.

Things to Do

Local participation is only an e-mail away. The World Affairs Council of Kentucky and Southern Indiana, formerly the Louisville International Cultural Center, hosts a variety of professionals, politicians and religious leaders from countries around the world (http://www.wacaky-in.org). These are under the auspices of the U.S. State Department, the U.S. Agency for International Development and the Library of Congress Open World Program.

It has hosted several groups of judges and lawyers, from countries in Africa, central and eastern Europe, the Mideast, and Asia, looking to grasp how the American legal system operates.

At its core, the World Affairs Council benefits from two primary areas of volunteer support:

1. home visits with Kentuckians; and
2. mentor visits and demonstrations of professional activities of lawyers and judges here in the Commonwealth.

Learn more on the Open World Program of the Library of Congress at: http://www.openworld.gov/

Learn more on the Rule of Law Project in Azerbaijan at: http://www.abanet.org/rol/europe_and_eurasia/azerbaijan.html

To find Azerbaijan, go to: https://www.cia.gov/library/publications/the-world-factbook/geos/aj.html

Volunteer and job opportunities throughout the world are available at: http://www.abanet.org/rol/ http://www.dpkconsulting.com http://www.inprol.org

Both opportunities for interaction expand the appreciation our foreign guests as to the actual operations of the American legal system. One of the greatest benefits they may receive from working closely with lawyers and judges here the Commonwealth is that we discuss both the good and bad aspects of the work we do, and our own personal solutions to resolving problems that simply are not detailed in textbooks or State Department briefings.

These visits can be more difficult than you might expect, as language problems can be a difficult barrier to overcome. But the use of translators, interpreters, pantomime and on-line translation engines can help.

The expanded use of Internet online services, including e-mail and online web databases of legal resources, could make it possible for you to easily extend your collaboration with these foreign guests. It may be as simple as just checking on home country holidays or as complex as collaborating on collecting legal resources on-line and sending practice

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The World Affairs Council for Kentucky and its international exchanges are discussed at http://www.wacaky-in.org.

Information on the Kentucky Institute for International Studies College Consortium and the Justice Administration international programs is available, respectively, at www.kiis.org and http://louisville.edu/justice administration/international-program.

materials and advice on legal problems. As with the transition Mexico is making in its legal system, most of our foreign visitors are from civil law jurisdictions operating under the inquisitorial model for criminal justice. They are very interested in how the adversarial model that we employ operates and how we are able to maintain an independent Bar and Judiciary for the resolution of disputes.

Export/Import

There are other opportunities for involvement, including programs for cultural immersion for Americans. For Kentuckians, there is the Kentucky Institute for International Studies (KIIS) consortium of universities that promote immersion language studies in target countries (www.kiis.org).

The KIIS program offers professional and pre-professional programs in justice administration. Professor Fred de Rosset of Beria College, Judge Angela Bisig of Jefferson District Court and State Police Commissioner Rodney Brewer designed special programs for judges, lawyers and police officers that combine domestic language study with Mexican immersion visits. The goal of such training is to improve criminal justice administration where Spanish-speakers are involved.

Many of us, lawyers and judges, have used self-teaching language systems to build basic skills. These traditionally are from books and tapes. Now computer-based systems are available that may offer significant advantages for the self-taught.

Rosetta Stone® is one of the most highly rated language teaching software systems commercially available. The Rosetta Stone language software teaches differently from any other self-teaching program I've used. It uses a total immersion model of sight, sound, speech and touch (via the mouse) to key on language fundamentals as if you were dropped into a foreign land. No English translations are used; rather, the program uses a huge array of high-quality photo images, audio files and voice-recognition to link words and phrases to observation and practice.

It is still like getting to Carnegie Hall: practice, practice, practice. But the system does not use simple repetition for that; rather, it employs constant change-ups in imagery and word use, combined with subtle puzzles, to focus and prod attention. At the least, it is more enjoyable than other self-teaching systems I've used. Being there is still best, but I'll continue to examine this software for utility in teaching language.

Lastly, as noted above, the expansion of the Internet and its data services has radically changed our ability to access and exchange information about other countries. For example, the Google™ search engine is available in over 100 languages, including Klingon.

But of greater help are the translation services for both text and webpage translation. While these are in a number of languages, the most helpful for purposes of rule of law initiatives are translation sets for Spanish, Russian, Arabic, Chinese and French. Although the translation is far from perfect, the gist of the information often comes through on the translations. This can help you communicate at a distance as well as keep up with the news from their local jurisdiction, even if there is not an English-language journal available.

In Closing

My family has hosted visitors from Africa and central Europe through these programs. In part, it represents my self-interested desire that my children learn more of the world and its people than they would get from television. It takes effort, but it's been rewarding. It has given me constant affirmation of the greatness of the American justice system. Not perfect, but remarkable nonetheless and the envy of many who want justice for their people.

As you are reading this, there will be a group of Azerbaijani lawyers visiting the courts and lawyers of the Commonwealth, part of a rule of law project of the Open World program. Their interests are how our adversarial systems operates, alternative ways to resolve disputes and the independence of the legal system. So if you see them over at your courthouse, please extend your hospitality as a Kentucky lawyer. ■

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Add Punch to Your Writing

Judith D. Fischer, Assistant Professor, University of Louisville School of Law

A document may be grammatically correct but still lack punch. When I realize something I wrote is not effective because it's boring, I write in the margin, "Add some zip!" If you're trying to persuade someone — perhaps a court — you'll want to make your writing as strong as you can. Eliminating wordiness and legalese are obvious tactics that I covered in a previous column.[1] Here are some additional ways to add punch to your writing.

1. Prefer strong verbs. Although legal documents present few opportunities to use vivid verbs like *crashed* or *yelled*, use the strongest verb that fits the context.

Not this: The judge reached the conclusion that the defendant was a liar.

This: The judge concluded that the defendant lied.

2. Avoid nominalizations. When the action in a sentence is embedded in a cumbersome noun, writing becomes turgid. Instead, put the action in a verb.

Not this: The judge made the suggestion that the lawyer should conduct an investigation into the facts.

This: The judge suggested that the lawyer investigate the facts.

3. Prefer verbs to adjectives and adverbs.

Not this: The lawyer said forcefully that the defendant's conduct was improper.

This: The lawyer denounced the defendant's conduct.

4. Prefer the specific to the general and the concrete to the abstract. Specific and concrete words create sensory impressions. The reader can conjure a vivid picture of a paring knife or a field of tulips, but not of the more general "weapon" or "vegetation."

Not this: The lawyer argued that citizens should respect the nation's emblematic symbol.

This: The lawyer argued that citizens should respect the flag.

5. Avoid substanceless phrases like *at this point in time* and *the question as to whether*. These kinds of phrases clutter and weaken your writing.

Not this: The jury considered the question as to whether the defendant was guilty.

This: The jury considered whether the defendant was guilty.

You can often get rid of the clumsy phrase *the fact that* by substituting a noun.

Not this: The candidate must explain the fact that he voted for the tax increase.

This: The candidate must explain his vote for the tax increase.

6. Be direct. Identify an actor if there is one, and be specific about what that actor did.

Not this: Analysis of the facts compelled the conclusion that the outrageousness should be evaluated on the totality of the factual circumstances.

Who analyzed the facts? Who was outrageous? With no apparent actors, the above sentence lapses into mushy vagueness.

This: The court considered the totality of the circumstances in deciding whether defendant's conduct was outrageous.

7. Avoid long strings of prepositional phrases. Strings of prepositional phrases are tedious because they sound sing-songy. Moreover, because each preposition takes the reader on a detour, a series of prepositions will begin to spin the reader's head around.

Not this: The plaintiff failed to show that the manager knew of harmful activities by Ms. Jones to him for which the company could take action.

This: The plaintiff failed to show that the manager knew Ms. Jones had harmed him in any way that the company could address.

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Judith D. Fischer, an assistant professor at the University of Louisville law school, teaches Legal Writing and Women and the Law. Her book *Pleasing the Court: Writing Ethical and Effective Briefs* analyzes courts' reactions to lawyers' errors.

8. Consider breaking up long sentences. Long sentences can be effective, and there's no rule against using them. But they can create at least two problems. You may start to lose control of the syntax of a long sentence; and a long sentence may hide a point you want to emphasize. In those instances, dividing the sentence into one or more short sentences can add punch to your writing.

Not this: The defendant deserves a long sentence for his crime, which was particularly offensive, because he abused a child, using a gun in the process, which is considered an aggravating circumstance.

This: The defendant deserves a long sentence for his crime. It was particularly offensive because he abused a child. Moreover, he used a gun, which is an aggravating circumstance.

9. Vary sentence beginnings and lengths. The following paragraph, from Kentucky native John Marshall Harlan's dissent in *Plessy v. Ferguson*, illustrates the effectiveness of varying sentence beginnings and lengths:

> [I]n the eye of the law, there is in this country no superior, dominant, ruling class of citizens. There is no caste here. Our constitution is color-blind, and neither knows nor tolerates classes among citizens. In respect of civil rights, all citizens are equal before the law. The humblest is the peer of the most powerful. The law regards man as man, and takes no account of his surroundings or of his color when his civil rights as guaranteed by the supreme law of the land are involved. It is therefore to be regretted that this high tribunal, the final expositor of the fundamental law of the land, has reached the conclusion that it is competent for a state to regulate the enjoyment by citizens of their civil rights solely upon the basis of race.[2]

The shortest sentence in Harlan's paragraph contains only five words, while the longest contains forty-seven. The short sentence emphasizes its point about caste. The long sentence is effective because its syntax is under control and it builds to the climactic word *race*, emphasizing the inequity in the majority's decision.

Word-processing programs will compute your average sentence length.[3] Try computing yours, and notice whether your sentence lengths remain monotonously similar. Then check Harlan's paragraph as a model of effective variation.

10. Avoid words like *clearly* and *very*. These words are seductive because they seem emphatic. But I've heard judges say that when they see the word *clearly* in a brief, they assume the lawyer has no support for the point. And what is the difference between *angry* and *very angry*? Instead of writing "The witness was very angry," try the stronger "The witness was enraged."[4]

Try these suggestions and see how they strengthen your writing. ■

ENDNOTES

1. Judith D. Fischer, *Streamline Your Writing*, Bench & B. 38 (July 2005).
2. 163 U.S. 537, 559 (1896) (Harlan, J., dissenting).
3. In Microsoft Word, the "Spelling and Grammar" function computes sentence length.
4. Richard C. Wydick, *Plain English for Lawyers* 74 (5th ed. 2005).

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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

27 Lawyer's Emotional Intelligence Training Half-Day Program
Louisville Bar Association

28 Solo/Small Firm Brown Bag
Louisville Bar Association

29 Volunteer Lawyers for the Poor
Cincinnati Bar Association

30 Trial Strategies & Techniques from Leading Attorneys from BOTH Sides of the Bar
Kentucky Justice Association

30 Construction Law
Cincinnati Bar Association

30 Medicaid and Nursing Homes 2008
Louisville Bar Association

JUNE

2 Taxation CLE Seminar
Louisville Bar Association

4 CLE Brown Bag Seminar
Louisville Bar Association

4 Ethics: Fiduciary Exception to Attorney-Client Privilege
Cincinnati Bar Association

5 Real Estate Section Half-Day
Louisville Bar Association

5-6 Workers Compensation Seminar
CompEd, Inc.

6 How to Avoid Missing Important Causes of Action
Kentucky Justice Association

6 CLE Brown Bag Seminar
Louisville Bar Association

10 ADR/Mediation Half-Day
Louisville Bar Association

10 Video Replay: Estate Planning, Long-term Care & Medicaid for the Elderly; Trust Planning; and Landlord Tenant Law
Cincinnati Bar Association

11 Government & Public Sector Brown Bag
Louisville Bar Association

12 Criminal Law Brown Bag
Louisville Bar Association

12-13 Employee Benefits Conference
Cincinnati Bar Association

12-13 11th Biennial Employment Law Institute
UK CLE

12 Conflicts of Interest and Waivers that (Hopefully) Work
Louisville Bar Association

13 Healthcare, Subrogation & Reimbursement: What Every Lawyer Must Confront
Kentucky Justice Association

13 Children's Custody Issues
Children's Law Center

13 Family Law Day-Long
Louisville Bar Association

17 IP Day-Long CLE
Louisville Bar Association

17 Elder Law
Cincinnati Bar Association

18-20 Annual Convention
Kentucky Bar Association

18 Business Law Day-Long CLE
Louisville Bar Association

18 Negotiating Loan Documents in a Commercial Deal
Cincinnati Bar Association

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Malissa Carman-Goode
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UK Office of CLE
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Mediation Center of the Institute for Violence Prevention
Louis Siegel • (800) 676-8615

Northern Kentucky Bar Association
Christine Sevendik • (859) 781-1300

Fayette County Bar Association
Mary Carr • (859) 225-9897

Cincinnati Bar Association
Dimity Orlet • (513) 381-8213

Mediation Center of Kentucky
Tami Bowen • (859) 246-2664

Access to Justice Foundation
Nan Frazer Hanley • (859) 255-9913

Administrative Office of the Courts
Malissa Carman-Goode
(502) 573-2350, Ext. 216

19 Get Organized & Get Things Done – Practical Time Management for Lawyers
Louisville Bar Association

19 Basic Real Property Law
Cincinnati Bar Association

20 Social Security Half-Day CLE
Louisville Bar Association

20 eDiscovery & Computer Forensics: Friend or Foe?
Cincinnati Bar Association

22-27 Trial Advocacy Institute
Cincinnati Bar Association

23 Ethics Seminar
Kentucky Justice Association

24 Ethics Webinar
Kentucky Justice Association

24 Probate & Estate Half-Day CLE
Louisville Bar Association

24-25 Annual Bench & Bar CLE
Fayette County Bar Association

25 Ethics Webinar
Kentucky Justice Association

25 In-House Half-Day CLE
Louisville Bar Association

25 KBA Video Replay
Kentucky Bar Association

26 KBA Video Replay
Kentucky Bar Association

26 Ethics Webinar
Kentucky Justice Association

26 LBA Brown Bag CLE
Louisville Bar Association

26-27 Last Chance Video 2008
UK CLE

27 Investigation & Litigation of BIG Truck Case
Kentucky Justice Association

27 Young Lawyer's Half-Day CLE
Louisville Bar Association

30 LBA Half-Day CLE
Louisville Bar Association

JULY

1 Video Replay: Professionalism, Ethics & Substance Abuse Instruction
Cincinnati Bar Association

9 Criminal Law: White Collar Crime
Cincinnati Bar Association

22 Video Replay: Professionalism, Ethics & Substance Abuse Instruction
Cincinnati Bar Association

23 Trial Skills: Top Tips for Taking a Deposition
Cincinnati Bar Association

2008 KENTUCKY LAW UPDATE

Dates and Locations

September 4-5 (Th/F) **Louisville**
Kentucky International Convention Center

September 17-18 (W/TH) **Covington**
Northern Kentucky Convention Center

September 22-23 (M/T) **Bowling Green**
Holiday Inn & Sloan Convention Center

October 6-7 (M/T) **Ashland**
Ashland Plaza Hotel

October 20-21 (M/T) **Prestonsburg**
Jenny Wiley State Resort Park

October 28-29 (T/W) **Paducah**
KY Dam Village State Resort Park

November 6-7 (TH/F) **Somerset**
The Center for Rural Development

November 13-14 (Th/F) **Owensboro**
RiverPark Center

December 4-5 (TH/F) **Lexington**
Lexington Convention Center

2007 CLE Award Recipients

Congratulations to the following members who have received the CLE award by obtaining a minimum of 62.5 CLE credit hours within a three year period, in accordance with SCR 3.680. The CLE Commission applauds these members for their efforts to improve the legal profession through continuing legal education. A comprehensive list of new award recipients and renewal recipients may be accessed through the Kentucky Bar Association website at www.kybar.org.

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May 21	Business Divorce, Part 2
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May 27	"Green Law": Regulation, Real Estate & Environmentally Friendly Projects
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June 3	Estate Planning Update, Part 1
June 4	Estate Planning Update, Part 2
June 5	Things Secured Parties Should Know When Foreclosing on Collateral, Part 1 (Live Replay)
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Salmon P. Chase College of Law

By Chris Gulinello
Associate Professor of Law
Northern Kentucky University
Visiting Associate Professor of Law
National Taiwan University

Exchanging U.S. Law

As I teach the incredibly bright students at the National Taiwan University College of Law this semester, I cannot help but reflect on the issue of "exporting" U.S. law. In fact, I must conclude that the days of exporting U.S. law are on the wane and the days of exchanging law have arrived.

The U.S. is not the only nation that has a legal system with a long and proud tradition. In the past, U.S. lawyers have often been able to impose their will on transactions because they had the economic power to do so. This often meant that international transactions used U.S.-style contracts, selected U.S. law to govern interpretation and disputes, and chose U.S. courts to have jurisdiction over the matter.

As globalization gives economic power to other nations, U.S. lawyers will need to understand how to work in an international environment when they are not dictating the terms. U.S. lawyers will not be competitive in the global legal market, which is increasingly intertwined with the local legal market, without an understanding of other legal systems and how participants in those legal systems structure and perform transactions.

That is not to say that the U.S. legal system has nothing to offer the world. In fact it does. Many countries can and do learn from our experiences. However, we must realize that the rest of the world may have something to teach us as well.

One week ago, my class here in Taiwan was discussing the differences between the U.S. law for revocation of offers and the Taiwanese law for the same. As law professors often do, I challenged them by presenting the argument that the U.S. law was superior (of course, letting them know that I was just playing my role as devil's advocate). The students were able to present well-reasoned and convincing arguments that the Taiwanese rules were superior. In the end, neither the students nor I cared whether we came to a definitive solution about which law was superior. The purpose of the exercise was for them to teach me about their legal system and for me to teach them about mine. Through this exchange, we were also better able to understand our own respective legal systems.

University of Kentucky College of Law

By Heather N. Russell
Communications Director
University of Kentucky College of Law

International Influence at UK College of Law

The UK College of Law's involvement in things international is strong and sustained. Since 1909, when we offered a required course in international law, courses with international focus have been available to students: in 1955, a course on international legislation; in 1966, an international law seminar; in 1967, a course on the Law of Developing Countries; and today, courses on international law, international human rights, international taxation, international trade law, and international environmental law. The International Law Society is a popular student organization.

Outside of academic and extracurricular offerings, individual students have become engaged in international law activities. Josh Miller '06 interned in Tanzania with the International Criminal Tribunal for Rwanda. Sek Hwan Hong '07 interned with the International Criminal Tribunal for the Former Yugoslavia at The Hague.

The activities our professors, through an impressive body of scholarship, touch and concern many international considerations. Individual faculty members have a wide range of international involvement. For example, Alvin L. Goldman has been a Scholar-in-Residence at the Institute for Labor Law, Leuven University in Belgium and chair of the Executive Board of the U.S. Branch of the International Society for Labor and Social Security Law. Roberta M. Harding lectures domestically and internationally on capital punishment. Michael P. Healy taught as a Fulbright Scholar in China. Mark Kightlinger practiced for five years in Covington & Burling's Brussels office, where he developed expertise on the European Union, international trade and the WTO. Richard Underwood has presented papers at the Second World Conference on New Trends in Criminal Investigation and Evidence in Amsterdam, as well as at the Worldwide Advocacy Conference at the Inns of Court School of Law in London. Allan Vestal has taught two summers in Cologne, and has presented papers at conferences in the Netherlands on the Reform of Private Company Law and on Close Corporation and Partnership law reform in Europe and the U.S. Sarah N. Welling served as a CIA consultant on money laundering and has spoken on that topic in Poland, Croatia, and China. Richard A. Westin is a consultant to the United Nations, the Russian Federation, the Canadian Ministry of Mines & Energy, and the Peoples Republic of China.

Through academics and service, among students and faculty, the UK College of Law maintains an undeniable connection to international law.

University of Louisville School of Law

By Judith D. Fischer
Assistant Professor
University of Louisville School of Law

The Age of Globalization

The University of Louisville's School of Law anticipated the age of globalization through an international exchange program that has been in place for more

than twenty-five years. Over that time, University of Louisville professors have visited and lectured at law schools in such diverse locations as India, Japan, Australia, South Africa, and several European countries. In exchange, professors from those countries have visited Louisville. Foreign students, most recently from Finland and England, have also visited the University of Louisville, adding their perspectives to classes and informal discussions with other students.

These exchanges have enriched the law school environment in many ways, starting with the classroom. Professor Robert Stenger's numerous exchanges have added to perspectives in his constitutional law course, where he compares the U.S. Constitution with the German, Finnish, French, and South African constitutions. And after numerous international visits, Professor John Cross says, "I have incorporated knowledge obtained abroad in all my classes." Increased awareness of international and comparative law issues also helps University of Louisville professors to connect with students who have some experience in the foreign host countries.

The foreign exchanges have also influenced professors' scholarship. Professor Susan Duncan's articles about Internet issues have been enriched by her increasing knowledge about other legal systems' approaches to those issues. Professor Stenger has published three articles on U.S.-U.K. law. And the year the Supreme Court decided the Kentucky Ten Commandments case (McCreary County v. ACLU), I collaborated with an English professor on an article about church-state relations in the U.S. and the U.K.

The exchanges also foster valuable international relationships. Professor Duncan appreciates the "many very knowledgeable and highly respected international scholars" who have helped with her research and understanding of legal issues, and Professor Russ Weaver has developed research contacts around the world.

On exchanges, Professor David Leibson and his wife became enchanted with Australia, Professor Duncan watched her three daughters walk on water (frozen) in Finland, and I met a cheetah in a game preserve. But most important, the University of Louisville's exchange program has broadened both students' and professors' perspectives about the law.

■ In Memoriam

Ben B. Hardy	Louisville
Laurence E. Higgins	Louisville
Davis M. Howerton, Jr.	Louisville
Ralph R. Kinney	Greenville
Deddo G. Lynn	Lexington
Charles Ray Orange	Russellville
Carlos B. Pope	Barbourville
Edwin D. Rice	Ashland

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Over 15,000 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 40601-1883

* 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.

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SUMMARY OF MINUTES
KBA BOARD OF GOVERNORS MEETING
JANUARY 18, 2008

The Board of Governors met on Friday, January 18, 2008. Officers and Bar Governors in attendance were *President* J. Dyche, *President-Elect* B. Bonar, *Vice President* C. English, Jr., *Immediate Past President* R. Ewald, *Young Lawyers Section Chair* R. Reed, *Bar Governors 1st District* - D. Myers, M. Whitlow; *2nd District* - J. Harris, Jr, R. Sullivan; *3rd District* - R. Madden, R. Hay; *4th District* - M. O'Connell, D. Farnsley; *5th District* - F. Fugazzi, Jr., D. McSwain; *6th District* - M. Grubbs, T. Rouse and *7th District* - J. Rosenberg, W. Wilhoit.

In Executive Session, the Board considered one (1) discipline case; two (2) discipline default cases, and one (1) restoration case.

In Regular Session, the Board of Governors conducted the following business:

- Heard status reports from the Kentucky Lawyer Assistance Program (KYLAP), Long Range & Strategic Planning Committee, Office of Bar Counsel and Rules Committee.
- Young Lawyers Section Chair Ryan C. Reed reported that the "On Your Own" project had been renamed "u@18" and the final draft is scheduled to be printed at the end of January. The YLS section hopes to have this program in selected classrooms around Kentucky in the Spring of 2008. Mr. Reed reported that on January 16 the YLS Executive Committee had a well attended dinner meeting with the Supreme Court.
- Bar Governor Thomas B. Rouse presented the proposed notary processes legislation that would be presented in the 2008 Regular Session of the Kentucky General Assembly. Following Mr. Rouse's presentation the Board voted unanimously to take the position opposing the legislation as currently drafted.
- Approved the recommendation of Miller Mayer Sullivan & Stevens, LLP to the Supreme Court to perform the audit for the Association and Foundation for the Fiscal Year ending June 30, 2008. In addition, the Board approved establishing an Audit Committee to work with the auditors and KBA internal accountants to review the audit and establish other accounting standards and guidelines.
- Adopted the proposed 2008-2009 KBA Budget, as presented by the Chair of the Budget and Finance Committee, President-Elect Bonar, for transmittal to the Supreme Court for approval.
- Approved the report and recommendation of the KYLAP Search Committee to offer the KYLAP Director position to Randy Ratliff of Louisville.

Our Alternative Dispute Resolution Group has decades of experience finding effective, expedient and equitable solutions to business and personal legal matters. Using critical listening skills, our certified mediators define the issues, ascertain the concerns of each party and foster effective communication. And, our state-of-the-art Mediation Center with LCD screen, projector and wireless connection facilitates professional presentations. Fowler finds solutions.

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To KBA Members

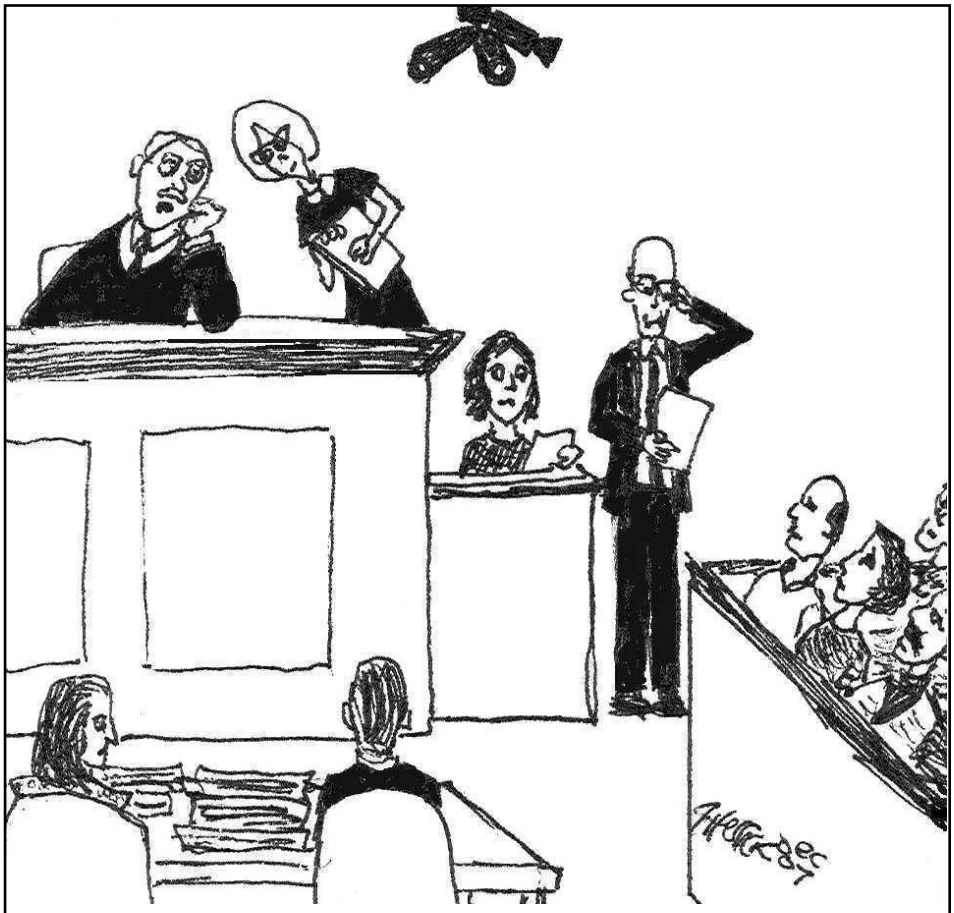
Do you have a matter to discuss with the KBA's Board of Governors? Board meetings are scheduled on

June 17, 2008
July 18-19, 2008

To schedule a time on the Board's agenda at one of these meetings, please contact Jim Deckard or Melissa Blackwell at (502) 564-3795.

- Approved the following appointments to the KYLAP Commission: Henry Neal of Pikeville and Pat Anderson of Prestonsburg, both of the 7th Supreme Court District.
- Vice President English reported that Chief Justice Lambert has established an e-filing committee, Chaired by Senior Status Judge Steve Jaeger of Northern Kentucky. The committee has been given the directive to examine and make recommendations on the implementation of electronic filing of documents in Kentucky's state courts. In addition, the KBA has been asked to recommend individuals to work with the Court to review the Kentucky Civil Rules for any necessary revisions to accommodate electronic filing. The Board approved Michele Turner, Louis Waterman and Doug McSwain to serve on the civil rules e-filing subcommittee. In addition, Ruth Baxter will serve on the larger e-filing committee with Mr. English, Jim Deckard and Tom O'Brien.
- President Dyche reported a new member benefit, starting with the January 2008 edition of *The Complete Lawyer* electronic magazine, made available to all Kentucky lawyers and personalized to Kentucky with interviews of Kentucky lawyers and judges. This publication is primarily a national publication, operated by a Georgia Lawyer, and is currently being published with local editions for bar associations in approximately 20 states.
- Executive Director James L. Deckard reported that the Canvassing Board met on January 16 to tabulate the votes in the election for Bar Governor in the 1st, 4th, 5th and 6th Supreme Court Districts. The results are as follows: 1st - Jonathan Freed, 4th - Douglas C. Ballantine, 5th - Anita M. Britton and 6th - David V. Kramer. The Bar Governors will begin their terms of 2 years effective July 1, 2008.
- Mr. Deckard advised the Board there will be Judicial Nominating Commission elections this year and that two lawyer members are elected for each Judicial Nominating Commission for every Circuit and District as well as for a statewide Nominating Commission for the Supreme Court and Court of Appeals. Mr. Deckard advised that the Board would be considering nominees for this years' elections at its May 16 Board meeting.
- President-Elect Bonar reported a Fall Getaway has been planned at the West Baden Springs Hotel near French Lick, Indiana, scheduled for October 23-25, 2008. Initial plans are for at least six hours of available CLE, with more information to follow in the coming months.
- President-Elect Bonar reported that Kentucky has been approached to sponsor a Rule of Law Conference, in conjunction with the American Bar Association's initiative, the World Justice Project, the goal of which is to advance the Rule of Law around the globe. The conference participants will engage in a multi-disciplinary discussion on how diverse sectors of our community can work together to promote justice, and the importance of the rule of law on society as a whole.

Legally Insane by Jim Herrick



"When's the next TV time-out?"

ON THE MOVE

The Paducah law firm of **Whitlow, Roberts, Houston & Straub, PLLC** is pleased to announce that **James R. (Jason) Coltharp, Jr.** has become a partner in the firm. Coltharp received his J.D., *cum laude*, from the University of Kentucky, where he was a member of the Order of the Coif. He has been associated with Whitlow, Roberts, Houston & Straub since 2003 and concentrates his practice in the areas of civil litigation, construction law, appellate advocacy, and intellectual property law.

Robert W. Goff

The Paducah law firm of **Denton & Keuler LLP** is pleased to announce that **Robert W. Goff** has become associated with the firm. He is a graduate of the University of Kentucky College of Law and has been admitted to practice in Kentucky.

Allison Wildman

Ashley J. Butler

The Louisville law firm of **Thompson Miller & Simpson** is pleased to announce that **Allison Wildman** has become a partner with the firm and that **Ashley J. Butler** has joined the firm as an associate. Wildman, a graduate of the University of Kentucky College of Law, focuses in the areas of medical malpractice, complex civil litigation, and products liability. Butler received her master's degree in 1998 and earned her J.D. in 2002 from the University of Kentucky. She centers her practice in the area of healthcare liability.

Eddins • Domine Law Group, located in Louisville, is pleased to announce the addition of **Janet Yu Johnston** as an associate attorney. Johnston, a 2007 graduate of the University of Louisville School of Law, is focusing her practice in the areas of family law, real estate transactions, and business law. She has an extensive background in international studies, including time spent studying in Beijing, China, as well as fluency in the Chinese and Spanish languages.

Janet Yu Johnston

Dennis M. Clare

Dennis M. Clare is pleased to announce that the **Law Office of Dennis M. Clare, PSC** has changed its name to the **Law Offices of Clare & O'Brien, PSC** and that **Rusty M. O'Brien** has been named a partner in the firm. **Christopher M. Kozoll** has also joined the firm.

Rusty M. O'Brien

Christopher M. Kozoll

O'Brien, a graduate of Brigham Young University and the University of Louisville School of Law, will continue to focus his practice primarily in the areas of international business and immigration and nationality law. Kozoll, a graduate of Notre Dame and the University of Colorado School of Law, will also focus his practice primarily in the areas of international business and immigration and nationality law.

The law firm of **Ackerson & Yann, PLLC** is pleased to announce that **Joseph C. Souza** has accepted a position with the firm as a member and that **Jeremy Beck** has become an associate of the firm. Souza, a 1970 graduate of

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Joseph C. Souza

Jeremy Beck

the University of Connecticut, earned his J.D. in 1974 from the University of Louisville. He concentrates his practice in commercial and complex litigation, including personal injury, professional negligence, product liability and class actions. Beck, a 1984 graduate of Mannes College of Music, received a M.A. in 1989 from Duke University and earned a M.M.A. and a D.M.A. from Yale University in 1992 and 1995 respectively. He graduated, *cum laude*, from University of Louisville School of Law in 2007. Beck concentrates his practice in the areas of general business law, trademark, copyright, and entertainment law.

Greg Metzger, a 1994 graduate of the University of Kentucky College of Law and former operations counsel with Atria Senior Living Group, is pleased to announce the opening of his Louisville law firm, **Metzger & Associates**. The firm's practice will focus on assisting businesses with labor and employment matters, including training and assisting with responses to union organizing activities and disputes, contract issues, real estate/zoning matters and licensing filings and disputes. His new office telephone number is (502) 326-8543.

Greg Metzger

David E. Fleenor

Stoll Keenon Ogden PLLC is pleased to announce that attorney **David E. Fleenor** is now Of Counsel to the firm and that attorneys **Lucy A. Pett** and **K.T. Williams** are now members of the firm. Prior to joining the firm, Fleenor served as general counsel to Governor Ernie Fletcher. His practice now primarily concentrates in the areas of health care and intellectual property. He received his B.S. from the U.S. Naval Academy and earned his J.D. from the University of Tennessee College of Law. Pett, a member in the Lexington office, focuses her practice in the area of civil litigation, including personal injury, professional negligence, insurance bad faith, product liability, and civil rights litigation. She is a graduate of DePauw University and earned her law degree in 2001 from the University of Kentucky. Williams, a member in the Henderson office, practices in Kentucky and Indiana and focuses his practice in the areas of corporate litigation, general corporate law, and labor and employment law. Prior to joining the firm in 2003, he was in private practice in Evansville, Indiana, at Rudolph Fine Porter & Johnson. Williams represents clients in matters involving labor and employment law, corporate formation and acquisition, creditor representation and collections, construction disputes, and personal injury actions. He earned his law degree in 2001 from the University of Kentucky.

Lucy A. Pett

K.T. Williams

Gwendolyn R. Pinson has joined **Dinsmore & Shohl LLP** as an associate in the Litigation Law Department. She moved from serving as the top lawyer for the Commonwealth of Kentucky Finance and Administration Cabinet to Dinsmore & Shohl's Lexington office. Pinson received her B.A. from Morehead State University in 1997 and earned her J.D. from the University of Kentucky College of Law in 2000.

Greenebaum Doll & McDonald PLLC has announced that **John K. Bush** and **Sean P. Gallagher** have been named co-chairs of the firm's Antitrust Team and that **Daniel E. Fisher** has

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John K. Bush

Sean P. Gallagher

Daniel E. Fisher

been named the firm's Health Care Insurance and Life Sciences Team Chair. All three attorneys practice in the firm's Louisville office. Bush, a graduate of Harvard Law School, is a member of Greenebaum's Litigation and Dispute Resolution Practice Group. He received his bachelor's degree from Vanderbilt University. Gallagher, a graduate of Indiana University School of Law, is a member of Greenebaum's Corporate and Commercial Practice Group. He received his bachelor's degree from Michigan State University and earned his master's degree from Indiana University. Fisher, a graduate of the University of Cincinnati College of Law, is a member of Greenebaum's Corporate and Commercial Practice Group and is the Mergers and Acquisitions Team Co-Chair. He received his undergraduate degree from Wittenberg University.

Frost Brown Todd is pleased to welcome **Vickie Yates Brown** as a member of the firm and co-chair of its Health Law Practice Group. The firm is also pleased to announce the appointment of **Sally Spielvogel** as a senior associate of the firm and **Mekesha Montgomery** as a member of the firm. **Robert Sartin** has also been named the new administrative member of the Lexington office. Brown concentrates her practice in health care, health insurance law, informatics, government affairs, and mediation. She was recently elected as the chair-elect of the American Bar Association's Health Law Section. Spielvogel has been with the firm since 2004 and works in the Lexington office in the Personal Planning and Family Business Department. Montgomery practices in the firm's Nashville office and concentrates her practice on employment discrimination litigation and traditional labor law. Sartin concentrates his practice in commercial transactions, bankruptcy and restructuring law, mergers and acquisitions, and tax law.

Peter J. Stavros has been named Director, Legal/Commercial Affairs for **PharMerica Corporation**. Stavros received a B.A. from Duke University and obtained his law degree from the University of Kentucky College of Law. He is a former chair of the Louisville Bar Association's Intellectual Property Section.

Doug Abell

Doug Abell has been named vice president and corporate counsel at **Kindred Healthcare, Inc.** He joined the company in October 2003 and previously served as senior director and corporate counsel. Abell provides corporate and securities advice to the company and acts as lead counsel in several of the company's merger and acquisition transactions. He is a 1997 graduate of the University of Notre Dame and a 2000 graduate of Vanderbilt University Law School. Prior to joining Kindred, he was employed as an associate at Frost Brown Todd, LLC in Louisville.

Loren VanDyke Wolff and **Benjamin N. Wolff** are pleased to announce the opening of their new firm, **Wolff Law Firm, PLLC**, located in Northern Kentucky. The firm is a general practice firm providing a broad range of legal services in a wide variety of fields such as business organization, contract formation and negotiation, commercial and residential real estate matters, family law, and estates and trusts. They may be reached at (859) 514-0745.

Thompson Coburn LLP is pleased to announce that **Raymond J. Stewart** has joined the firm as a partner in the Corporate and Securities, Government Contracts, and Tax Practice Groups. He has more than 25 years of experience in providing legal, financial, tax, transactional, merger and acquisition, and capital formation services, with a particular emphasis in the services, technology, manufacturing, franchising, and government contracting industries.

The Lexington law firm of **Casey Bailey & Maines, PLLC** is pleased to announce that **Jo Alice van Nagell** has joined the firm as a partner and **Lori Daniel** has joined the firm as an associate. Both attorneys will focus primarily on workers' compensation and general insurance defense litigation.

Clyde H. Foshee, Jr.

Clyde H. Foshee, Jr., formerly vice-president and senior regulatory attorney for National City Bank, has joined the Louisville firm of **Morgan & Pottinger** as Of Counsel. **Thomas W. Volk**, formerly vice-president

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Thomas W. Volk

Timothy A. Schenk

and counsel for National City Bank, has also joined Morgan & Pottinger as Of Counsel. Foshee is a graduate of the University of Louisville School of Law. He will concentrate his practice in banking law, negotiable instruments, secured transactions, and letters of credit. Volk is also a graduate of the University of Louisville School of Law. He will concentrate his practice in the areas of creditor's rights and real estate. Morgan & Pottinger is also pleased to announce that **Timothy Andrew Schenk** has joined the firm as an associate attorney. Schenk is a 2007 graduate of the University of Kentucky College of Law.

Scott A. Best

The law firm of **Kohnen & Patton LLP** is pleased to announce that **Scott A. Best** has joined the firm as an associate in the litigation department. Best, a resident of Union, is a graduate of Salmon P. Chase College of Law. He has been practicing in the area of civil litigation in Kentucky and Ohio and is a member of both the Kentucky and Ohio Bar Associations.

Michael F. Reynolds

Jeffrey A. Darling

Jeremy J. Ratliff

Garland H. Barr, IV

The Lexington law firm of **Kinkead & Stilz, PLLC** is pleased to announce the addition of the firm's new attorneys, **Michael F. Reynolds**, **Jeffrey A. Darling**, **Jeremy J. Ratliff**, and **Garland H. (Andy) Barr, IV**. Reynolds has joined the firm as a member and focuses his practice in the areas of corporate transactions, estate planning and administration, and tax law. He received his B.A., *cum laude*, from Transylvania University and earned his J.D. from the University of Kentucky College of Law. Darling has joined the firm as Of Counsel. He focuses his practice in the areas of civil litigation, criminal defense, and employment discrimination litigation. He received his B.A. from Morehead Sate University and earned his J.D. from the University of Kentucky College of Law. Ratliff and Barr have joined the firm as associates. Ratliff focuses his practice in the areas of tax, corporate, corporate transactions, estate planning, and probate services. He received his B.S. from the University of Kentucky and earned his J.D. from the University of Kentucky College of Law in 2000. Barr focuses his practice on litigation, real estate, energy, government entity defense, and government relations. He received his B.A., *magna cum laude*, from the University of Virginia and earned his J.D. from the University of Kentucky College of Law in 2001. Barr served a four-year term in Governor Ernie Fletcher's administration.

The principals of **Ward, Tyler & Scott, LLC** announce that effective March 1, 2008, **Christopher L. King** has left the firm to form **Ward & King, LLC** located at 1941 East Spring Street in New Albany, Indiana. **Margaret F. Timmel** and **J. David Agnew** will join Ward & King, LLC. **J. Scott Waters, IV**, **Scott L. Tyler** and **Chad Smith** will remain with the firm at 1947 East Spring Street in New Albany. The firm's name has changed to **Waters, Tyler, Scott, Hofmann & Doane, LLC**.

IN THE NEWS

Tandy C. Patrick

Greenebaum Doll & McDonald PLLC has announced that **Tandy C. Patrick**, a member in the firm's Louisville office, has been appointed by Louisville Mayor Jerry Abramson to the Louisville Water Company Board of Directors. The Louisville Water Company provides water to more than 810,000 people. Patrick is a member of Greenebaum's Corporate and Commercial Practice Group and serves as the firm's Real Estate Team Chair and Equine Law Team Co-Chair.

Mark A. Loyd, an associate in Greenebaum Doll & McDonald's Louisville office, has been re-elected to a three-year term on the Park Community Federal Credit Union Board. He has also been re-elected to a one-year term as

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Mark A. Loyd

secretary/treasurer. The credit union was established in 1965 to serve General Electric employees at Appliance Park. Loyd is a member of Greenebaum's Tax and Finance Practice Group.

Anne E. Gorham

Stites & Harbison has announced that **Anne E. Gorham**, member of the Lexington office, was inducted as a Fellow of the American College of Construction Lawyers (ACCL). Fellowship is awarded to lawyers and judges who demonstrate the highest ethical standards and exceptional skill in the practice or teaching of construction law. Candidates for Fellowship are nominated by current Fellows, elected by the Board of Governors and approved by the entire membership.

Kennedy Helm III

The members of **Stites & Harbison, PLLC** have elected **Kennedy Helm III** to a fifth three-year term as chairman of Stites & Harbison. Under his leadership, the firm has more than doubled in size, growing from four offices with 121 attorneys to eight offices with 280 attorneys.

Donald Vish

Donald Vish was elected a new life (25 years) member of the American Law Institute (ALI) at its annual meeting in May. ALI members are selected on the basis of professional achievement and demonstrated interest in the improvement of the law. Vish participated in the ALI members' consultative committee on the Restatement 3rd of the Law Governing Lawyers. He concentrates his practice in the areas of business law, energy law, and natural resources law at Middleton Reutlinger in Louisville.

Kelly A. Schoening

Toyota Motor Corporation has named **Kelly A. Schoening**, a partner with the law firm of Deters, Benzinger & LaVelle (DBL), as a 2008 Outstanding Woman of Northern Kentucky. The Outstanding Women of Northern Kentucky Awards, established in 1984, honor women serving the Northern Kentucky community who exemplify notable achievement, service to their profession or community, and the qualities of integrity, perseverance, and leadership.

Rebecca Martin

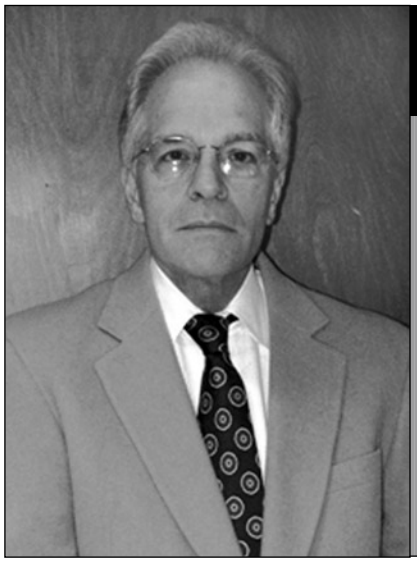
Rebecca Martin, an associate member of the Louisville law firm of Ackerson & Yann, PLLC, has been elected as a member of the National Headache Foundation Board of Directors, which exists to enhance informational and educational resources to chronic headache sufferers. Martin, a 2002 graduate of the University of New Mexico School of Law, concentrates her legal practice in the areas of estate planning, corporate law, tax, and charitable organizations.

Frost Brown Todd LLC is pleased to announce that member **Mekesha Montgomery** has been selected to participate in the Bowling Green Area Chamber of Commerce's 2008 Leadership Bowling Green Program. Leadership Bowling Green selects 30 business leaders annually to participate in an eight-month leadership training program. Outcomes of participating include a service project to give back to the community, relationship building, and knowledge about the community to continue serving Bowling Green.

Gail C. Hersh, Jr., an associate in the Real Estate Default Group of Weltman, Weinberg & Reis Co., LPA in Cincinnati, has been appointed to serve as vice-chairman of the Real Property Law Committee of the Cincinnati Bar Association. Hersh is licensed in Kentucky, Ohio, and Indiana.

Eric Richardson

The law firm of Vorys, Sater, Seymour and Pease LLP is pleased to announce that **Eric Richardson**, a partner in the firm's Cincinnati office and resident of Florence, has been appointed to serve as a Special Justice to the Kentucky Supreme Court and to consider four cases pending



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before the Court. Richardson focuses his practice in civil litigation and white collar criminal defense work. His practice encompasses commercial, employment, construction, accounting malpractice, and intellectual property matters.

Charles R. Baesler, Jr.

Charles R. Baesler, Jr., a member in the Lexington office of Stoll Keenon Ogden PLLC, spoke at the Meritas Annual Meeting on May 9, 2008 in Chicago on the topic of *Leveraging Meritas in International Practice*. Baesler heads the Stoll Keenon Ogden Immigration Practice Group.

RELOCATIONS

Steven R. Zweigart is pleased to announce the relocation of his law

Steven R. Zweigart

practice to Flemingsburg. His new solo practice is located at 101 J.B. Shannon Drive in Suite D. Zweigart, a 1991 graduate of Salmon P. Chase College of Law, has been with the law firm of Royse, Zweigart, Kirk, Brammer & Caudill in Maysville for the past 17 years. His new practice will be general in nature with emphasis in the areas of consumer bankruptcy, estate planning and probate, commercial and residential real estate, landlord-tenant, family law, business entities and transactions, and alternative dispute resolution.

Lynn, Fulkerson, Nichols & Kinkel, PLLC has changed its name to **Fulkerson, Nichols & Kinkel, PLLC** and has relocated to 239 North Broadway in Lexington. **Calvin R. Fulkerson**, **Mark E. Nichols**, **Steven G. Kinkel**, **Melaine S. Marrs**, **Shannon M. Naish**, **J. Christian Lewis**, **David A. Trevey** and **Erin C. Sammons** practice at the Lexington law firm. The firm's telephone and fax numbers will remain the same.

Arthur J. Bryson

On April 1, 2008, **Arthur J. Bryson** relocated his Lexington law office to the Whitman Building in suite 209 located at 1025 Dove Run Road. Bryson may be reached by telephone at (859) 259-1990. He voluntarily limits his practice to probate and estate matters, including probate, trust and estate administration, and estate planning, including wills, trusts and related financial planning.

Have an item for
WHO, WHAT, WHEN & WHERE?

The **Bench & Bar** *welcomes brief announcements about member placements, promotions, relocations and honors. Notices are printed at no cost and must be submitted in writing to:*

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The deadline for announcements appearing in the next edition of Who, What, When & Where is June 1st.

NOTICE OF PROPOSED REVISION TO LR 83.1 AND 83.2, PLUS NOTICE OF LCrR 57.1 AND 57.2 OF THE JOINT LOCAL RULES OF THE FEDERAL DISTRICT COURTS IN KENTUCKY

NOTICE is hereby given that the Joint Local Rules Commission has forwarded to the Judges of the United States District Courts for the Eastern and Western Districts of Kentucky a revised LR 83.1 and 83.2 of the Joint Local Rules of Civil Practice and a revised LCrR 57.1 and 57.2 of the Local Rules of Criminal Practice for the federal courts in Kentucky. The Judges of the United States District Courts in Kentucky will be considering the following proposed Joint General Order for adoption after publication of this Notice in the Kentucky Bench & Bar. On or before July 15, 2008, the bar and public are invited to submit comments and/or suggestions, in writing, with respect to the proposed revision of the Joint Local Rules to either of the United States District Court Clerk's Offices or to Douglas L. McSwain, Chair of the Joint Local Rules Commission, at the law firm of Sturgill, Turner, Barker & Moloney, PLLC, 333 West Vine Street, Suite 1400, Lexington, KY 40507.

IN THE UNITED STATES DISTRICT COURT
FOR THE
EASTERN AND WESTERN DISTRICTS OF KENTUCKY

JOINT GENERAL ORDER NO. _____ - E.D. Ky.
JOINT GENERAL ORDER NO. _____ - W.D. Ky.

* * * * *

Pursuant to LR 83.14 of the Joint Local Rules of the Eastern and Western Districts of Kentucky, and pursuant to the authority granted by Rule 83, F.R.Civ.P., and upon recommendation of the Joint Local Rules Commission, the Judges of the Eastern and Western Districts hereby ORDER that the following amendments be made to the Joint Local Rules:

1. A Subsection (5) is added to Subsection (b) of LR 83.1 and LCrR 57.1, with the revised LR 83.1 and LCrR 57.1 to read as follows (revisions in bold).

LR 83.1 Attorney Admission to Practice

(a) Applicant Eligibility. An attorney may apply for admission to the Bar of the Court if:
- (1) The attorney has been admitted to practice before the Supreme Court of Kentucky;
- (2) The attorney is in good standing with the Supreme Court of Kentucky; and
- (3) The attorney is of good moral and professional character.

(b) Admission Procedure. An applicant must provide the Clerk with the following:
- (1) an Application for Admission;
- (2) an Authorization and Release;
- (3) an affidavit of sponsorship signed by a member of the bar;
- (4) the prescribed fee; **and**
- **(5) a statement identifying the method of training completed before use of the Court's electronic filing system**.

(c) Admission. After the Court grants the attorney's application, the applicant may be admitted by mail or by appointment in open court.
- (1) Admission by Mail. Upon request, the Clerk will promptly mail a Certificate of Admission to the applicant.
- (2) Admission in Open Court. Upon request, the Clerk will arrange for a hearing at which time the sponsor will move to admit the applicant. The presiding judge will administer the attorney's oath or affirmation in open court.

* * * * *

LCrR 57.1 Attorney Admission to Practice

(a) Applicant Eligibility. An attorney may apply for admission to the Bar of the Court if:
- (1) The attorney has been admitted to practice before the Supreme Court of Kentucky;
- (2) The attorney is in good standing with the Supreme Court of Kentucky; and
- (3) The attorney is of good moral and professional character.

(b) Admission Procedure. An applicant must provide the Clerk with the following:
- (1) an Application for Admission;
- (2) an Authorization and Release;
- (3) an affidavit of sponsorship signed by a member of the bar;
- (4) the prescribed fee; **and**
- **(5) a statement identifying the method of training completed before use of the Court's electronic filing system**.

(d) Admission. After the Court grants the attorney's application, the applicant may be admitted by mail or by appointment in open court.

(1) Admission by Mail. Upon request, the Clerk will promptly mail a Certificate of Admission to the applicant.

(2) Admission in Open Court. Upon request, the Clerk will arrange for a hearing at which time the sponsor will move to admit the applicant. The presiding judge will administer the attorney's oath or affirmation in open court.

2. A new Subsection (1) is added to Subsection (a) to LR 83.2 and LCrR 57.2 to read as below. The asterisk and footnote at the heading of these current rules shall be stricken. A new Subsection (5) is also added to Subsection (a), along with a new Subsection (b), making the current Subsection (b) be re-lettered as Subsection (c). The newly revised LR 83.2 and LCrR 57.2 are set out below (revisions in bold).

LR 83.2 Permission to Practice in a Particular Case

(a) Procedure**.** An attorney who has not been admitted to the Bar of the Court – but who is in good standing in the Bar of any state, territory, or the District of Columbia – may request permission to practice in a particular case by filing the following with the Clerk:

(1) **a separate motion for admission *pro hac vice* for each attorney**;

(2) an affidavit identifying the Bar in which the attorney is a member in good standing;

(3) the prescribed fee;

(4) a written consent to be subject to the jurisdiction and rules of the Kentucky Supreme Court governing professional conduct; **and**

(5) a statement identifying the method of training completed before use of the Court's electronic filing system.

(b) **The Attorney General or any other bar member of the Department of Justice, or of any federal agency, including federal public defenders or panel attorneys that cross district lines, need not seek admission *pro hac vice* under this rule.**

(c) Sanctions. Nothing in this rule detracts from the Court's power to sanction unprofessional conduct.

* * * * * *

LCrR 57.2 Permission to Practice in a Particular Case

(a) Procedure**.** An attorney who has not been admitted to the Bar of the Court – but who is in good standing in the Bar of any state, territory, or the District of Columbia – may request permission to practice in a particular case by filing the following with the Clerk:

(1) **a separate motion for admission *pro hac vice* for each attorney**;

(2) an affidavit identifying the Bar in which the attorney is a member in good standing;

(3) the prescribed fee;

(4) a written consent to be subject to the jurisdiction and rules of the Kentucky Supreme Court governing professional conduct; **and**

(5) a statement identifying the method of training completed before use of the Court's electronic filing system.

(b) **The Attorney General or any other bar member of the Department of Justice, or of any federal agency, including federal public defenders or panel attorneys that cross district lines, need not seek admission *pro hac vice* under this rule.**

(c) Sanctions. Nothing in this rule detracts from the Court's power to sanction unprofessional conduct.

Copies of this Order shall be affixed to every copy of the Courts' Official Rules Book distributed by the Clerks' Office. Upon the next printing of the Rules Book, all changes in Joint Local Rules as set out in this Order shall be included in the new Rules Book. Copies of this Order shall be made available to the various publishing companies that publish the Joint Local Rules of the Eastern and Western Districts of Kentucky and to the public upon request. The changes noted in this Order shall take effect upon entry of this Order.

IT IS SO ORDERED:

Hon. Joseph M. Hood, Chief Judge U.S. District Court Eastern District of Kentucky	Hon. John G. Heyburn, Chief Judge U.S. District Court Western District of Kentucky
Hon. Jennifer B. Coffman, Judge	Hon. Charles L. Simpson, III, Judge
Hon. Karen K. Caldwell, Judge	Hon. Thomas B. Russell, Judge
Hon. Danny C. Reeves, Judge	Hon. Joseph H. McKinley, Jr., Judge
Hon. David L. Bunning, Judge	Hon. Gregory F. Van Tatenhove, Judge

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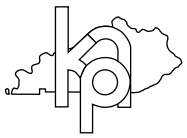

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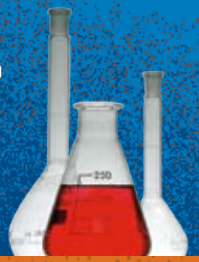

A STELLAR LINE-UP

JAMES L. SWANSON, noted author of Manhunt: The 12-Day Chase for Lincoln's Killer, will discuss, in a SPOTLIGHT CLE presentation, John Wilkes Booth's daring escape, first amendment issues and the legacy of Abraham Lincoln.

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