

# BAR*briefs*

Louisville Bar Association

April 2016

Business Law  
& Marketing



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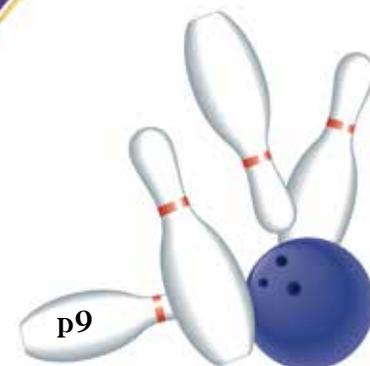
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## PEOPLE ARE WATCHING!

Indeed, people are watching! This is not paranoia. Rather, I have in mind people who watch others as role models. Good role models seem to be in short supply, or perhaps it is simply that bad behavior gets so much more attention.

I recently saw on the news a videotape of a presidential frontrunner candidate urging members of his audience to “beat the crap” out of a protester. That was followed by the videotape of a protester peaceably being removed from a political rally when, out of nowhere, he was sucker punched by a 78-year-old man in the audience who then opined that the next time, the protester should be killed. If that weren't enough, there was also a cell phone video of drunken women in a fistfight with each other in the aisle of an airplane. And a day later, news broke about violence cancelling a political rally in Chicago. Because this is written well in advance of the publication date, by the time you read this there will undoubtedly be other, and perhaps worse, examples of people behaving badly in public and setting a terrible example for others.

In these times of increasing polarization where disagreements all too often result in violence, it is more important than ever that lawyers and the legal system be seen by people as role models of reason and as an alternative to violence in resolving disputes.

Last month I had the privilege to write about the Hon. Benjamin Shobe as a great role model for the judiciary. This month, my thoughts turn to the organized bar and lawyers as role models. As an introduction to the LBA's Trailblazer Award ceremony in February, Scott Furkin wrote of lawyers as occupying “a unique position in society—not only in administering *but in modeling* the ideals of fairness and justice.” Although his focus was on the importance of diversity in the legal profession, I was struck by his description of lawyers as models of the ideals of fairness and justice. It may be true that a person's integrity is best measured by conduct when nobody is watching, but the public watches what we do as lawyers and derives much of its opinion of the legal system from those observations. Not only does the public watch, but lawyers also watch other lawyers and learn from their examples.

*(T)he public watches what we do as lawyers  
and derives much of its opinion of the legal  
system from those observations.*

In 1993 the Kentucky Bar Association adopted a Code of Professional Courtesy as an aspirational statement recognizing lawyers' role as models of justice and fairness. Toward that end, the code would have us: promptly return calls and correspondence from other lawyers; respect opposing counsel's schedule; avoid ill-considered accusations of unethical conduct; avoid personal criticism or intentional embarrassment of another attorney; strive to maintain a courteous tone in correspondence, pleadings, and other written communications; and, honor promises and commitments. Summing up, the tenth of eleven

principles exhorts us to recognize that the conflicts within a legal matter are professional and not personal and that we should endeavor to maintain a friendly and professional relationship with other attorneys in whatever the matter at issue may be.

It has been my experience that, with few exceptions, members of the Louisville Bar are observant, either by intention or by nature, of the good behavior described in the code and therefore are generally good role models.

Without any intention to slight other examples of good attorney role models, two in particular come to mind. I pick them not only because of their extraordinary individual and professional qualities, but also because of the high public visibility of the roles they play in our justice system and the example they have set for the many attorneys who have served under their guidance.

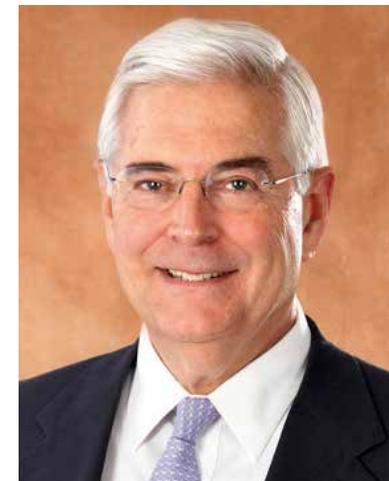
The two people I have in mind are Dan Goyette and Tom Wine. As individuals, each has made significant contributions. Dan has served as chief public defender for Jefferson County and as executive director of the Louisville-Jefferson County Public Defender Corporation since 1982. Over the course of his distinguished career, he has served on numerous boards and committees benefitting the community and has been the recipient of many awards. The same is true of Tom Wine, who serves as commonwealth's attorney. Having begun as a law clerk in the Office of the Commonwealth's Attorney and serving as assistant commonwealth's attorney in 1980, Tom returned to lead the office in 2013 after more than 20 years of distinguished service in the Kentucky Court of Justice as both a circuit court and court of appeals judge.

In lesser individuals than these two gentlemen, misdirected zealous advocacy and stereotypical differences between defenders and prosecutors could paint them as bitter opponents where a zeal to win at all costs destroys the goals of fairness and justice. Fortunately for the bar, the justice system, and our community, the opposite is true of Dan Goyette and Tom Wine. No one can question the professional zeal with which each pursues his respective role as a public defender or commonwealth's attorney, but in doing so, they demonstrate appropriate respect for each other and a clear understanding of the role each of their offices plays in achieving justice. Indeed, people are watching, and we are fortunate that the bar can offer such good role models.

Sincerely,



Charles J. (Mike) Cronan IV  
LBA President



## Inn of Court Accepting Membership Nominations



The Louis D. Brandeis American Inn of Court, founded in 1996 to foster professionalism and civility among lawyers in the Louisville area, is accepting nominations for new members in the Barrister, Associate and Pupil categories. Nominees should be lawyers with 15 years or less litigation experience. Membership is open to solo, small practice or large firm attorneys; members of the plaintiff and defense bar; prosecutors and public defenders.

The first American Inn of Court was founded in 1980, and today there are more than 300 Inns with more than 18,000 state and federal judges, lawyers and legal scholars as members. Each Inn is run independently, but the structure is the same.

The Brandeis Inn, with 84 active members, is comprised of Masters (senior litigation lawyers, members of the judiciary and law school faculty, all of whom have more than 15 years of legal experience); Barristers (lawyers with 5-15 years of experience); Associates (lawyers with less than 5 years of experience); and Pupils (3rd year law students).

Member benefits include opportunities for mentor relationships, substantive law and skills training, interaction with legal scholars and judges, and networking with litigators in different types of trial practice—all of which are intended to facilitate communication among the bench, the bar and the law school for the betterment of local practice and the improvement of the profession.

Meetings are held on a “semester” basis in September, October, November and February, March, April, and include dinner and CLE programs that focus on issues that arise in litigation and other topics of interest to trial lawyers, ranging from ethical challenges and professionalism concerns to innovative trial techniques and new developments in the law.

To nominate a litigation attorney in the Louisville area for membership\*, or if you are interested in further information about the Brandeis Inn, please contact:

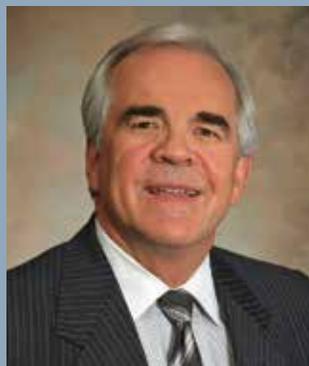
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717-719 W. Jefferson Street  
Louisville, KY 40202  
(or via e-mail to:  
[goyette@thepoint.net](mailto:goyette@thepoint.net))

\*Candidates may be nominated by a third party or may self-nominate. In either case, nominations should be submitted as soon as possible, but no later than April 30. ■

## Citizens for Better Judges 2016 Judicial Endorsement

Citizens for Better Judges (CBJ) has completed its interview and endorsement process for the candidates seeking to fill the vacancy in Jefferson Family Court created by the retirement of Hon. Stephen George. After a thorough, rigorous evaluation of the candidates' qualifications for election to the bench, CBJ has endorsed Bill Tingley as the most qualified candidate in the primary election for Judge in Division 9 of the Jefferson Family Court.

Jefferson Family Court  
(Division 9)



Bill Tingley

CBJ thanks each of the candidates for participating in its interviews, and extends its best wishes to all involved for a fair, engaging, positive campaign that upholds the integrity, credibility and independence of the judiciary.

**We did the research. All you have to do is vote.**

**MEMBERS ONLY**

*judicial  
reception*

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to arrive by mail.



## Family Court Designates Itself a “No Hit Zone” A place where you do not hit children

Judge Paula F. Sherlock & Dr. Erin Frazier

“Judge, can you call this case? Mom is just whaling on this little girl in the hallway. She’s really crying.”

“Doctor, here’s little Johnny. He has an ear-ache and his dad just whipped him in the lobby. He’s really upset.”

While you would think that the last two places parents would publicly hit their kids would be family courts and children’s hospitals, our clerks, nurses and support staff often observe kids getting swatted, paddled, slapped, threatened and spanked as frustrated parents wait for their turn to be seen by the doctor or the judge. After a series of such events, Kosair Children’s Hospital joined a national movement and designated itself a “No Hit Zone” three years ago. Jefferson Family Court is following that lead and in April 2016 will become one of the first Family Courts in the nation to declare itself a place where hitting is not allowed.

The message of a “No Hit Zone” is simple: “This is a place where you do not hit your children. Your children do not hit you or others. Adults do not hit one another.” Following Kosair Children’s Hospital’s lead, vibrant signs will be displayed in the family

court clerk’s office and on the fourth, fifth and sixth floors of the Judicial Center to remind parents and other family court parties that physical violence against children or each other is not allowed.

Trained volunteers—clerks, deputies, secretaries and case specialists—will be on the lookout for parents and other litigants who are getting frustrated by long waits with antsy children or who are being taunted perhaps by third parties, ex-spouses or former partners as they wait for their case to be called. In a non-confrontational way, our volunteers will attempt to re-direct behaviors, offer alternatives, separate people or call for assistance.

Volunteers will be supplied with “rescue bags” containing coloring books, crayons, stickers, healthy snacks and other small treats to divert parents and provide children with something amusing to entertain themselves as they wait. Volunteers will also alert court staff and family court judges that the case needs to be advanced on the docket before someone melts down.

The issue of a parent’s right to physically discipline his or her child is often a subject

of debate among thoughtful people. Despite the adage “Spare the rod, spoil the child,” substantial research in both pediatrics and psychology indicates that physical punishment increases aggression, mental illness and antisocial behavior; it also weakens the relationship between parents and children.

Unfortunately, there is a strong relationship between physical punishment and the child abuse seen by our hospitals and courts. The sad truth for pediatricians and family court judges is that we do not see kids who got a gentle swat on a heavily diapered behind, a stern admonishment or a tap on the wrist by a caregiver—we see the children who are beaten, bloody, bruised and covered with welts and red marks. In our worst cases, we see children with concussions and skull fractures, broken bones and shattered psyches.

Our kids have been hit with fists, belts, chairs, fireplace poker and almost anything else an enraged, drunk, high or mentally ill parent or caregiver finds at hand. These kids, if they survive, perpetuate a cycle of using violence to solve problems, struggle with forming healthy attachments and experience significant mental health problems as adults.

Our kids can’t fight back on their own. They depend on us—their medical and legal caregivers—to set the boundaries, lead by example and educate their parents on appropriate responses to frustration and anger that do not involve physical attacks on their children or each other. Jefferson County Family Court and our local pediatricians, led by the efforts at Kosair Children’s Hospital, have taken on the challenge of setting those boundaries by declaring our respective venues as “No Hit Zones”—a safe place for children and adults to survive and thrive without fear of physical abuse.



Chief Judge Paula F. Sherlock presides in division 10 of Jefferson Family Court. Dr. Erin Frazier is the medical director of the Children’s Hospital Foundation at Kosair Children’s Hospital. ■



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# Preparing Students for Future Success

Dean Susan H. Duncan

It seems like just yesterday we were watching members of the 2015 class leave the nest, while introducing our 1Ls to our longstanding traditions at orientation.

With the 2016 commencement already peeking around the corner, it's already time to start reflecting on another school year. For me, there have been many points of pride throughout this past year, including the way our people came together when we lost one of our students in the fall, or when our school was thrust into the spotlight of public discourse on the opinion pages of a local newspaper.

Through it all, our students, faculty and staff have kept their eyes on the proverbial prize—that is what I'm most proud of this year: our collective, laser-sharp focus on ensuring that our students are as prepared as possible for their next adventure.

We've approached that preparation in a number of ways. For example, we have a new wellness program that helps our students learn the best ways of coping with stress. Our professional development programming is full of workshops that train our students—especially 3Ls—what to expect next, whether it's an interview skills workshop, resume workshop or employer recruitment information session. We also have seen considerable interest in our brand new bar prep course, led by Scott Hite, director of academic success and bar preparation.

## Wellness

Brandeis School of Law has a comprehensive wellness program which focuses on stress reduction methods, such as therapy dogs and chair massages during exams, with an emphasis on maintaining a well-balanced life throughout school to help students prepare for lawyer life. The program is led by Jennifer DiSanza, assistant dean for student life.

Additionally, in the fall of 2016, DiSanza will teach a new law and leadership seminar that will focus on soft skills and the components necessary to be successful in practice.

Additionally, the legal profession curriculum

(mandatory programs for all students) has been updated to add mechanics of the bar exam and mental health issues. It already contained components for substance abuse, financial responsibility, and character and fitness issues in conjunction with the Kentucky Lawyer Assistance Program (KYLAP) and the Kentucky Office of Bar Admissions.

Additional programming will be provided to students when possible, emphasizing the



values and standards of the legal profession, according to DiSanza.

## Professional Development

The legal profession curriculum will complement the efforts our office of professional development (OPD) has always made to best prepare our students for life after law school. Led by Laurel Hajek, assistant dean for professional development, OPD manages more than 100 public service placements for our students, as well as placements for clinic work and other externship opportunities.

The office also hosts an array of speakers, including Isaac Bowers, a nationally-renowned

expert on loan reduction. Additionally, OPD regularly brings in guests from the FBI, the U.S. Attorney's Office, state attorneys' offices, large corporations, small firms and more, to talk with students about their goals and interests, and to put them in touch with an extra resource.

OPD hosts a 3L bootcamp, discussing job searches, how to find opportunities and what to expect after graduation. There are also a

Kentucky Bar Exam on the first try," Hite said. "So we really didn't need a bar prep program that focused on the essay component. We just needed a bar prep program that primarily focused on the multiple choice (MBE) component with a large emphasis on practice, practice, practice. We knew we could do this in house."

Our goals for the class are fairly broad but ambitious:

- Jump-start students' bar preparation from normally May to now February allowing for three extra months of study time;
- Complement, not compete, against the commercial bar prep programs that students are already subscribed to;
- Identify the specific subject matters that students are struggling with before (not after) they graduate, so they can seek assistance ahead of time;
- Eliminate some of the normal anxiety and increase confidence on passing the bar exam on the first attempt; and
- We expect to see our bar passage rates stay high or increase as a direct result of this offering.

We have 75 students currently enrolled for the one-hour pass/fail credit offered to them. It meets one hour per week and is not mandatory. We also have five to 10 students who regularly attend without seeking credit, just to obtain the benefits of the in-house bar exam materials and course content.

"Since we started this spring, we did not offer much for the students who are taking the February bar (2016), but I am sending them all of our content on a regular, just-in-time basis, so they can take advantage of the hundreds of practice questions as well," Hite said. "The feedback from them (another first) has been overwhelmingly appreciative and positive. Our focus on what our students actually need for scoring purposes makes us unique. I am very excited to see the results."

We believe it is our moral duty to prepare our students to not only pass the bar, but to also be successful well into their careers. These efforts are purposeful and ongoing and I am proud of the way our team has trained our students for their next chapter.

Susan H. Duncan, dean of the University of Louisville School of Law, serves on the boards of both the Louisville Bar Association and the Louisville Bar Foundation. ■



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number of workshops available focused on topics such as resume creation, job interview skills and job negotiating skills, as well as required individual meetings to further personalize the students' post-graduation plans.

## Bar Prep

Finally, just this year we added a bar prep course, which was added to help curb declining bar passage results nationwide.

According to Hite, after taking a close look at how Brandeis students performed on bar exams, we confirmed that the small percentage of students who failed the exam, mostly failed the multiple choice component, while very few failed the essay component.

"This led us to believe that the faculty and administration have done a stellar job over the years preparing students for the essay components of the exam by testing and assessing students in a very rigorous manner that is very similar to the actual bar exam itself. For example, in July of 2015, 100 percent of all graduates finishing with above a 3.0 cumulative grade point average passed the

## ANNUAL BRANDEIS SCHOOL OF LAW ALUMNI RECEPTION

### Save the Date

The Annual Brandeis School of Law Alumni Reception will be held on Wednesday, May 11 at 6:30 p.m. at Stites & Harbison. At that reception, Dean Susan Duncan will receive the KBA President's Special Service Award in conjunction with the Annual KBA Convention in May. ■

# Marketing Your “YOU”

Jim Ray

Do you follow anyone in particular? Do you seek out articles or posts by an individual because you value his/her opinions on certain topics? I’m willing to bet you don’t do this because of the company logo or the office location.

You do it because you’ve “connected” with something that provides value, inspires you, motivates you and helps you. That’s the power of a brand. You’ve found a reason to value that person. You might even be willing to tell others about him/her. That person has found a way to stand out in your mind. That’s the essence of marketing (and it’s much different from advertising). It’s why the title of this article is about marketing your “You.”

In a recent presentation to the LBA’s Leadership Academy, I spent considerable time discussing various aspects of personal branding. The core insight is that the market attributes value to a brand—your “personal brand.” While the market actually defines your brand, your goal is to influence your brand perception.

**The sooner you begin to recognize this, the more time you’ll have to reap the benefits.**

Rainmakers, junior partners and associates each have the opportunity to differentiate themselves in the court of public opinion. It’s about optimizing the many touch points you have with your current and prospective client base in:

- Your personal interactions with new or existing clients
- Your staff’s interactions on the phone or in the office
- Your peer-to-peer interactions outside of the office

The objective is to engage your target audience/market in a way that is recognized, perceived as valuable and actively sought out among your competitors. One way to do this is to develop “your story.”

Indulge me for a minute while I give you some insight in to my story. I spent several years managing regional distributors. I had to forecast financial objectives, manage and develop employees, deal with vendors, and grow our operations in highly competitive environments. I learned how to read and interpret our financial statements, and was evaluated based on them.

I later transitioned into a role with a legal marketing company. As I met with attorneys and office managers, I sometimes recognized various business inefficiencies and things my clients could have altered to become more effective and more profitable. I even had face-to-face discussions with our corporate leaders about how we could provide assistance. The challenge was that my job was focused on one area of their business—marketing.

So, I enrolled in an MBA program. I was eventually hired by two of my clients as a director of their new law firm. This gave me the opportunity to tap into my broader business skills. I eventually launched my own business consulting firm which now enables me to engage with a client in multiple areas of overall business performance. Helping small firms and business owners; that’s where I thrive.

Now, does that story appeal to everyone? No—but it doesn’t have to. More and more however, it resonates with attorneys in my target audience.

**Looking at your career, not just your current practice, what’s YOUR STORY?**

It’s integral to your personal brand. If you haven’t really given consideration to it, let me suggest a few steps to help you influence your personal brand:

- Refine it — take time to consider how you got here and where you’re going
- Incorporate it — include it in your attorney profiles so people can learn about it
- Communicate it — blog, upload videos, write articles to support it
- Help others to understand how it benefits them

**People instinctively want to connect with other people. When you provide information relevant to them through your blogs, videos and articles, you enable them to begin to understand WHAT it is you do, WHY you do it and HOW it helps them. You’re actively influencing your brand value.**

Give your target audience a reason and a path to connect with you. The first quarter of 2016 is done. The good news is that you still have the better part of a year to put various assets into place to help.

Your target audience doesn’t want to simply hire an attorney. Your audience wants to hire the *right* attorney. One of the most important steps you can take during the next month is to begin marketing your “You.” People are actively looking for it, right now.

*Jim Ray is a business consultant helping attorneys run their practices more effectively and profitably. He’s worked with more than 70 law firms over the past 10+ years in the areas of practice management, business development and marketing. His firm, Jim Ray Consulting Services, is based in Louisville. ■*



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# Empowering Entrepreneurs in Poverty

Sue Eng Ly

The Legal Aid Society has launched a new endeavor to provide justice for those in poverty through our Economic Development Program (EDP), an initiative designed to provide free legal assistance for people with low-incomes aspiring to start or maintain a small business. The EDP embraces the innovation of entrepreneurs and aims to economically empower impoverished communities.

The development of small businesses contributes to the alleviation of poverty because it opens up opportunities for employment and sustainable income. The high rates of unemployment after the economic recession in 2008 led to a renewed investment in small business development because it was another means of employment.

There are several organizations in Louisville that assist low income individuals in the planning, financing and maintaining of microenterprises. Some of these include the Louisville Urban League, Kentucky Small Business Development Center, Women's Business Center of Kentucky, and Louisville Metro Government Department of Community Services. While these organizations offer many services to help develop small businesses, they currently do not offer legal assistance as part of their services.

**Obtaining legal counsel is crucial when operating a small business because of local, state and federal government regulations.**

Obtaining legal counsel is crucial when operating a small business because of local, state and federal government regulations. Through conversations with community partners, Legal Aid learned the reason many small businesses fail is because of compliance issues. The types of legal services needed to address these issues often have high costs associated with them, so for people living in poverty, it is difficult to gain access to these business resources. The EDP at Legal Aid will play an important role in fulfilling

that need by providing pro bono attorneys and offering free legal trainings for small business owners who are income-eligible. Some of the free legal services Legal Aid will provide include assistance on issues surrounding regulatory compliance, insurance for liability, intellectual property protection, negotiating commercial leases, and drafting contracts.

Launched in collaboration with the AmeriCorps VISTA program, the EDP has made great progress through its active recruitment of volunteer attorneys and strong outreach to people in impoverished communities who may be in need of these services. The program received high praise for its official launch that took place this past February at the Urban League. There were speakers from Louisville Metro Government, the Louisville Small Business Development Center, and Exelon Corporation—all of whom offered their words of wisdom on starting a small business.

The EDP has seen a lot of success in its first six months and will continue to strive for success in the future. As the program continues to build, we are always seeking ways to grow and establish a strong foundation. If you are interested in volunteering your time to the EDP, contact Sue Eng Ly at (502) 614-3156 or [sly@laslou.org](mailto:sly@laslou.org).



Sue Eng Ly is an AmeriCorps VISTA volunteer at the Legal Aid Society and leads the organization's Economic Development Program. ■

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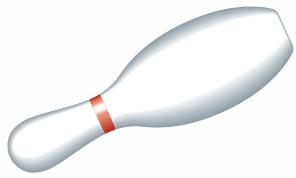
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# Legal Bowl Makes it Rain for Big Brothers Big Sisters



Big thanks to the following individuals who served on the Legal Bowl Committee:

- Loren T. Prizant, chair
- Brittany Hampton
- Diane Laughlin
- Lynsie Gaddis Rust
- Tony Zelli
- Aimee Jewell of BBBS



Nearly 100 members of the legal community came together at Fourth Street Live! on March 3 in support of children in our area—raising more than \$13,000 for Big Brothers Big Sisters of Kentuckiana (BBBS) at the LBA's Legal Bowl for Kids' Sake. Weber & Rose fielded the winning team, raising over \$1,400, more than any other entry. Brian Bennett of Stites & Harbison took top honors in individual fundraising, bringing in over \$750.



*Blackburn Domene & Burchett*



*Bahe Cook Cantley & Nefzger*



*Stoll Keenon Ogden*



*Wilson Elser*



*Legal Aid Society*



*Weber & Rose*

Thank you to our sponsors!

**DINSMORE & SHOHL · FROST BROWN TODD · MIDDLETON REUTLINGER · THE STEEL FOUNDATION**

Thanks to the support of The Sports & Social Club and our sponsors, bowlers were treated to free bowling and lots of pizza.

This support allows every penny raised to go directly to BBBS, which stays right here in our community.



*Frost Brown Todd*



*Stites & Harbison*



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*Middleton Reutlinger*



*DeCamillis & Mattingly*

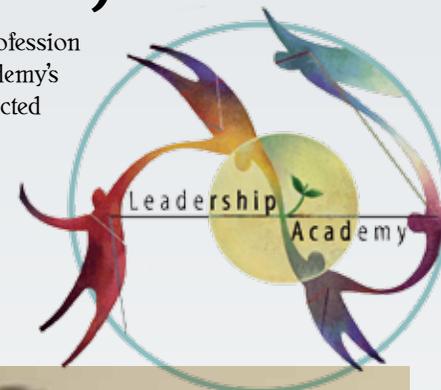


*Bingham Greenebaum Doll*

Not pictured: Aguiar Injury Lawyers, Dinsmore & Shohl, Wyatt Tarrant & Combs

# Congrats LBA Leadership Academy Graduates!

The goal of the LBA Leadership Academy is to develop a corps of future leaders for the legal profession and community at large. Since its inception in 2006, nearly 200 attorneys have completed the Academy's requirements and been inducted as Fellows. Twelve new Fellows from the Class of 2015-2016 were inducted at ceremonies held at the Bar Center on March 18. Congratulations to the following:



**Class of  
2015-2016!**

Jennifer M. Barbour,  
*Middleton Reutlinger*

David Warren Bufford,  
*Hall Render Killian Heath & Lyman*

Matthew J. Golden,  
*Jefferson County Attorney's Office*

Cynthia S. Merrell,  
*Attorney at Law*

Ashley L. Michael,  
*Attorney at Law*

Frederick Washington Moore III,  
*Louisville Metro Public Defender's Office*

Devon Nora Rose Oser,  
*Kircher Sueholz & Associates*

Jennifer L. Porter,  
*Louisville Metro Public Defender's Office*

E. Michelle Tupper Butler,  
*Dinsmore & Shohl*

Lindsay E. Volk,  
*Legal Aid Society*

John P. Ward,  
*Jefferson County Attorney's Office*

Kate B. Ward,  
*Bingham Greenebaum Doll*



(L-R) Frederick Moore, Kate Ward, Lindsay Volk, Jennifer Porter, Jennifer Barbour, Michelle Tupper Butler, J.P. Ward, Matthew Golden, Ashley Michael, David Bufford and Devon Oser. Not pictured: Cynthia Merrill.

## Is your business valuation lost in space



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Office phone: 502-367-2411 E-mail: lbryan42@bellsouth.net

*38 Years in the practice of Neurosurgery*

## LBA LABOR & EMPLOYMENT BROWN BAG

### An Overview of the Kentucky Labor Cabinet

**Monday, April 11**

The Kentucky Labor Cabinet's General Counsel, Michael Swansburg Jr., will speak on the Cabinet's policies and initiatives under the new administration.

Speaker: **Michael J. Swansburg Jr.**, Kentucky Labor Cabinet

**Time:** 11:45 a.m. — Registration; Noon – 1 p.m. — Program  
**Place:** LBA, 600 W. Main Street  
**Price:** \$40 LBA Members / \$80 Non-Members / \$20 Paralegal Members  
**Credits:** 1.0 CLE Hour — *Pending*

## LBA IN PARTNERSHIP WITH JCUP

### Establishing Evidentiary Foundations with A/V Presentation Equipment at Judicial Center

**Thursday, April 14**

The focus of the program will be on the method for establishing evidentiary foundations when using computers, projectors & projection screens, document cameras and tele-strators for the presentation of evidence, and how to make your record for appeal when using the newly installed digital technology in Jefferson Circuit, Division 1.

*CLE will be held at the Judicial Center, 700 W. Jefferson Street*

Speaker: **Patrick W. Michael**, Dinsmore & Shohl

**Time:** 11:45 a.m. — Registration; Noon – 1:15 p.m. — Program  
**Place:** Jefferson Circuit Court, Division One, Courtroom TBA  
**Price:** \$100 LBA Members / \$150 Non-Members / \$20 Paralegal Members  
**Credits:** 1.0 CLE Hour — *Approved*

\*This CLE program is repeated the second Thursday of each month.

See next page for more CLE seminars,  
including the AAML/LBA Family Law  
Seminar agenda!

## LBA ETHICS BROWN BAG

### 2016 Developments in Professional Responsibility

**Tuesday, May 3**

In this two-hour presentation, Professor Grace Giesel will discuss new developments in professional responsibility, focusing on recent ABA opinions, changes to the Kentucky Rules of Professional Conduct, and several national cases raising interesting ethics issues. Professor Giesel will also touch upon some of the conflict-prone situations the rules deal with specifically such as lawyers doing business with clients, agreements prospectively limiting malpractice liability, and third-party payment of fees.

Speaker: **Professor Grace M. Giesel**, University of Louisville Louis D. Brandies School of Law

*Lunch will be included with advanced registration. Please indicate if a vegetarian option is needed.*

**Time:** 10:45 a.m. — Registration; 11 a.m. – 1 p.m. — Program  
**Place:** LBA, 600 W. Main Street  
**Price:** \$90 LBA Members / \$180 Non-Members / \$20 Paralegal Members  
**Credits:** 2.0 CLE Ethics Hours — *Approved*

*Cancellation Policy: All cancellations must be received by the LBA 24 hours in advance to receive a credit or refund. Cancellations received the day of the event will require payment for the seminar.*

## LBA ETHICS BROWN BAG

### Disqualification Motions, Disqualifying Judges and Lawyers

**Wednesday, June 15**

In this two-hour presentation, Peter Ostermiller will cover the following topics:

- Motions to disqualify opposing counsel
- Motions to disqualify judges
- Case law, rules and ethics opinions
- Grounds
- Strategy and tactics
- Interrelationship with KBA disciplinary process
- Interrelationship with the Judicial Conduct Commission
- Judicial Code and Rules of Professional Conduct
- Motions before trial court
- Statutory mechanisms

Speaker: **Peter L. Ostermiller**, Attorney at Law

*Lunch will be included with advanced registration. Please indicate if a vegetarian option is needed.*

**Time:** 10:45 a.m. — Registration; 11 a.m. – 1 p.m. — Program  
**Place:** LBA, 600 W. Main Street  
**Price:** \$90 LBA Members / \$180 Non-Members / \$15 Paralegal Members  
**Credits:** 2.0 CLE Ethics Hours — *Approved*

## LBA BROWN BAG

### Defending Consumer Debt Lawsuits: Auto Loan Deficiencies

**Tuesday, June 21**

This program will assist the uninitiated practitioner in evaluating the merits of an auto loan deficiency complaint and provide guidance about potential claims and defenses in deficiency lawsuits, including those available at common law, and in federal and state statutes.

Speaker: **Stephanie C. Willis**, Legal Aid Society

**Time:** 10:45 a.m. — Registration; 11 a.m. – 1 p.m. — Program  
**Place:** LBA, 600 W. Main Street  
**Price:** \$80 LBA Members / \$160 Non-Members / \$20 Paralegal Members  
**Credits:** 2.0 CLE Hours — *Pending*

## LBA ETHICS BROWN BAG

### The Ethics of Managing Your Law Practice

**Wednesday, June 22**

Join us in welcoming guest speaker Jane Long as she presents this two-part seminar.

**What Your Office Support Staff and You Need to Know About Your Professional Responsibility for Non-lawyer Assistants:** Kentucky Supreme Court Rules provide extensive guidance on a lawyer's professional responsibility for managing paralegals and other non-lawyer staff working in a law office. This program examines these rules with emphasis on lawyer supervision and staff training. Special consideration is given to risk managing lawyer liability for non-lawyer misconduct, conflicts of interest and negligence.

**Disengagement: Return of Client Property & Files:** Revised KRPC 1.16 makes it clear that a lawyer cannot make return of a client's file contingent upon payment of his/her fees. Still, there is a lot of confusion about this amongst some lawyers. For example, it is permissible to withhold uncompensated work product from a client's returned file in some circumstances.

Speaker: **Jane Broadwater Long**, Lawyers Mutual Insurance Company of Kentucky

**Time:** 10:45 a.m. — Registration; 11 a.m. – 1 p.m. — Program  
**Place:** LBA, 600 W. Main Street  
**Price:** \$80 LBA Members / \$160 Non-Members / \$20 Paralegal Members  
**Credits:** 2.0 CLE Ethics Hours — *Pending*



**SAVE THE DATE: JUNE 10, 2016**

Led by Chris Osborn, J.D., and Michael Kahn, J.D., L.P.C., these seminars are designed to provide relevant and challenging insights that attorneys can implement in most any law practice setting.

**MORNING SESSION: 9 A.M. – 12:15 P.M.**

**Ethical Train Wrecks and Other Avoidable Disasters: Practical Steps to Heading Off Professional Misconduct Before It Happens**

The practice of law has always had its share of stress, but the climate in recent years has been described by many as nothing short of brutal. This seminar examines the links between the ethical and professional demands of litigation practice and an attorney's mental health. Using clips from the legal thriller *Changing Lanes*, this presentation provides a powerful and entertaining forum for exploration of the manifold sources of stress encountered in the litigation process, and the corresponding toll they can take on an attorney's mental health and psychological well-being (and vice versa).

**AFTERNOON SESSION: 1 – 3:15 P.M.**

**"Accidental Racists"—and other Elephants in the Room: Understanding and Dealing with Subtle Forms of Bias in the Practice of Law**

One of the most significant, yet perhaps neglected, aspects of practicing law in today's world is the challenge of sustained interaction between people of different races, socioeconomic classes, and cultural or religious backgrounds. Even the simplest of encounters can often leave lawyers, paralegals, community agency workers, or clients feeling confused, frustrated, offended, or (worst of all) seriously hurt—even when everyone involved began with the best of intentions.

This new workshop explores cross-cultural interactions, and the perhaps surprising ways that less overt forms of bias can affect how we interact with folks who are different from us in various ways. Taking a cue from the groundbreaking and controversial song, "Accidental Racist," by country music superstar Brad Paisley and hip-hop legend-turned-television actor, LL Cool J, ReelTime CLE has developed this program as a forum for an honest, authentic dialogue about the ways that subtler forms of bias may show up, the impact they can have, where they come from, and what we can do to be more mindful of them.

The unique ReelTime CLE format uses poignant clips from high-quality films (including 2005 Best Picture winner, *Crash*, and Best Picture nominee, *Up in the Air*) as the starting point for a highly interactive discussion, and an opportunity for participants to collaborate in discovering practical, more effective ways of meeting this particular challenge.

**Place:** LBA, 600 W. Main Street  
**Price:** Individual Session: \$180 LBA Members / \$360 Non-Members  
 Both Sessions: \$349 LBA Members / \$698 Non-Members  
**Credits:** 3.0 CLE Ethics Hours (per session) — *Pending*

These are individual seminars, however registrants may opt to take both at a discounted price.

The seminars listed here were scheduled at the time of printing. For a full list of CLE programs and for complete details or to register, visit the LBA website at [www.loubar.org](http://www.loubar.org) or call the CLE Department at (502) 583-5314.

**LBA ETHICS WEBINARS**  
**SEAN Carter** MCLE Plus Seminars



**MCLE Plus Seminars**

**Thou Shalt Not Lie, Cheat & Steal: The Ten Commandments of Legal Ethics**

April 7 / 1:00 - 2:00 p.m.

Sean Carter sets out to prove that legal ethics isn't an oxymoron by delivering an off-beat "sermon" on the Ten Commandments of Avoiding Ethical Problems as a Lawyer. And by the end, he will have you shouting Hallelujah, yelling Amen and hopefully, passing around a collection plate.

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

April 18 / 1:00 - 2:00 p.m.

In this unique legal ethics seminar, Sean goes beyond the do's and don'ts of the Rules of Professional Conduct to get to the heart of the matter—the common mindsets that result in ethical violations in the first place. Furthermore, he will provide tips and insights on how to heal ourselves from these mindsets so that the ethical canons become guide posts and not obstacles in our drive to become successful lawyers.

**Nice Lawyers Finish First**

April 20 / 1:00 - 2:00 p.m.

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

**Update the 2016 Ethy Awards**

April 30 / 11:00 a.m. - 1:00 p.m.

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

Credits	Price	Place
CLE Ethics Hour – Pending Please note: This webinar counts as live CLE credit	\$55 LBA Members (per credit hour) \$125 Non-Members (per credit hour) \$25 Paralegal Members	Online. Visit the LBA website calendar for registration link.

**Due to the partnership with MCLE Plus, the LBA will NOT be accepting registrations for these webinars.**

A LINK TO REGISTER IS PROVIDED ON THE LBA WEBSITE'S CLE CALENDAR, [WWW.LOUBAR.ORG](http://WWW.LOUBAR.ORG).



# 19<sup>TH</sup> ANNUAL AAML/LBA FAMILY LAW SEMINAR

APRIL 28 - 29, 2016

**CREDITS APPROVED!**  
12.0 (INCLUDING 2.0 ETHICS)

## Solutions for the Modern Family Law Practice

The seminar is open to all interested individuals, but members of the legal community who practice family law are especially encouraged to attend.

### AGENDA

(Agenda subject to change without notice)

#### THURSDAY, APRIL 28

- 8:30 a.m. Registration & Continental Breakfast
- 9:00 – 10:30 a.m. Meditation & Dealing with Narcissistic Behaviors  
*Randall M. Kessler, Kessler & Solomiany, and Dr. Jim Shields, PSY.D, Shields & Fidanza*
- 10:30 – 10:45 a.m. Break
- 10:45 – 11:45 a.m. Ten Points to Improve Office or Trial Practice  
*William L. Hoge, Hoge & Associates*
- 11:45 a.m. – 12:45 p.m. Lunch & Announcements  
*Sponsored by Dean Dorton Allen Ford*
- 12:45 – 2:45 p.m. Earn more. Stress Less. Be Awesome.  
12 Simple—and Ethical—Strategies to Improve Your Practice & Your Life  
*Nora Riva Bergman, Atticus, Inc.*
- 2:45 – 3:00 p.m. Break
- 3:00 – 4:00 p.m. Financial Neutral  
*Representatives from Dean Dorton Allen & Ford*
- 4:00 – 4:30 p.m. GALs/Friend of Court  
*Duane F. Osbourne, Attorney at Law*
- 4:30 – 5:30 p.m. Judges/GAL Panel Discussion (Steve Kriegshaber moderating)  
*Hon. Paula F. Sherlock, Jefferson Family Court; Hon. Morgan, Hon. Kathy Stein, Troy DeMuth, Goldberg & Simpson and Duane F. Osbourne, Attorney at Law*
- 5:30 p.m. Adjourn

#### FRIDAY, APRIL 29

- 8:30 a.m. Registration & Continental Breakfast
- 9:00 – 10:00 a.m. Termination of Maintenance, Cohabitation, Burden of Proof  
*Lori Shelbourne, Gess Mattingly & Atchison*
- 10:00 – 10:30 a.m. Support from Social Service  
*Speakers - TBA*
- 10:30 – 10:45 a.m. Break
- 10:45 – 11:45 a.m. Child Support Collection:  
What Your County Attorney Can Do For Your Client  
*Karen Collins and Wende Raderer, Jefferson County Attorney, Child Support Div.*
- 11:45 a.m. – 12:15 p.m. Working Lunch & Announcements  
*Sponsored by Dean Dorton Allen Ford*
- 12:15 – 1:15 p.m. Ethical Considerations in Dividing Marital Assets through Collaborative Law,  
Mediation or Litigation  
*Mark Ogle, Attorney at Law*
- 1:15 – 1:30 p.m. Break
- 1:30 – 3:00 p.m. The Effects of Domestic Violence on Children  
*Hon. Jerry Bowles (Ret.), Bowles & Byer Family Mediation*
- 3:00 p.m. Adjourn

#### Registration:

LBA and/or AAML members: \$525  
Non-members: \$575

Registration fee includes all course materials (NEW option for digital download), two continental breakfasts & two working lunches.

#### 12.0 (INCLUDING 2.0 ETHICS) CLE CREDITS - APPROVED!

For more information on CLE, hotel accommodations or to register, contact the CLE Department at (502)583-5314 or online at [www.loubar.org](http://www.loubar.org).

#### Cancellation Policy:

All cancellations must be received by the LBA by April 22, 2016 to receive a refund or credit. Cancellations after April 22, 2016 will still require payment. Substitutions will be allowed.

#### RSVP:

email [lanspach@loubar.org](mailto:lanspach@loubar.org)  
visit [www.loubar.org](http://www.loubar.org)  
call the LBA CLE Department  
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**LBA Group Night at  
Louisville City FC Game  
to Support Doctors & Lawyers for Kids**

Join us at 7:30 p.m. on Saturday, June 25 for a Louisville City soccer match at Slugger Field against Cincinnati's new club team, FC Cincinnati. A portion of all ticket sales sold under the LBA's group code, DLK2016, will be given directly to Doctors & Lawyers for Kids. See ad below for details.

DLK is a partnership between the Louisville Bar Association, Legal Aid Society and University of Louisville Department of Pediatrics that connects the medical and legal professions to address legal needs that affect the health and welfare of children and their families. These families are usually living in poverty and dealing with a medical issue that could be resolved or alleviated through basic legal actions. Thanks to the generosity of volunteer attorneys, paralegals and physicians, these families are able to receive the legal representation they so desperately need.

To learn more about DLK and its success stories, visit [doctorslawyerskids.org](http://doctorslawyerskids.org).

**Use group code DLK2016  
to support  
Doctors & Lawyers for Kids**



**THE RAMBLE 2016**  
Run for a Reason \* Walk for a Cause  
Hosted by the LBA \* Benefitting Doctors & Lawyers for Kids

*Kid Friendly!*

**Run, Walk or  
just have fun in  
the Party Zone!**

*Pet Friendly!*

Saturday, August 13, 2016  
The Parklands of Floyds Fork  
Beckley Creek Park



VS.



**SATURDAY, JUNE 25  
7:30 PM / SLUGGER FIELD**

**Doctors &  
Lawyers  
for Kids**  
A Medical-Legal Partnership

**BUY TICKETS WITH YOUR  
GROUP CODE USING PASSWORD:**

**DLK2016**

**FOR A LINK TO BUY TICKETS, VISIT [WWW.LOUBAR.ORG](http://WWW.LOUBAR.ORG)**

A PORTION OF THE PROCEEDS WILL BE DONATED TO SUPPORT DOCTORS & LAWYERS FOR KIDS.  
FOR GROUP OR SEASON TICKET INQUIRIES, PLEASE CONTACT NIKKI BERNSTEIN AT (502) 384-8799.

## DLK Event Raises More Than \$38,000!



Sarah Martin (center), chair of the LBA Pro Bono Consortium, and her husband, Dr. Ted Steinbock, hosted a fundraiser for Doctors & Lawyers for Kids at their home on March 4. Martin introduced Martha Hasselbacher (left), DLK president, who shared how a medical-legal partnership joins two powerful professions in a common mission: addressing unmet civil legal needs that are barriers to good health for families and children living in poverty.

“Doctors have the training and expertise to heal wounds and diseases that are brought before them. But what about social determinants of health?” Hasselbacher asked. “Bad housing, poor nutrition and domestic violence cannot be cured with a prescription.”

Hasselbacher explained how doctors at indigent care clinics are learning to spot legal

issues that negatively impact their patients’ health and then refer them to lawyers who work without charge to resolve the issues. “Doing this legal triage in the clinical setting means that we catch problems early before families are living in crisis,” she noted.

More than 100 guests enjoyed the gathering which helped generate over \$38,000 for DLK. To learn more or make a charitable donation, visit [www.doctorslawyerskids.org](http://www.doctorslawyerskids.org).

### Attorney Volunteers Needed

DLK’s expanding network means that an increasing number of physicians are referring patients with legal issues to attorneys for resolution. The result is a need for additional attorney volunteers to augment the work of DLK’s staff attorney and paralegal. If you are willing to help out by taking a referral, please contact Lisa Hebert at (502) 583-5314 or [lhebert@loubar.org](mailto:lhebert@loubar.org). ■



Photos courtesy of The Voice-Tribune

**Doctors & Lawyers  
for Kids**  
A Medical-Legal Partnership

## Lawyers Care

The LBA encourages all of its members to participate in Mayor Greg Fischer’s citywide “Give A Day” week of service (April 16–24) by donating time—a day, half-day, or even just a few hours—to a public service project. The “Lawyers Care” initiative demonstrates that lawyers are compassionate members of the community. Check out the many volunteer opportunities at [www.mygiveaday.com](http://www.mygiveaday.com) and be sure to report any time donated to the LBA’s Pro Bono/Public Service Director, Lisa Hebert, at [lhebert@loubar.org](mailto:lhebert@loubar.org) or (502)583-5314.

### Louisville’s First “Compassionate Law Firm”

On February 1, 2016, Bahe Cook Cantley & Nezger adopted a resolution declaring itself the city’s first “compassionate law firm” under the Louisville Metro Council’s compassionate city campaign. In doing so, BCCN has committed its staff to volunteering at least once a month at different organizations in need and challenges other Louisville lawyers and law firms to join in its efforts of helping make Louisville the most compassionate city.

BCCN’s first volunteer stop was at Dare to Care’s Food Bank (pictured). ■



## Need Summer Help? Hire an Intern through the LBA

The LBA’s Summer Internship Program (SIP) is seeking area law firms interested in offering full- or part-time jobs to high school students interested in legal careers.

SIP, a partnership between the LBA and Central High School’s Law and Government Program, provides for a mutually beneficial arrangement between firm and intern. Students are able to interact with legal professionals, gain insight into the profession and obtain valuable work experience while employers receive increased productivity, the opportunity to impact the future of the profession and a great diversity initiative.

Bonnie Baker, a family law solo practitioner, is a testament to the success of the program. Baker hired a part-time intern last summer who continues to work for her. “I will be interested in hiring a Central student again,” she said. “Wonderful program! I am very impressed with Breia—I show her how to do something once, and she runs with it.”

These jobs have been life changing for many of these students. And the cost is as little as \$1,500 for a part-time and \$3,000 for a full time student. If you can’t hire directly, your firm can also help sponsor a student to work at Legal Aid or the Public Defender’s Office.

If interested, contact Lisa Hebert at (502) 583-5314 or [lhebert@loubar.org](mailto:lhebert@loubar.org). ■

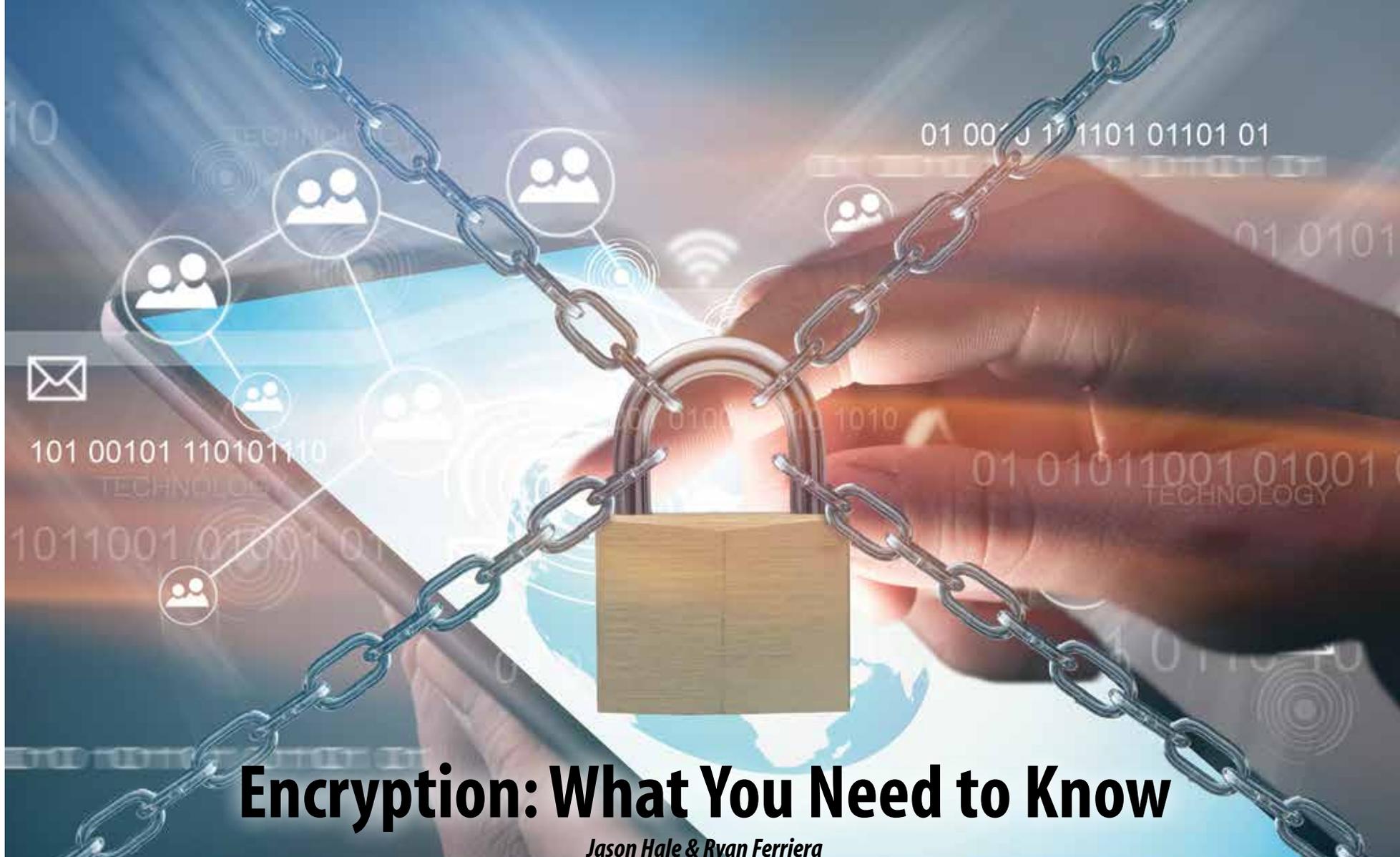


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# Encryption: What You Need to Know

Jason Hale & Ryan Ferreira

Encryption is a topic that often finds itself in the headlines. Whether it be for arguments of strengthening due to unauthorized surveillance or weakening due to its potential to aid in nefarious acts, encryption is a technology that is likely to remain in the spotlight for some time. Understanding the basics of encryption is critically important for legal professionals in order to properly handle matters involving encryption. This knowledge can be the difference in uncovering the smoking gun in a case and being left in the dark due to an encrypted device preventing access to its data.

There are numerous uses for encryption, many of which are already in place and operating transparently to the user of the device or computer. At its most basic level, encryption is used to protect the confidentiality of data such that unauthorized personnel are not able to decipher or read the encrypted data.

The US-CERT (United States Computer Emergency Readiness Team) security tip ST04-019 on encryption states that "...encryption is a way to send a message in code. The only person who can decode the message is the person with the correct key; to anyone else, the message looks like a random series of letters, numbers, and characters."

In other words, encryption scrambles a message in order to render it unreadable. When the message needs to be read, a decryption key can be used to unscramble the content and render it in its original form. Encryption is used for protecting everything from data on a computer's hard drive to messages sent between iPhone users to passwords entered when logging into online banking and much more.

## Endpoint v. End-to-End Encryption

Encryption can be utilized for data in transit

(i.e., communications) as well as data at rest (i.e., non-moving data in one location). A common form of encrypted communication is called end-to-end encryption, and its primary purpose is to ensure that only the desired recipient can access the message.

In end-to-end encryption, the messages or data are encrypted on the sender's device before going out into the network—whether that network is your home wireless network, your company's wired network, or from your cell phone through the service provider's cellular towers. The data remains encrypted until it arrives at its destination, at which point it is then decrypted on the receiver's device.

When data is encrypted at rest, this is known as endpoint encryption. In endpoint encryption, the endpoint itself (e.g., a computer, cell phone or flash drive) is encrypted and the data cannot be accessed without the appropriate password or other token. Endpoint encryption is primarily designed to protect information from being stolen or lost and can be priceless in situations where the device itself is stolen or lost. Losing a company laptop at an airport can have devastating consequences on both the employee and company, but these consequences can be drastically mitigated if a thief is not able to access any data on the laptop because it is encrypted.

## Default v. Opt-In Encryption

The choice whether to encrypt comes down to two configurations: default encryption and opt-in encryption. Default encryption is when a device comes encrypted out of the box—you turn the device on, and once you give the device a password, pin code, swipe pattern, or otherwise, data on the device is encrypted.

On the other hand, opt-in encryption requires

the user to actually change a setting to turn on encryption. For instance, you may have a login password on your computer, but that does not necessarily mean your files are encrypted—it just serves as a means to protect the computer from any person sitting at your desk and changing things. Were someone so inclined, they could still circumvent the password and modify data however they wanted.

It should be noted that default and opt-in encryption also apply to data in transit. However, the developer that designed the program to transfer data (or the communication methodology itself) will more often than not dictate whether encryption is employed.

For instance, iMessages—Apple's proprietary iDevice to iDevice communication method—uses end-to-end encryption by default, and the end-users have no say in whether encryption is used. Similarly, any good bank or shopping website will use a secure protocol (e.g., HTTPS) rather than the less-secure HTTP when transmitting data online, and this is also not generally a choice the user can turn on or off.

## Dealing with Encrypted Devices in Your Case

So what should you do when faced with the task of extracting data from an encrypted device? For this discussion, we will assume that you have the legal authority to view the data stored on the device in question. It is first important to understand whether the device is actually encrypted or merely password-protected. As noted earlier, password protection and encryption do not always equate.

If encryption is in use, what options, if any, exist for decryption? If a password is the only information required for decryption, gaining access to the data may be as simple

as requesting the password from the producing party. If you cannot request the password or the producing party will not disclose the password, you may be forced to explore the feasibility of cracking the password in order to gain access to the data. The practicality of this approach will vary based on the type of encryption in use and the strength of the password. For example, simple passwords such as "password" can easily be cracked in 3–5 minutes or less while more complex passwords such as "P@ssword11\$" could take more than 169,000 years to crack!

Consulting with an expert can be invaluable when faced with issues involving encryption. Whether you are trying to access data on a desktop PC, a mobile device or other, an expert can help in explaining what is needed to decrypt or access the data of interest. In cases where cracking a password is not a practical approach, an expert can help identify alternate locations where the data of interest may be stored in a more accessible form. Regardless of whether you choose to hire an expert in your case, it is important to understand the basics of encryption and its potential impact on your case.

Jason Hale and Ryan Ferreira are forensic examiners at One Source Discovery and hold master's degrees in digital forensics. Both hold the certified computer examiner (CCE) designation from the International Society of Forensic Computer Examiners. ■



# The Real World Scenario: Apple v. The FBI

Bradley Perez

*“There is nothing new in the realization that the Constitution sometimes insulates the criminality of a few in order to protect the privacy of us all.”*

— Justice Antonin Scalia



*Editor’s note: Due to the Bar Briefs print deadline, any developments since the submission of this article on February 29 are not included.*

On February 16, 2016 a federal magistrate in California issued an order directing Apple to assist law enforcement in enabling the search of Syed Rizwan Farook’s encrypted iPhone 5c. Farook is one of two individuals responsible for the December 2, 2015 mass shooting in San Bernardino where 14 people were killed, and many others were injured. In a public letter to customers, Apple CEO Tim Cook writes that opposing the “order is not something we take lightly,” but that Apple feels it must do so because it is an “overreach by the U.S. government.” The standoff between the FBI and Apple has escalated into a polarizing legal debate regarding privacy safeguards created by Apple and national security.

The FBI is interested in investigating Farook’s communications in the days leading up to the San Bernardino massacre. The issue is that the phone is locked with a user passcode, and the passcode is stored only on the device itself, meaning neither the FBI nor Apple have the code required to unlock the phone. The FBI is not sure if the security feature is enabled in this instance or not, but the iPhone could potentially be configured to erase all data stored on the device after 10 unsuccessful attempts to unlock the phone.

It is important to note that Apple is not being asked to break the encrypted passcode on the iPhone in question (as of 2014, iPhone data is protected using industry standard 256-bit AES encryption which can potentially take months or years to decipher). Instead, Apple is being asked to create a unique version of iPhone software that bypasses or disables the auto-erase function (if employed here) after 10 unsuccessful passcode attempts. This way, the FBI can “brute force” attack the passcode by generating a large number of consecutive guesses to unlock the phone without jeopardizing its contents. A brute force attack utilizes a trial-and-error method used to gain access, similar to how a three-digit combination bike lock can only have 1,000 possibilities to open.

Apple’s refusal to cooperate, coupled with a lack of legislation requesting a company to circumvent its encryption safeguards, has prompted the government to invoke the All Writs Act of 1789. The 227-year-old law signed by President George Washington authorizes federal courts to “issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to usages

and principles of law.” In its broadest form, the act gives judges the authority to issue any order necessary to further litigation before the court which complies with the law.

Proponents of the order—including FBI Director James Comey and NSA Deputy Director Rick Ledgett—insist that law enforcement ultimately saves lives through the use of search warrants of mobile devices. Unfortunately, situations continue to increase where communications of potential threats such as terrorists, gang-members and pedophiles cannot be read despite a lawful court order. Federal prosecutors emphasize the importance of gaining access to the phone given to Farook by his employer which could be hiding “crucial evidence” about terrorist attacks.

In response, Apple CEO Tim Cook said he believes the intentions of the FBI are good, yet they have “asked for something we simply do not have, and something we consider too dangerous to create.” Tim Cook’s open letter to consumers posted on Apple’s homepage outlines the importance of preserving encryption integrity and the ramifications of complying with government demands. Apple is concerned that creating a backdoor would defeat decades of security advancements put in place to protect millions of customers. The idea is that once the technical possibility of a backdoor is demonstrated, the method can be used over and over again to access a variety of devices.

Apple has proceeded to file a motion to vacate the court’s order compelling the request for assistance on February 25, 2016. The action in opposition maintains that the government wants Apple to create a “crippled and insecure” product that could potentially open the floodgates for criminals and foreign agents to access millions of iPhones. The brief argues that the FBI’s order, if granted, would set a precedent that could later be used by some other prosecutor, before another judge, in what is considered another important case. Apple fears that the FBI’s request would unwillingly deputize their company to serve as a “permanent arm of the government’s forensics lab.” Since the onset of the battle headed by Apple between national security and protecting personal privacy, several tech companies including Microsoft, Facebook, and Google (through parent company Alphabet Inc.) openly support Apple in its fight against the justice department.

In the course of human history, there is a collection of technological advancements that have fundamentally impacted mankind.

Dating back to Roman times with the Caesar Cipher to Nazi Germany’s Enigma machine of WWII, encryption has played an integral role in society. The explosive growth of digital data and communication has placed encryption at the epicenter of serious concerns regarding the balance of national security and individual privacy liberties. This may be why FBI Director James Comey has stated that the dispute between Apple and the FBI is perhaps the “hardest question I’ve seen in government.”

Bradley Perez is an eDiscovery intern with One Source Discovery and a 2017 J.D. candidate at the University of Louisville Brandeis School of Law. ■

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# B Black H History M Month



The LBA Diversity Committee held its annual Black History Month program on February 25 at the Bar Center. A screening of the film "Walk the Walk," exploring how unconscious biases can undermine the goal of building a truly diverse work force, was followed by a panel discussion about how to make the legal profession more reflective of the community it serves.

The program then segued into an awards ceremony at which essay contest winners from Central High School's Law & Government magnet were recognized. The Diversity Committee also presented a \$1,000 scholarship to Nicholaus Wilson, a third-year student at the University of Louisville Brandeis School of Law. Capping off the ceremony, Joe Gutmann, coordinator of the Law & Government magnet, was honored with the 2016 Justice William E. McAnulty Jr. Trailblazer Award for his work in helping at-risk students navigate a path to high school graduation and beyond.

*Far left: Joe Gutmann receives the Trailblazer Award from his former student, Frederick Moore, who now works as a public defender. Gutmann was honored for his role in helping the legal profession become more diverse and inclusive.*

*Top: Dahabo Kerow (center), a senior at Central High School, was the overall winner of the essay contest. She is pictured with Professor Cedric Powell from the Brandeis School of Law and her teacher, Joe Gutmann.*

*Bottom: Maria Fernandez, chair of the Diversity Committee, congratulates Nicholaus Wilson on his receipt of the Legal Opportunity Scholarship. ■*

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# Preparing Your Clients for the Sale of a Business

C. Andrew (Drew) Eckman

Representing a client who is selling a business can be among the most rewarding projects for a transactional attorney, at least in part because of the satisfaction that comes with the fruition of a long-term project. Yet, too often attorneys fall into the trap of attending to their client's immediate legal tasks, failing to give their clients sufficient advance notice for business "to-do" items before a big sale. Advanced preparation is essential to maximizing the value of a client's business, not only by facilitating a smoother transaction, but also, when performed properly, leading to a greater sale price and fewer legal issues associated with the sale.

This article discusses the steps corporate attorneys should take to prepare clients for the sale of a business *before* the sale is even contemplated. By planning ahead with your client well before an eventual sale, many of the would-be-buyer's potential issues can be resolved in advance of the sale process.

You should, at a minimum, take the following steps to position your clients for a future sale:

1. Conduct due diligence on your client's business
2. Engage in corporate clean-up
3. Assist your client in putting together an acquisition team

## Conducting Due Diligence

Conducting due diligence is an essential first step to preparing clients for a future sale, as it allows you to identify issues a potential buyer might inherit and in turn gives your client the ability to resolve those issues before a prospective buyer is involved.

Some of the key questions to ask your client during the due diligence process include:

- Does your company have supporting documentation for its current capitalization (i.e., do you know who owns the company and can you prove it)?
- Is your corporate record book in order and have you followed all necessary corporate formalities?
- Do you have up-to-date shareholder and board/manager meeting minutes?
- Have your previous significant actions been properly authorized and recorded in the board/manager/member meeting minutes?
- Are your financial records in order? Have your financials been audited?
- Have you properly documented your relationships with key customers and suppliers? If so, have you reviewed these agreements for potential issues upon a change in control?
- Have your key employees signed non-competition, confidentiality, and trade secret agreements?
- Do you have sufficient documentation supporting your intellectual property, including for any copyrights, trademarks, trade names, or patents owned by your company?
- Do you have any ongoing disputes involv-

ing your business? What steps have been taken to mitigate or negotiate these issues?

- Are you qualified to do business and in good standing in the necessary jurisdictions?
- Does your company hold all necessary licenses, permits or authorizations?

The ability to say "yes" to these questions should be a business priority for more than just the comfort of knowing your client has dotted its i's and crossed its t's. Your client must understand that a prudent buyer will be asking these questions as part of its own due diligence review of the business. The answers to these questions are often an essential first step to uncovering areas of your client's business that require further action, a step that this article will refer to as "corporate clean-up."

## Engaging in Corporate Clean-Up

Undoubtedly, one of the least glamorous, but easiest ways for you to position your client for the sale of its business is to be sure the business is as "clean" as possible beforehand. This means, in addition to helping your client answer the above questions affirmatively, establishing processes your client can implement to ensure the answer to these questions remains a "yes" five years down the road.

Emerging companies often focus their time and resources on product development, attraction and retention of talent, and commitment to selling their products and services. Yet these companies often fail to understand the importance of simple record keeping. While this is understandable, you would like to see your client undertake corporate clean-up so that when the client's business efforts generate an ideal exit opportunity, your client is well-positioned to capitalize on it.

**Observing Corporate Formalities.** A client's casual treatment of corporate formalities can lead to far worse outcomes than being unable to sell his or her business. In addition to inactive corporate status or ineffective corporate actions, failure to adhere to these rules is essential to avoid the dreaded "piercing of the corporate veil." If a client has failed to hold shareholder meetings, hold director meetings, prepare meeting minutes, or formally approve significant company actions, then adopting a corporate governance policy and establishing a formal corporate record book are musts.

**Financial Statements.** Depending on the size of the deal, prospective purchasers may or may not require audited financial statements in connection with the purchase of a business. However, your client would be wise to obtain audited, or at the very least reviewed, financial statements that look back two to three years. This will give prospective buyers additional comfort with respect to the fundamentals of your client's business.

**Key Agreements.** Attorneys should review their clients' leases, contracts and other agreements that a potential buyer might eventually inherit. As a threshold matter, relationships with key customers and suppliers should be supported by signed, written agreements. If

customers and suppliers are not bound by long-term contracts, encourage the development of those contractual relationships and negotiate forms of agreements for the most significant facets of your client's operations.

**Securing Key Employees.** As the often-cited adage goes, "your people are your greatest asset." Yet equally notable, "you are only as strong as your weakest link." Analyze whether your clients have appropriate confidentiality, non-competition, non-solicitation, and trade secret agreements that bind their key employees.

**Resolving Ongoing Disputes.** For the litigators still reading, disputes can be one of the easiest items to spot in the due diligence process, even before a complaint is filed. Based on your client's industry, the type and severity of these disputes may vary. Take the time to discuss any areas that may continue to pose litigation risks and ensure preventative measures are in place. To the extent possible, prevent existing disputes from dragging on, though that is perhaps easier said than done.

The "cleaner" your client's business, the more attractive the company will be to a prospective buyer. Conversely, even a company with a superior product or service will be less attractive if there is significant need for corporate clean-up. Performing appropriate corporate clean-up will make the company an easier sell for your client and will also make the transition an easier process for the seller.

## Assembling an Acquisition Team

Once you have conducted due diligence and completed any necessary clean-up, you should determine what type of transaction your client might be seeking (i.e., a stock sale, asset sale, etc.) and what your client's timeframe might be. The final step in pre-sale preparation is to assist your client in assembling an acquisition team.

The value of having a team of experts and specialists to facilitate the sale and assist you through the process cannot be understated. Careful consideration must be given to choosing members that specialize in the sale of busi-

nesses. Although members of an acquisition team typically include at least an accountant and an attorney, you should help your client determine whether a business broker or investment banker would also be beneficial. At this stage, it is important to consider whether

**[T]oo often attorneys fall into the trap of attending to their client's immediate legal tasks, failing to give their clients sufficient advance notice for business "to-do" items before a big sale.**

you have the appropriate expertise to facilitate the sale and assist your client through the sale. A valuable team presents the business in its most favorable light. By shining the spotlight on the company's assets, structuring the transaction, and timing the market, a great acquisition team can maximize the purchase price the business will command while also minimizing the pitfalls and headaches for owners and buyers.

## Conclusion

It is never too early to start preparing your clients for the sale of their businesses. Even if your client doesn't expect to sell his or her business for several years, protecting your client's business also means protecting future opportunities. Ensuring that the business is prepared for the probing eye of potential purchasers means not only that your client's legal bases are covered, but also that they can focus on what matters most to them and future buyers: running a great business.

C. Andrew (Drew) Eckman is an associate of Frost Brown Todd's Mergers and Acquisitions Group and chair of the LBA's Corporate Law Section.

The author would like to extend a special thanks to Kaitlyn Jones of Frost Brown Todd and Wes Fischer of Wyatt, Tarrant & Combs for their contributions to this article. Fischer is vice-chair of the LBA's Corporate Law Section. ■



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Free admission to the 2016 Judicial  
Reception (June 9 at Doc's Cantina)

## OUR CITY OF MOMENTS

Douglas Haynes

Most cities are known for things

You can touch.

Louisville has instead a legacy of moments.

The astonishing smash of Clay's glove

On Liston's face.

The shoulder bump through a thousand boos

Of Jackie and hometown Pee Wee.

The riverbank gaze westward of Lewis and Clark

Not having a wit's comprehension of what

Lay ahead.

Two sisters launching

The world's most oft sung song.

Bats.

Yes bats and other bats.

Bourbon clinks galore.

Every May's pounding of a hundred thousand hearts

And eighty hooves.

And, of course, Brandeis refusing to accept

Less than the clarity of reason,

Raising the bar of justice for all.

On, on Louisville.

On and on.



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

## Section Meetings

All meetings are held at noon at the Louisville Bar Center, 600 W. Main Street.

Wednesday, April 27: Young Lawyers

Please watch for announcements in eBriefs or check the LBA website, [www.loubar.org](http://www.loubar.org), for upcoming section meeting dates. Meetings are tentative until confirmed on the LBA website. Guests are welcome to attend a meeting before joining the section. For reservations or to join a section, call (502) 583-5314 or visit [www.loubar.org](http://www.loubar.org). ■

## Paralegals

The Louisville Association of Paralegals will host a program luncheon at noon on April 5, at the Louisville Bar Center, 600 W. Main Street. The Talis Group will give a presentation entitled "Land Your Dream Job." To register for the program, go to the LAP website, [www.loupara.org](http://www.loupara.org). Box lunches from Stevens & Stevens are available to order at registration for \$10.

The next opportunity for the Kentucky Paralegal Association's Certified Kentucky Paralegal (CKP) exam will be Saturday, May 21 at noon at the Louisville Bar Center. Additional information, including eligibility guidelines, application requirements and study material, is posted at [www.kypa.org/Certified-Ky-Paralegal](http://www.kypa.org/Certified-Ky-Paralegal). ■



### LBA Placement Service

## SIMPLIFY THE SEARCH

The LBA Placement Service matches area law firms seeking qualified attorneys and legal support staff with the appropriate employees. The service refers attorneys, legal secretaries, paralegals, receptionists and other legal support staff for full and part-time employment.

Contact David Mohr, LBA Placement Director, for more information!  
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## Legal Secretaries of Louisville

The next regularly scheduled meeting of the Legal Secretaries of Louisville will be held on Tuesday, April 19, at 11:30 a.m. at the Bristol Bar & Grille, 614 W. Main Street. Our guest speaker will be Brian Carlton from Stoll Keenon Ogden. The cost of the luncheon is \$19 per person. For more information about the organization or to RSVP for the meeting (by noon on Tuesday, April 12), please contact Angela Gibson, president, at (502) 779-8722. ■

## Association of Legal Administrators

The Kentucky Chapter Association of Legal Administrators will meet on Thursday, April 14, at 11:30 a.m., in the Louisville and Lexington offices of Stoll Keenon Ogden: Louisville: PNC Plaza, 500 W. Jefferson St., Ste. 2000 Lexington: 300 W. Vine St., Ste. 2100

Guest speaker Jim Ray, owner of Jim Ray Consulting Services in Louisville, will discuss legal marketing.

Please rsvp to Toni Weaver, KY Chapter ALA Secretary, [tweaver@fbtlaw.com](mailto:tweaver@fbtlaw.com), by Monday, April 8. The cost, which includes lunch, is \$17 for members and \$25 for non-members. ■

# TECH TIPS For Attorneys

## Servers: The Heart of Your Business

Maintaining healthy servers is an important part of keeping your business running smoothly, but they are easy to overlook because they function behind the scenes. Here are some questions you should be asking about your servers:

### When do my Servers Need to be Replaced?

Two important factors affect when you should consider buying new hardware: age and performance.

- **Age:** The average useful life of a server is around three years. Although some servers do function properly after the third year, continuing to rely on them can be risky.
- **Performance:** Poorly operating servers will likely cost you more to maintain than the cost of replacing it with new hardware, regardless of age.

### Can I do Anything to Prevent a Full-Scale Server Replacement?

Although not ideal as a long-term solution, there are certainly ways to extend the life of your current servers:

- **Server Upgrades:** Adding additional CPUs or memory may increase the performance of your server in the short term for far less than the cost of replacing the hardware altogether.
- **Re-Purposing:** Instead of replacing all of your servers, utilize old servers for non-critical processes so that you can purchase fewer new servers to handle the critical workloads.

Keep the heart of your business beating. Evaluate your servers each year and decide what measures to take to ensure your business stays operational.

— Andrew McIntosh, president, Skye Technologies.

# Seeking More Clients?

## Join the Kentucky Lawyer Referral Service

### KLRS membership rates\*:

\$75/year for LBA Members — \$125/year for Non-Members  
 \*price includes registration in two panels of law;  
 there is a \$30 fee for each additional panel.

Conveniently open Monday - Friday  
 8:30 am - 4:30 pm

Contact Debby Dye at  
 (502) 583-5314 or [ddye@loubar.org](mailto:ddye@loubar.org)

## Help Wanted

### Labor & Employment Attorney:

The Louisville, Kentucky office of Frost Brown Todd LLC, one of the largest regional full service law firms in the Midwest and one of the 150 largest law firms in the United States, seeks an associate with 2-4 years of experience in labor and employment law. Applicants must have a strong academic record and excellent written and oral communication skills. Please visit our web page and use the "self-apply" feature at <http://www.frostbrown.com/careers-openings-attorneys.html> to submit your application. Frost Brown Todd LLC is an equal opportunity employer.

### Seeking Litigation Attorney:

Established downtown litigation firm is seeking an attorney with 1-5 years of experience. The attorney will have the opportunity to work alongside accomplished trial attorneys in the areas of professional negligence, products liability and personal injury. Competitive salary and benefit package. Please send resume and writing sample to: Mary Beth O'Bryan, O'Bryan, Brown & Toner, PLLC, 401 South Fourth Street, Suite 2200, Louisville, Kentucky 40202 or [obryanm@obtlaw.com](mailto:obryanm@obtlaw.com).

## Office Space

### Office Space Available:

One Riverfront Plaza — river view; group of four lawyers have room for two or three more; conference room/library; share expenses; (502) 582-2277.

### \$1,000 – Attorney Office space for Rent in Old Louisville (S. 4th St, Lou KY)

Large, majestic office space for rent in Historic Old Louisville. Approximately 16' x 16' with separate secretarial office. Access to conference rooms, copy machine, fax and postage machine, and full kitchen. Free parking. \$1,000.00/month. Available January 1, 2016. For more details email [mmalaw1@aol.com](mailto:mmalaw1@aol.com) or call Laura Garrett at 502-582-2900.

### Office Space:

Office space available 900 sqft furnished Dixie Hwy/Crums Ln intersection with signage front view with parking in ft/rear of bldg. 2 open Secretary areas with L shaped desks 2 Private offices, call 502-775-9225.

### Eastpoint Business Center:

Unfurnished office space containing 1,031 sq. ft. for rent at 2527 Nelson Miller Parkway, Suite 104. Separate upstairs space includes four offices, large conference room, and kitchenette. Free parking. \$1,200.00/month includes water service. Available June 1, 2016. Call (502) 245-6133.

### Office Space Available:

2210 Goldsmith Ln — Room available in Law Office. Receptionist, fax, copier, phone, broadband internet. Large windowed office, conf. room/library/kitchenette/ensuite restroom included. Free parking. \$900/month. Call 502-456-1790.

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## Seeking Attorney

### Attorney Wanted:

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Defined Benefit and Defined Contribution Plans. Military, Municipal, State and Federal Employee Plans. Qualified Medical Child Support Orders. Collection of past due Child Support and Maintenance. Charles R. Meers, 429 W. Muhammad Ali Blvd., Suite 1000, Louisville, Ky 40202 Phone: 502-581-9700, Fax: 502-584-0439. E-mail: [Charles@MeersLaw.com](mailto:Charles@MeersLaw.com). THIS IS AN ADVERTISEMENT

### Environmental Attorney:

Ronald R. Van Stockum, Jr., Attorney at Law, Phone: (502) 568-6838, Fax: (502) 589-2714, e-mail: [rvs@vanstockum.com](mailto:rvs@vanstockum.com). THIS IS AN ADVERTISEMENT.

### Immigration Consultant:

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

### Discrimination Issues & Other Related Matters:

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

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Contact Kimberly Kasey: [kkasey@loubar.org](mailto:kkasey@loubar.org) / 583-5314  
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## Get Published in BAR BRIEFS

The Louisville Bar Association welcomes article submissions from attorneys and other professionals. Article types include, but are not limited to:

- Substantive law-related articles / General interest articles
- Essays or humor / Book reviews
- Letters to the Editor

For more information about submitting articles, contact Managing Editor Jenny Bencomo at (502) 583-5314 x107 or [jbencomo@loubar.org](mailto:jbencomo@loubar.org).

Please send press releases and advertisements to Kimberly Kasey, [kkasey@loubar.org](mailto:kkasey@loubar.org).



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involving business, employment, tort, insurance, professional liability, construction, and fiduciary/estate disputes. Kishman represents management parties in matters involving employees and labor unions. Both practice out of the firm's Louisville office.

Bingham Greenebaum Doll partner **John S. Lueken** has been named vice chair of the firm's Estate Planning Practice Group. Lueken focuses his practice on estate and trust planning and administration, as well as charitable and family-owned business planning.

Blackburn, Domene & Burchett is pleased to announce that **Katelyn C. Becker** has joined the firm as associate attorney. Becker practices in the areas of commercial litigation, personal injury defense, automobile liability defense, insurance defense and coverage disputes.

Dinsmore & Shohl is pleased to announce that **John E. Selent** has been elected to the Actors Theater of Louisville Board of Directors. Selent is the managing partner of Dinsmore's Louisville office and focuses his practice primarily on administrative law and commercial litigation, with a special emphasis on telecommunications and public utility law. He is a member of the firm's Litigation and Corporate Practice Groups.

Defense Research Institute's *Duty to Defend Compendium* has just been published. The *Compendium* addresses the latest developments on topics including what triggers the duty to defend, what is the scope of that duty, when is there a right to independent counsel and what types of proceedings require a defense, for each of the 50 states, as well as the District of Columbia, Puerto Rico, the Virgin Islands, and Canada. *Compendium* authors were selected based upon their breadth and depth of experience and knowledge in handling duty to defend and coverage issues. **Charles H. Cassis** and **Lindsey L. Howard** of Goldberg Simpson authored the *Compendium's* Kentucky chapter.

McBrayer, McGinnis, Leslie & Kirkland is pleased to announce that managing member

**James H. Frazier III** has been elected chairman of the Downtown Lexington Management District, an organization committed to enhancing and promoting Lexington's downtown environment. Frazier's law practice focuses on real estate, bankruptcy, mergers and acquisitions and general corporate practice with special emphasis on mineral and energy law. He received his J.D. from the University of Kentucky College of Law.

Morgan & Pottinger is pleased to announce that **Thomas R. Coffey**, **Taylor M. Hamilton** and **Bradley S. Salyer** have been named shareholders of the law firm. Coffey is chairman of the firm's Litigation Practice Group and focuses on commercial litigation, employment and labor law, personal injury law and white-collar criminal defense. He attended Notre Dame Law School. Hamilton is a member of the firm's Litigation Practice Group and focuses on foreclosure, commercial litigation and real estate. He attended the University of Kentucky College of Law. Salyer, who leads Morgan & Pottinger's Bowling Green office, focuses his practice on banking and finance law, commercial litigation, real estate, bankruptcy and appellate law. He attended the University of Kentucky College of Law.

Stites & Harbison recently elected **Mandy Wilson Decker** and **Marjorie A. Farris** to the firm's six-member Management Committee. With the new additions, 50 percent of the six-member Management Committee are female attorneys. Decker is a member of the Intellectual Property & Technology Service Group. Her practice focuses on intellectual property protection strategy, including counseling clients on infringement, validity and patentability, transfer of intellectual property, patent drafting, and patent prosecution. Farris is an experienced trial lawyer and serves

as co-chair of the Class Action and Multi-District Litigation Group. She has handled a wide variety of litigation ranging from products liability, insurance bad faith, ERISA, complex business litigation, and class actions.

Stites & Harbison attorney **David E. Saffer** has been named Office Executive Member for the Louisville office. In his new role, Saffer will be active in the local community on behalf of the firm and assist the chair in executing firm policy. He will continue to serve real estate and lending law clients and practice as a Member (Partner) of the firm.

Stites & Harbison attorney **Richard A. Vance** was recently appointed to the Kentucky Housing Corporation Board of Directors. He will serve a four-year term. Vance is a Member (Partner) in the firm's Louisville. His practice focuses on banking law, financial institution litigation, compliance and real estate, and antitrust.

Stoll Keenon Ogden is pleased to announce that the following attorneys have been promoted to Member: **Joseph B. Colvin**, **Mary Garris**, **Robert J. Packard** and **Christopher E. Schaefer**. Colvin practices in the area of trusts, estates and family law, focusing on estate and gift planning, business succession for privately held companies, estate administration and trust administration. He graduated from Ohio State University. Garris a member of the Business Services practice with a focus on corporate finance and lending, mergers and acquisitions and real estate. She also is a member of the Business Litigation practice. Garris graduated from the University of Louisville Brandeis School of Law. Packard practices in the area of trusts, estates & family law. He earned his J.D. from the University of Louisville Brandeis School of Law and his LL.M. in taxation from the University of Denver. Schaefer practices in business litigation, focusing on business torts, antitrust, trade regulation and franchise, class action, securities litigation, trusts and estates, criminal law, construction law and healthcare.

Stoll Keenon Ogden is pleased to announce that **Jamie A. Brodsky** has been elected to

a three-year term on the firm's board of directors. He chairs the firm's corporate finance and lending practice and is active in the firm's real estate, mergers and acquisitions, bankruptcy and financial restructuring and equine practices.

The Glenview Trust Company has added **Regina Beckman** to their team of Trust professionals. At Glenview Trust, she will concentrate her efforts with high net worth individuals and their families to design and implement trust and financial solutions tailored to meet unique needs and preferences. Beckman received her J.D. from the University of Kentucky College of Law in 1989.

Wyatt, Tarrant & Combs is pleased to announce that **Turney P. Berry**, leader of the firm's Trusts, Estates & Personal Planning Service Team, has been recognized by the Texas Bar Foundation for co-authoring the "Outstanding Law Review Article" of 2015, titled "Retaining, Sustaining and Obtaining Basis," and published in Texas Tech's Estate Planning and Community Property Law Journal in January 2015. Berry concentrates his practice in the areas of estate and business planning, estate and trust administration, and charitable giving. He graduated from Vanderbilt University Law School.

Wyatt, Tarrant & Combs is pleased to announce that **Michael N. Fine**, partner in the firm's Health Care Service Team, has graduated from Leadership Louisville Center's Focus Louisville program. Fine assists nonprofit organizations with tax compliance and corporate matters, including governance, executive compensation, intermediate sanctions, joint ventures, charitable contributions, captive insurance, and obtaining tax exemption from the IRS. Fine graduated from University of Pennsylvania Law School.

Wyatt, Tarrant & Combs is pleased to announce that *American Banker Magazine* has ranked it as one of the top 20 legal advisers in the country based on number of deals. With six deals, Wyatt ranks among the top 20 primary advisers in domestic bank and thrift merger deals in 2015. ■

## Mediation Services Judge William L. Knopf (Ret.)

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# MEMBERS *on the move*



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Berry

**Thomas B. Wine**, Commonwealth's Attorney for the 30th Judicial Circuit, was presented the Sword of Justice Award by the Kentucky Commonwealth's Attorney Association at the annual Kentucky Prosecutors Winter Meeting. The Sword of Justice Award is given in recognition of individual actions or achievements in the pursuit of justice in the Commonwealth of Kentucky.

The law firm of Parrent & Oylar is pleased to announce that **Edward H. (Ted) Bartenstein** has become Of Counsel with the firm. Bartenstein will continue his trial and litigation practice in the areas of Estate and Trust litigation, in addition to general commercial and insurance litigation.

Bahe Cook Cantley & Nezger announces that **Nathan D. Williams** is now a partner with the firm. Williams attended the University of Kentucky College of Law, and will continue his

practice of personal injury, products liability, medical malpractice, toxic exposure and auto accident cases.

Goldberg Simpson is pleased to announce that former Kentucky Assistant Attorney General, **Gregory Dutton**, is joining the firm as Of Counsel. Dutton will help steer Goldberg Simpson's Energy and Utility practice area. In addition, he will offer clients expert counsel in environmental litigation and regulatory compliance, and administrative law. Dutton earned his J.D. at Pace Law School, graduating with a certificate in Environmental Law.

Bingham Greenebaum Doll is pleased to announce that **Jared A. Cox** and **William J. Kishman** have been elected to the firm's partnership. Cox focuses his practice on litigation

*MEMBERS (see previous page)*

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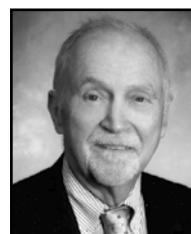
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Judge Steve D. Hurt (Ret)



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*judicial reception*  
**June 9, 2016**  
 Details on page 4