

BAR*briefs*

Louisville Bar Association

July / August 2026

SUMMER SCOOPS ARE MELTING AWAY

But we have an exciting summertime issue to share. Check out our July and August combined issue!



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*Louisville Bar Association Mission:
Promote justice, professional excellence and respect for the law; improve public access to the judicial system; provide law-related services to the community; and serve our members.*

Professional Excellence

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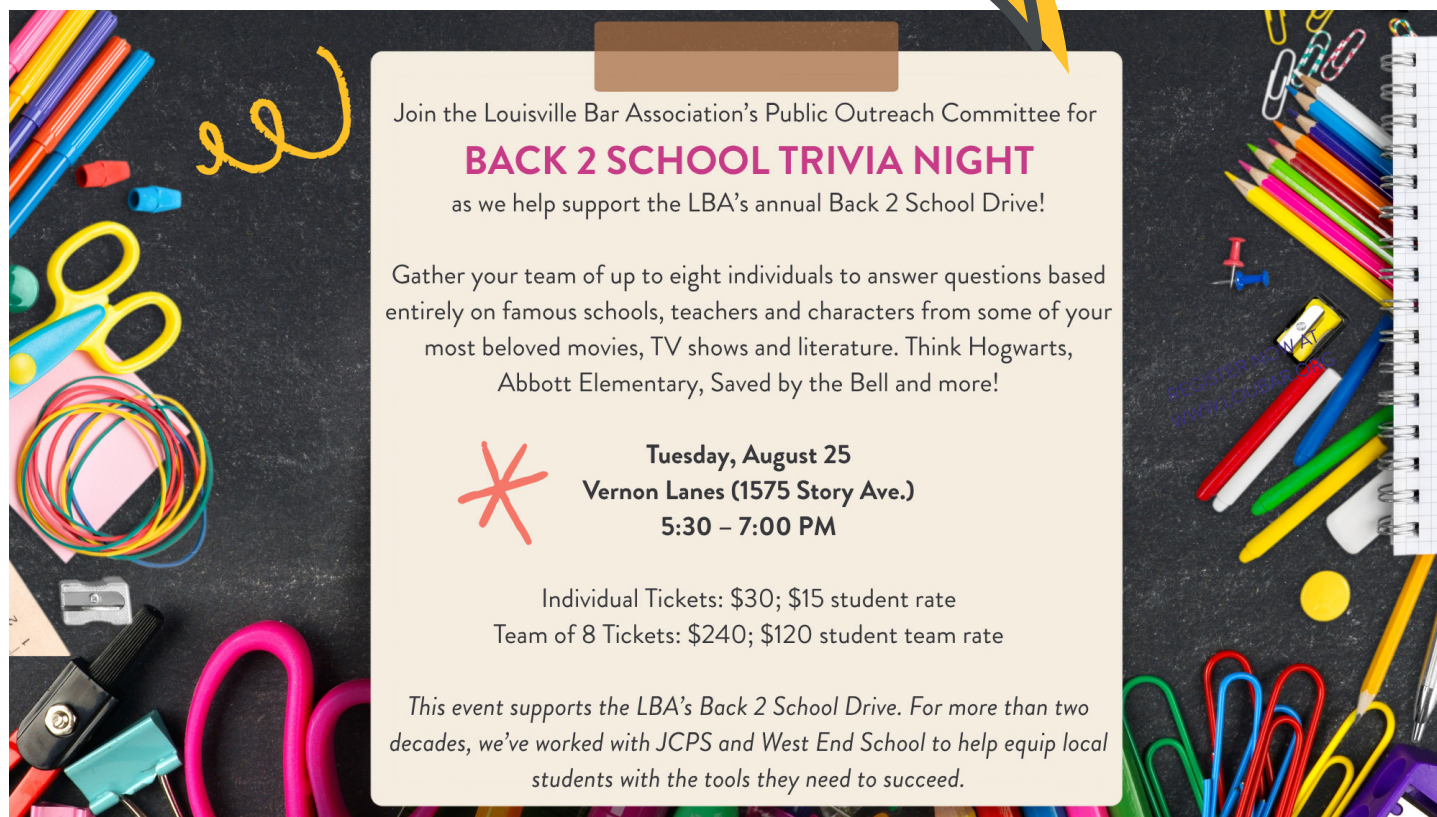
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Members on the Move

**ARE YOU
GOING TO
TRIVIA NIGHT???**



Join the Louisville Bar Association's Public Outreach Committee for

BACK 2 SCHOOL TRIVIA NIGHT

as we help support the LBA's annual Back 2 School Drive!

Gather your team of up to eight individuals to answer questions based entirely on famous schools, teachers and characters from some of your most beloved movies, TV shows and literature. Think Hogwarts, Abbott Elementary, Saved by the Bell and more!

Tuesday, August 25
Vernon Lanes (1575 Story Ave.)
5:30 – 7:00 PM

Individual Tickets: \$30; \$15 student rate
Team of 8 Tickets: \$240; \$120 student team rate

This event supports the LBA's Back 2 School Drive. For more than two decades, we've worked with JCPS and West End School to help equip local students with the tools they need to succeed.

Lawyers and the American Experiment

Two hundred and fifty years ago, the United States declared its independence from Great Britain. As Louisville native Louis Brandeis observed in his influential concurring opinion in *Whitney v. California* (1927):

Those who won our independence believed that the final end of the State was to make men free to develop their faculties, and that, in its government, the deliberative forces should prevail over the arbitrary. They valued liberty both as an end, and as a means.

This anniversary arrives at a moment when many of us are concerned that those “deliberative forces” are no longer functioning as the founders intended. To put it mildly, debate and reason do not always seem to prevail over the arbitrary in our national life.

Lawyers may disagree about politics, policy and even constitutional interpretation. But we share a professional commitment to the belief that difficult problems are best addressed through careful argument, reliable evidence and respect for institutions.

Those are the same principles that Thomas Jefferson and his fellow drafters emphasized in the Declaration of Independence. Many historians and scholars have noted that the Declaration reads like a legal brief. After its soaring language about equality and rights, it turns quickly to particulars—offering a detailed account of grievances, abuses and violations of colonial self-government. Jefferson prominently mentions King George’s usurpation of the colonial judiciary, as well as opaque legislative processes.

That commitment to strong institutions has remained a defining feature of American public life, and it has shaped important legal developments here in Kentucky as well. This year, we also mark the 50th anniversary of the Kentucky Court of Justice.

Before the Judicial Article took effect in 1976, Kentucky’s courts were a disorganized group of hundreds of locally funded courts with inconsistent rules and standards. The reform changed that by creating one unified Court of Justice, with a clear structure of Supreme Court, Court of Appeals, Circuit Court and District Court, and by establishing the Administrative Office of the Courts to provide centralized support across the Commonwealth. The result was not merely administrative tidiness. It was a transformation in how justice is delivered—bringing greater consistency, stronger accountability and a fairer promise that access to the courts should not depend on geography.

This reform paved the way for a strong Kentucky judiciary that has profoundly impacted the state. It was the Kentucky Supreme Court, after all, that played the decisive role in changing public schools in Kentucky (1989, *Rose v. Council for Better Education*). In another significant ruling, the Court struck down an antiquated law criminalizing homosexuality (1992, *Comm. v. Wasson*). In recent years, the Court has incensed the General Assembly with rulings that struck down a charter schools law and an attempt to alter the structure of JCPS. These decisions, whether you agree with them or not, all share the common threads of balancing institutional respect with individual rights—the same considerations described in the Declaration.

Fifty years on, it’s easy to take the Court of Justice for granted. Just this year, the General Assembly came close to passing a budget that cut court funding so deeply that valuable specialty courts—programs that have transformed lives by emphasizing accountability, treatment and support rather than punishment alone—would have been forced to close.

A concerted effort by judges, lawyers and citizens secured an additional \$5 million for those programs. Even so, the final budget left the courts with a \$30 million shortfall to absorb. Chief Justice Deborah Lambert has announced that many vital staff positions will be eliminated, along with other painful reductions.

In her letter announcing the cuts, Justice Lambert remarked that, “[e]ven in challenging times, the work of the courts remains essential.” This is as true today as it was 250 years ago.



“Those decisions, whether you agree with them or not, all share the common threads of balancing institutional respect with individual rights—the same considerations described in the Declaration

Samuel W. Wardle
LBA President

The Modernization of Kentucky's Civil Commitment Statute, KRS 202A

A patient-health focused approach that improves public safety

Judge Stephanie Pearce Burke

Kentucky's civil commitment law, primarily codified in Chapter 202A of the Kentucky Revised Statutes (KRS 202A), originated from the nationwide transformation of mental health law during the mid-20th century. The statute's development demonstrated a transition away from policies of institutionalization that prioritized segregation of individuals with mental illness and developmental disabilities into overcrowded state-run facilities. This approach relied on containment rather than treatment and the isolation of individuals from the public at the lowest possible cost.

Some efforts towards deinstitutionalization began in the mid-1950's after the development of the first antipsychotic drug, Thorazine; however, federal efforts to move people into community-based care formally began with President John F. Kennedy's signing of the Community Mental Health Act in 1963. Substantial reform was implemented only after public outcry over human rights violations, and the system moved toward more constitutional protections and due process.

Before the current civil commitment statute was enacted, Kentucky addressed involuntary hospitalization through earlier "lunacy" or "insanity" laws dating to the late 19th and early 20th centuries. These statutes primarily emphasized custodial confinement over treatment and offered minimal procedural protections.

In the 1960s and 1970s, deinstitutionalization, advances in psychiatric medicine and evolving constitutional due process juris-

prudence transformed mental health law throughout the United States. Landmark cases such as *O'Connor v. Donaldson* (1975), *Addington v. Texas* (1979) and *Lessard v. Schmidt* (1972) significantly shaped the development of Kentucky's present-day civil commitment framework.

Kentucky established its current involuntary commitment structure in the 1970s through KRS Chapter 202A. This statute modernized state law by prioritizing judicial oversight, procedural safeguards, dangerousness criteria and the principle of using the least restrictive alternative for treatment.

The most significant advancement was the adoption of the "dangerousness" standard. Under the current version of KRS 202A, commitment requires the court to find that an individual has a mental illness, poses a danger or threat of danger to self or others, can benefit from treatment and that hospitalization is the least restrictive alternative mode of treatment presently available. This standard remained unchanged for more than 50 years until the Kentucky General Assembly made sweeping amendments to the statute during the 2026 legislative ses-

sion. These amendments will take effect on October 1, 2026.

2026 Modernization of KRS 202A

House Bill 485 was sponsored by Representatives Jason Nemes, Kim Moser and Lisa Willner. It was the product of months of collaboration among legislators, the Kentucky District Judges Association, the Kentucky County Attorneys Association, the Kentucky Commonwealth's Attorneys Association, mental health practitioners and many mental health advocacy groups, including the Kentucky Mental Health Coalition. The bill passed the House 95-0 and was ultimately attached to Senate Bill 122 in the final days of the 2026 session. SB122 then passed the Senate 37-0, and the law was enacted by the Governor's signature on April 10, 2026.

The 2026 amendments to KRS 202A constitute the most significant reforms to

Kentucky's involuntary commitment system in nearly half a century. These revisions update procedures, clarify legal standards and are intended to enhance coordination among courts, hospitals, law enforcement and mental health providers to more aptly benefit the patient and protect the public.

Under previous legal frameworks, individu-

als could experience severe psychosis, disorganization, inability to care for themselves or escalating psychiatric decline without meeting the threshold for intervention, as they had not yet posed an "immediate threat" of physical harm.

A key change in the legislation expands the definition of dangerousness to include "psychiatric deterioration." This revision acknowledges that serious mental illness often worsens progressively rather than solely through sudden acts of violence or suicidality.

For years, mental health experts have called for revising Kentucky's "dangerous" criteria, noting that mental health practitioners lacked the legal authority to help individuals with a documented history of serious mental illness who were experiencing clinical decline until they reached the most severe possible condition.

The revised statute recognizes that "psychiatric deterioration" itself may pose substantial risks. Individuals experiencing severe psychiatric decline may stop eating or sleeping, be unable to secure shelter or medical care, lose contact with reality or engage in dangerous, self-destructive behavior.

The reform also reflects growing recognition of anosognosia, the neurological inability of some individuals with serious mental illness to recognize their condition. By enabling earlier intervention, the revised statute aims to reduce recurrent crises, incarceration,

(Continued on next page)

THE CARL A. WARNS JR. KEYNOTE
ADDRESS SPEAKER

HON. JANE B. STRANCH

U.S. Court of Appeals
Sixth Circuit



Also on the agenda

SESSION TOPICS

- > Non-Competes
- > Retraumatization of Abuse Victims In Litigation:
Finding the Ethical Balance
- > Battle of the Barristers

+ additional speakers and sessions to be announced

24 SEPTEMBER
2026

TIME

9:00 AM -
5:00 PM

LOCATION

LBA
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homelessness and medical deterioration. It allows the courts to order appropriate treatment and conditions sooner. In other states where “psychiatric deterioration” has been included in the dangerousness criteria, this has led to better patient outcomes, including greater long-term stability and fewer rehospitalizations.

The overarching goal of reducing relapse is grounded in the clinical need to protect the patient’s baseline brain and mental health. It is well established that cycles of relapse and remission can compromise brain integrity and make subsequent episodes more severe or harder to treat. The ability to stabilize and preserve baseline neurological and psychological health as early as possible should be emphasized in mental health policy, and the amendments to KRS202A finally provide mental health practitioners and the courts with this important option.

The revised statute also defines “benefit from treatment,” which was previously undefined. As defined in the statute, “benefit from treatment” means the desired outcomes of treatment in a psychiatric hospital for an individual with a mental illness, including but not limited to:

- Symptom management and increased stability;
- A lessening of irrational thoughts and behaviors;
- Reduced risk of harm; or
- Acquisition of skills for self-care and for interacting and living in the community.

This definition enables patients to access medical assistance before they reach a severe psychiatric crisis or self-neglect. It eliminates the need for families to wait until a loved one becomes actively violent or suicidal to seek help. Early psychiatric stabilization can prevent secondary physical harm, such as malnutrition or exposure. Furthermore, early intervention helps patients preserve vital social supports, including housing, employment and family relationships.

Procedural Safeguards and Judicial Flexibility

In addition to definitional changes, the 2026 reforms introduce procedural mechanisms that enable courts to impose conditions, safeguards and structured interventions at various stages of the proceedings.

Historically, commitment systems often required courts to adopt an “all-or-nothing” approach, either ordering hospitalization or releasing the individual with minimal or no intermediate protections.

The revised statute provides courts with more nuanced tools, including:

- Structured outpatient treatment or court-ordered assisted outpatient treatment (AOT)
- Medication compliance monitoring
- Coordination with community mental health providers
- Supervised discharge planning; and
- Increased judicial oversight

These reforms benefit patients by promoting earlier, less restrictive interventions while preserving constitutional protections and treatment autonomy whenever feasible.

The increased procedural flexibility also enhances continuity of care by reducing fragmentation across emergency detention, hospitalization, judicial hearings and community follow-up.

From a public safety perspective, the reforms acknowledge that untreated psychiatric deterioration often precedes emergency encounters, victimization, criminal justice involvement and behavioral crises. Earlier intervention and structured oversight may reduce the need for law enforcement responses or incarceration.

The 2026 reforms reflect a contemporary understanding that effective behavioral health interventions are most successful when they are timely, individualized, coordinated and proportional to the patient’s current clinical needs. As shown in other states that have adopted similar legislation, the expected outcomes should include reduced relapse and rehospitalization, fewer arrests and incarcerations, improved clinical outcomes for patients, increased public safety and significant cost savings.

The modernization of KRS 202A is a common-sense reform that protects our most vulnerable citizens, supports the families who care for them and safeguards the public safety of our communities.

Judge Stephanie Pearce Burke presides over Division 14 of Jefferson District Court. ■



2026 Annual Bankruptcy Law Conference

Friday, October 2 | 9:00 AM
LBA Bar Center

For more information visit www.loubar.org.

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Translating Tax: How Code § 338(h)(10) Converts a Stock Sale into a Deemed Asset Acquisition

Ross D. Cohen, Kseniya A. Buck, Caitlin G. Rieser and Lucy L. McAfee

When one company acquires another, buyer and seller alike should pay close attention to how they structure the transaction. In a stock sale, the buyer steps into the target company's ("Target") shoes, acquiring a cost basis in the stock, which the buyer cannot depreciate or amortize. By contrast, in an asset sale, the buyer acquires each asset directly, takes a cost basis in each one and receives a stepped-up basis eligible for depreciation and amortization. Section 338(h)(10) of the Internal Revenue Code of 1986, as amended ("Code"), offers a hybrid approach: the parties may jointly elect to recharacterize a stock purchase as a deemed asset acquisition, giving the buyer a stepped-up basis in Target's assets and giving the seller the opportunity to share in the value of the buyer's enhanced tax position through purchase-price negotiations while preserving the contractual simplicity of a stock-sale form, provided the transaction satisfies certain requirements.

Eligibility and Mechanics

To qualify for a Code § 338(h)(10) election, there must be a "qualified stock purchase," meaning the buyer must acquire, through one or more taxable purchases within a 12-month acquisition window, stock representing at least 80% of Target's total voting power and total value. Code § 338(d)(3) (citing Code § 1504(a)(2)). However, not every stock purchase qualifies; the buyer must be an eligible corporate purchaser and must acquire the stock in a taxable transaction from an unrelated eligible seller. Code § 338(h)(3) (citing Code § 318(a)). In addition, the buyer must acquire the stock from one of three categories of eligible sellers: [1] a selling consolidated group (a consolidated group that includes Target as a member), [2] a selling affiliate (a domestic corporation that owns at least 80% of Target's stock but does not file a consolidated return with Target), or [3] if Target is an S corporation, Target's shareholders immediately before the acquisition date. Treas. Reg. § 1.338(h)(10)-1(c)(1).

Once the parties confirm the transaction is eligible for a Code § 338(h)(10) election, the stock purchase agreement made will then usually include provisions reflecting this. After the closing of the stock purchase, the parties make the election jointly by filing Form 8023, Elections Under Section 338 for Corporations Making Qualified Stock Purchases. Treas. Reg. § 1.338(h)(10)-1(c)(3). If Target is an S corporation, then every shareholder—including "shareholders who do not sell their stock"—must consent to the election. *Id.* The parties must file the election "not later than the 15th day of the 9th month beginning after the month in which the acquisition date occurs." *Id.* For example, if the acquisition date falls in August 2026, then the filing deadline would be May 15, 2027. *Id.*

How the Code § 338(h)(10) Tax Fiction Works

Even though the parties still enter into a stock purchase agreement, Code § 338(h)(10) replaces the stock sale reality with a

fictitious four-step transaction that produces a deemed asset acquisition. Treas. Reg. § 1.338(h)(10)-1(d).

In step one, the Code deems Target—now referred to as "Old Target"—as selling all of its assets to a new, unrelated entity ("New Target"), "in exchange for consideration that includes the discharge of its liabilities in a single transaction at the close of the acquisition date (but before the deemed liquidation)." Treas. Reg. § 1.338(h)(10)-1(d)(3). Old Target recognizes gain (or loss) on the assets "sold," and New Target takes a fair market value basis in the acquired assets. *Id.*

In step two, the deemed sale gains are reported on Old Target's tax return because Old Target remains "a member of the selling consolidated group (or owned by the selling affiliate or owned by the S corporation shareholders)" at the time of the deemed sale. *Id.* For example, if Old Target was taxed as an S corporation, then the "S corporation shareholders (whether or not they sell their

(Continued on next page)



LOUISVILLE BAR
ASSOCIATION
HEALTH & WELLNESS COMMITTEE

Health & Wellness Committee Corner

August 2026

CO-CHAIRS
Jennifer Kleier
Liz Mosler

ALL MONTH

National Wellness Month

August is National Wellness Month, dedicated to self-care, stress management and building routines that actually sustain you. For lawyers, August often arrives as a deceptively quiet stretch before the fall ramp-up. That makes it one of the better opportunities in the calendar year to reset — not through a grand wellness program, but through small, consistent choices: sleep, movement, limits on after-hours communication and time that belongs to you. Use this month to build one habit you can carry into September.

GET INVOLVED

JOIN THE HEALTH & WELLNESS COMMITTEE!

Active LBA members who want to help promote wellness across the legal profession are welcome.

Contact Lisa M. Murray at lmurray@loubar.org to learn more.

AUGUST 26

Women's Health Equity

Women's Equality Day marks the 19th Amendment. In the wellness context, it is also a prompt to recognize that women in the legal profession carry a disproportionate share of caregiving responsibilities alongside demanding caseloads. Burnout and workplace stress affect women attorneys at elevated rates. Ask what your firm is doing to support them — not just in policy, but in daily practice.

1

Pick one wellness habit to build this month and protect it. One habit, consistently kept, is worth more than a plan you abandon in October.

2

Check in with the women on your team this month. Not a formal survey, a real conversation about workload, support and what they actually need.

3

Mark August 31 on your calendar. Share what International Overdose Awareness Day means and why it matters in the legal profession specifically.

AUGUST 31

International Overdose Awareness Day

August 31 remembers those lost to overdose and works to reduce the stigma around addiction. Substance use disorder in the legal profession is not rare. Studies consistently show that lawyers experience alcohol and drug dependency at rates significantly higher than the general population. High pressure, long hours and a culture that discourages asking for help creates real risk. If you or someone you know is struggling, KYLAP offers free, confidential support specifically for Kentucky lawyers and law students. Additionally, LBA members are eligible for assistance through The Wayne Corporation Employee Assistance Program (EAP), which provides confidential support services, including counseling and resources. Visit <https://www.loubar.org/member-benefits/>.

UPCOMING LBA HEALTH & WELLNESS COMMITTEE HOSTED EVENTS:

MAHJONG OPEN PLAY

Date TBA · Watch for details from the H&W Committee

4TH ANNUAL PICKLEBALL PALOOZA

Sunday, September 20 · Pickle & Pong
More details - see page 12

(Continued from previous page)

stock) take their pro rata share of the deemed sale tax consequences into account...and increase or decrease their basis in [Old Target] stock.” Treas. Reg. § 1.338(h)(10)-1(d)(5).

In step three, after the deemed asset sale, the Code treats Old Target as distributing all of its remaining assets (the deemed sale proceeds) to its shareholders in complete liquidation before the acquisition date. Treas. Reg. § 1.338(h)(10)-1(d)(4). If Old Target belonged to a consolidated group, this deemed distribution generally qualifies as a tax-free liquidation under Code § 332. If Old Target was an S corporation, then this deemed distribution is a taxable liquidation under Code § 331; however, the upward basis adjustments from step two may offset most or all of the liquidation gain. See Treas. Reg. § 1.338(h)(10)-1(d)(5); Code § 1367. Regardless of whether the seller recognizes gain or loss on Old Target’s deemed liquidation, the seller “recognize[s] no gain or loss on the sale or exchange of [New Target] stock included in the qualified stock purchase” because steps two and three already capture the entire economic gain or loss. Treas. Reg. § 1.338(h)(10)-1(d)(5)(iii).

Lastly, in step four, the parties disregard the seller’s actual sale of New Target stock to the buyer for cash. The Code treats New Target as a new corporation that purchased all of Old Target’s assets at fair market value, giving it a stepped-up basis in those assets. Code § 338(a); Treas. Reg. § 1.338(h)(10)-1(d)(2) (citing Treas. Reg. § 1.338-5(c)).

This stepped-up basis represents the buyer’s primary economic benefit, while the reduction in sales proceeds from additional taxes constitutes the seller’s economic cost.

Best Practices and Planning Considerations

The parties should weigh a Code § 338(h)(10) election carefully; once they make the election, they cannot revoke it. Treas. Reg. § 1.338(h)(10)-1(c)(4). The seller should begin by comparing its net tax basis in its Target stock (“outside basis”) against Target’s net tax basis in its assets (“inside basis”) to preliminarily gauge the election’s possible tax impact. When the gap between outside basis and inside basis is minimal, the election is unlikely to generate significant incremental tax on the seller, making the decision more straightforward. In that scenario, the buyer obtains a stepped-up basis at minimal tax cost to the seller.

Even in such a scenario where a Code § 338(h)(10) election results in only a minimal amount of additional gain for the seller, when the target is an S corporation, the selling shareholders should be aware of the possible differences in the tax character of the gain that results from asset-sale treatment. For example, gain that would have qualified for long-term capital gain treatment may instead be taxed as ordinary income on account of depreciation recapture on the sale of assets under Code §§ 1245 and 1250. The election may also create a character mismatch on the deemed liquidation (causing a capital loss with limited benefit)

or trigger corporate-level built-in gains tax under Code § 1374. Because the election primarily benefits the buyer—who receives a depreciable and amortizable stepped-up basis in Target’s assets—and the seller often bears the added tax liability, the seller should leverage the election’s joint nature to negotiate a purchase price premium and gross-up that compensates for, *inter alia*, the increased tax liability from ordinary income recognition and state and local taxes tied to the assets’ location.

One important caveat to the general upside for buyers is, although step three deems Old Target to have wound up, “[New Target] remains liable for the tax liabilities of [Old Target] (including the tax liability for the deemed sale tax consequences).” Treas. Reg. § 1.338(h)(10)-1(d)(2). Consequently, the buyer should negotiate a robust indemnity provision in the stock purchase agreement to guard against this residual exposure.

It is also worth noting that the ultimate decision whether to make a § 338(h)(10) election should be based on both tax and nontax considerations, such as third-party consents or non-assignable licenses. Moreover, although a Code § 338(h)(10) election can be a valuable mechanism for obtaining a basis step-up, a selling consolidated group can often achieve a similar result by first liquidating the subsidiary in a tax-free transaction and then selling Target’s assets. Under that approach, the acquiring corporation generally would take a cost basis in the acquired assets under Code § 1012.

Ross D. Cohen is a Partner in Dentons’ Tax group. His practice focuses on advising business entities and nonprofit organizations on corporate structuring and tax issues, including those arising in the context of M&A transactions. He also works with businesses on executive compensation tax matters.



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 LEGAL AID SOCIETY

Court Rules Questioning No-Contest Clause Triggers Violation: Lessons for Practitioners

John R. Cummins and Gregory Neibarger

A no-contest clause—also known as an “in terrorem clause”—is included in a will or trust to deter beneficiaries from challenging its terms. The penalties are harsh: the offending beneficiary may be deemed to have predeceased the grantor, resulting in disinheritance.

A recent unpublished decision from the Minnesota Court of Appeals, *In re the Gus A. Chafoulias Revocable Trust* (February 23, 2026), raises an important caution: even asking a court whether a particular action would violate a no-contest clause can itself trigger the clause.

What Happened in the Chafoulias Case

Gus Chafoulias created a revocable trust in 2005, restated in 2015 and amended in 2020. Upon Gus’ death in late 2020, the trust became irrevocable and named his son, Andrew, as sole trustee. Both Andrew and his sister, Ann, were residual beneficiaries. The trust included several provisions central to this dispute:

- **Trustee removal restrictions.** Andrew could remove trustees at any time. Ann could only remove a trustee of her own discretionary trusts—and not if the trustee was Andrew.
- **Alternative dispute resolution preference.** The trust directed administration “with freedom from judicial intervention,” provided for the use of alternative dispute resolution and appointed a “trust advisor” empowered to construe terms, settle disputes and remove trustees other than Andrew.
- **The no-contest clause.** Article 16 provided that a beneficiary’s interest would be determined as if the beneficiary had predeceased Gus if that beneficiary “seeks to obtain adjudication in any court proceeding that [the trust] or any of its provisions is void, or otherwise seeks to void, nullify, or set aside [the trust] or any of its provisions.”

Ann’s Grievances and Her Petitions

After Gus’ death, Ann grew concerned about Andrew’s management. Andrew’s 2020 accounting disclosed nearly \$17 million in unpaid loans he had taken from the trust, his 2021 inventory omitted valuable items and he gifted trust property to non-beneficiaries. As trustee of Ann’s discretionary trusts, Andrew made only a single distribution to Ann between 2020 and 2024.

Ann initially filed a petition alleging breach of trustee duties and seeking to remove Andrew. She then filed an amended petition seeking declaratory relief on whether the no-contest clause was valid and whether a removal petition would trigger it. The district court ruled in Andrew’s favor, which the Minnesota Court of Appeals affirmed.

The Court of Appeals’ Holdings

1. Asking the court to rule on a no-contest clause’s validity triggers it.

The court interpreted the clause to be triggered whenever a beneficiary “presents a question of the validity of a provision to a judicial forum.” Ann’s amended petition—asking whether the no-contest clause was valid—squarely satisfied this condition.

2. The anti-forfeiture preference does not override grantor intent.

Ann argued that Minnesota law disfavors forfeitures, which should lead to a narrower construction. The court acknowledged this principle but held that the “ultimate objective to enforce grantor intent trumps this preference.”

3. The second declaratory-relief request also triggered the clause.

The court also found that Ann’s request asking whether a removal petition would trigger the clause independently violated it, reading this as “an attempt to circumvent the trust provisions that establish Andrew as trustee.”

Why This Decision Matters

1. A cautionary precedent, even if nonprecedential

The *Chafoulias* decision is nonprecedential but significant. The reasoning reflects a trend toward a substance-over-form approach: if the practical effect of a beneficiary’s court filing is to challenge a trust provision, the court may find a violation regardless of how the filing is labeled.

2. Unique facts that shaped the outcome

Several features of the trust likely influenced the outcome: explicit language favoring “freedom from judicial intervention,” alternative dispute resolution mechanisms, a trust advisor with authority to resolve disputes and Ann’s original direct removal petition before switching to declaratory relief.

Practitioner Tips for Kentucky Lawyers

While *Chafoulias* arises out of Minnesota, it may be instructive for Kentucky practitioners. Kentucky has not addressed this precise issue, and courts often look to persuasive authority from other jurisdictions, although this decision is expressly not precedential.

When drafting trusts containing no-contest clauses in Kentucky:

- **Express the grantor’s intent comprehensively.** Include clear language on preferred dispute resolution methods, the no-contest clause’s scope and any intended exceptions. Kentucky’s trust statutes and common law emphasize honoring grantor intent.
- **Consider including carve-outs.** Build specific safe harbors into the instrument—for example, permitting beneficiaries to petition for accountings or seek trustee removal without triggering the clause.
- **Appoint an independent trust advisor or trust protector.** Kentucky recognizes trust protectors and advisors. This gives beneficiaries a path to raise concerns outside of court.

When advising Kentucky beneficiaries considering a challenge:

- **Do not assume a “cautious” approach will provide protection.** The *Chafoulias* court held that asking for a declaratory judgment can itself constitute a violation. Conceivably Kentucky courts could adopt similar reasoning.
- **Exhaust all non-judicial remedies first.** Where the trust provides for mediation, arbitration or a trust advisor, pursue those avenues before considering court action.
- **Research state-specific precedent.** Kentucky has limited case law on no-contest clauses in trusts. Monitor developments and advise clients of the uncertainty.

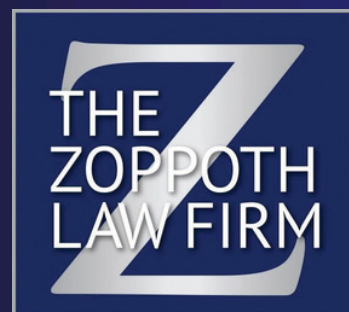
Partner John R. Cummins is a member of Dentons’ Trusts, Estates and Wealth Preservation group, based in the Louisville office. Greg Neibarger is co-chair of Dentons’ Fiduciary Litigation practice group and based in the Indianapolis office. ■



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Research and Fireworks: Reading The 250th Anniversary of the Declaration of Independence

Kurt X. Metzmeier

One of the problems with being a historian, besides the inability to watch a movie without noticing the anachronisms, is that you can't simply enjoy a historic anniversary without saying, "Yeah, but ..."

This Fourth of July, most of America celebrated the 250th birthday of the United States. Meanwhile, I celebrated the 250 years since the Continental Congress approved the Declaration of Independence. Similar, but not the same. The Declaration was a big deal, no question, but it took a war, a treaty and a constitutional convention in 1787 before you can fairly say that the republic we know as the United States was created.

What the events of July 4, 1776, kicked off was this continent's biggest "No Kings" rally. And it was a big one. When the text of the Declaration made it to New York City on July 9th and was read at the Bowling Green in Lower Manhattan, the crowd was so enthusiastic they tore down the statue of King George III and broke it into dozens of pieces. (The tail of the King's and other fragments can be found at the New York Historical Society Museum, <https://emuseum.nyhistory.org/>.)

That is perhaps more understandable when you read the entire document. We all know Thomas Jefferson's crisp and polished preface declaring the principles of the revolutionary movement that the document called into existence:

When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. — That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed. That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute a new Government, laying its foundation on such principles and organizing its powers in such form, as to them shall seem most likely to effect their Safety and Happiness.

We might have not read the 27 paragraphs below this high-minded section that together indict George III for a litany of crimes that accused him of being a "Prince, whose character is thus marked by every act which may define a Tyrant" and one who is "unfit to be the ruler of a free people."

These passages not only condemned the king to his face, but they also marked the principles that would later animate the Constitution and the Bill of Rights. When the Declaration accuses George of making "Judges dependent on his Will alone, for the tenure of their offices," it is declaring that judges should be independent. Moreover, the charges of violating the right of trial by jury, taxing without representation, quartering standing armies and suspending legislative powers would not be forgotten when the founders sat down later to draft the U.S. Constitution.

Nonetheless, Jefferson's Preface not only sparked our revolution, it has echoed through history, inspiring not only the French revolutionaries of 1789, but also anticolonial movements in South America, Africa and Southeast Asia. The whole document is worthy of careful study, and there are great tools and wonderful books to do so.

Resources

Tools and Primary Documents

The most useful tool is the National Constitution Center's Annotated Declaration of Independence (<https://constitutioncenter.org/declaration/annotated-declaration>), with notes drafted by Akhil Reed Amar, a leading scholar of the U.S. Constitution and the Sterling Professor of Law and Political Science at Yale University. Each key phrase or section is annotated with weblinks to relevant texts like John Locke's "Second Treatise on Government" (1690), Jefferson's "A Summary View of the Rights of British America" (1774) or Thomas Paine's "Common Sense" (1776), or references to a Constitutional provision it inspired.

Typically, the annotations draw on three key websites: the National Constitution Center's Constitution (<https://constitutioncenter.org/the-constitution>), the National Archive's Founders Online (<https://founders.archives.gov/>) and the Yale Law School Law Library's Avalon Project (<https://avalon.law.yale.edu/>).

For example, when the Preamble avers that "Governments are instituted among Men, deriving their just powers from the consent of the governed," the annotation quotes philosopher John Locke's statement that "by nature," men are "all free, equal, and independent, no one can be ... subjected to the political power of another, without his own consent," in his "Second Treatise on Government" (1690), and Algernon Sidney's "Discourses Concerning Government" (1698) positing that "general consent" is "the ground of all just government."

Also, the annotations explain language and allusions that may not be clear to the modern reader. When Jefferson writes that George "has erected a multitude of New Offices, and sent hither swarms of Officers to harass our people, and eat out their substance," Amar's note ties this to the many customs officers created to prevent tax evasion and their use of "general warrants" to search and seize goods without probable or even reasonable cause. These "writs of assistance" were condemned by James Otis Jr. in a blistering best-selling 1761 pamphlet that is a direct source of the Fourth Amendment.

Books

Dozens of new books, good and bad, are heading into bookstores and Amazon queues for this year's celebration. I can't review them all but here are a few, old and new, worth consulting.

Pauline Maier's 1997 classic, "American Scripture: Making the Declaration of Independence" serves as a quasi "legislative history" of the passage of the Declaration, describing each step in the process as anti-monarchical sentiment in the Continental Congress grew from May through June to the pivotal declaration severing the ties that bound the 13 colonies to England and its king. It is also a great read.

Akhil Reed Amar's "The Words That Made Us: America's Constitutional Conversation, 1760-1840" (2021) and Joseph J. Ellis, "The Cause: The American Revolution and its Discontents, 1773-1783" (2022) provide a deeper background to the animating ideas of the Declaration.

Finally, Walter Isaacson's 67-page pamphlet, "The Greatest Sentence Ever Written" (2026), unpacks the meaning of the 35-word sentence from "We hold these truths" to the "the pursuit of happiness," at a microlevel.

All these books can be found at UofL and the Louisville Free Public Library (LFPL).

Cultural Resources

Who wants to turn from Enlightenment era natural law treatises and pamphlets to a musical? I see a hand in the back. Well for that, I would direct you to "1776" (1972) the movie adaptation of Sherman Edwards' Broadway production about the Continental Congress' progress toward a decision to declare independence. (Think of Pauline Maier's "American Scripture" with better songs.)

As the movie's Wikipedia page notes, "The Columbia Companion to American History on Film" found that while historical "inaccuracies pervade 1776," none were "troubling" enough to trigger historians. Since few detailed contemporaneous accounts of the session existed, the playwright had to use his imagination, but the film does capture the spirit and the humanity of the event. You can find "1776" on DVD at UofL and LFPL.

Speaking of humanity, what could capture that better than one of our era's greatest actors, Paul Giamatti? His portrayal of the title character in HBO miniseries "John Adams" (2008) brings the revolutionary era to life. Based on David McCullough's biography, the second episode is a good compliment to "1776." You can find it on HBO Max, and the DVD boxset at LFPL and UofL.

Stay Safe!

If you decide to continue celebrating the 250th anniversary of the Declaration of Independence over the rest of 2026 by reading a book, watching a movie, setting off fireworks or toppling a statue of a king, stay safe! If you don't take care, those paper cuts can get infected.

Kurt X. Metzmeier is the interim director of the law library and professor of legal bibliography at the University of Louisville Brandeis School of Law, but he does not purport to represent the university or the law school. He is the author of *Writing the Legal Record: Law Reporters in Nineteenth Century Kentucky* and coauthor of *Legal Research in a Nutshell*, 15th ed. ■



Law, Leadership and Legacy: Jefferson County Across 250 Years



Milestones in Louisville's Legal History*

1780	1784	1837–1860	1846	1900	1921	1953	1959	1962	1975–1976	1976	1999	2002	2021
Jefferson County is Created	Louisville's First Courthouse Opens	Construction of the Historic Courthouse	UofL Law School Founded	Louisville Bar Association Established	Legal Aid Society and Louisville Urban League Established	First Black attorneys are admitted to the LBA: Charles Anderson, Harry McAlpin and Ralph Richards	Alberta Odell Jones Becomes First Black Woman to Pass KY Bar	Louisville Human Relations Commission Established	KY Court Reform Created the Modern Unified Court System	Hall of Justice opens	Judicial Center wing added	Family Court Expansion	Business Court Docket Established

* This list is not intended to be exhaustive.

https://en.wikipedia.org/wiki/Timeline_of_Louisville,_Kentucky

<https://louisvilleky.gov/government/human-relations-commission/history>

Did You Know?

Louisville's first courthouse was a log cabin.

The first Jefferson County courthouse, completed in 1784, was a modest 16-by-20-foot log structure—a far cry from today's judicial complex.

The current historic Jefferson County Courthouse took more than 20 years to complete.

Construction began around 1837, portions were in use by 1842, and the building was not fully completed until 1860.

Jefferson County was created just four years after the Declaration of Independence.

That means Jefferson County's legal institutions are almost as old as the nation itself and were built by the generation that lived through the American Revolution.

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<https://courthouses.co/us-states/h-l/kentucky/jefferson-county/>

<https://history.ky.gov/markers/jefferson-county-courthouse>

https://en.wikipedia.org/wiki/Jefferson_County,_Kentucky

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Read more at <https://www.kycourts.gov/Courts/Pages/default.aspx>.



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2026 Annual Carl A. Warns, Jr. & Edwin R. Render Labor & Employment Law Institute, co-sponsored with the UL Brandeis School of Law

Thursday, September 24

This annual program is a cornerstone event for the labor and employment law community, bringing together attorneys, judges, academics, government officials, human resources professionals, union representatives and in-house counsel for a full day of thoughtful, practice-focused programming.

The Institute is designed as an inclusive forum where multiple perspectives are welcomed and explored. Attendees can expect meaningful discussion on current legal developments, emerging workplace issues and practical challenges facing today's practitioners and organizations. The program encourages engagement across the legal, business and academic communities, creating space for candid conversation and shared insight.

Whether you represent management, employees or serve in an advisory or academic role, this program offers valuable takeaways you can put to use immediately in your practice or organization.

Keynote Address Speaker: Hon. Jane B. Stranch, U.S. Court of Appeals for the Sixth Circuit *Judge Stranch serves on the U.S. Court of Appeals for the Sixth Circuit. Before joining the bench, she was managing partner of Branstetter, Stranch & Jennings, PLLC, where she focused on labor and employment law and ERISA litigation. She has taught labor law at Belmont University and frequently speaks on legal and civic issues.*

More information, including session topics, CLE credit details and registration information will be available in the coming weeks.

Thank you to 2026 sponsors: Bricker Graydon Wyatt and Teamsters Local 89.

Conference sponsorship opportunities are available. Contact Lisa M. Murray at lmurray@loubar.org for more information.

Time: 9 a.m. – 6 p.m. — Program
Place: LBA Bar Center (600 W. Main St., Ste. 110)
Price: \$315 LBA Member | \$283.50 Sustaining Member | \$75 Paralegal | \$100 Young Lawyers Section Members | \$157.50 Solo and Small Practice Section Members and Government/Non-Profit Sector Members | \$25 Law Student Member | \$472.50 Non-member
Credits: 7.0 CLE Hours — Pending

LBA REAL ESTATE LAW SECTION CO-HOSTED WITH THE KENTUCKY CHAPTER OF CCIM

2026 Annual Kentucky Commercial Real Estate Conference

Tuesday, December 1

Marisol Miller of Amazon Global Realty is coming to Louisville, and she is headlining lunch.

The Kentucky Commercial Real Estate Conference is a full day built around one idea: put attorneys, brokers, lenders and developers in the same room and let real conversations happen. Sessions stay grounded in what is *actually* moving in the market, from how deals are getting structured to where transactions are stalling and what that means for your clients right now. Miller brings a perspective few rooms ever get access to, and she is yours over lunch.

This is not a seminar. It is the full deal team, once a year, in one place. Come ready to listen, ask questions and leave with contacts you will actually use.

The full agenda is being finalized and will be announced in the coming weeks.

Questions about sponsorship? Contact Lisa M. Murray at lmurray@loubar.org.

Time: 8 a.m. – 5 p.m. — Program
Place: Louisville Marriott East (1903 Embassy Square Blvd., Louisville, KY 40299)
Credits: Pending

Cancellations: Must be received by LBA at least 24 hours in advance for a refund (minus \$10 processing fee). Substitutes allowed (except special events). Technology issues: User error does not qualify for a refund for LIVE webinars. Recordings are NOT included with registration. Separate fees apply for accessing past recordings through the LBA On-Demand Catalog. Please note: Live and on-demand CLE programs have different KBA accreditation requirements.



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The Marshmallow Challenge





None of this happens without the speakers who gave a full day of their time to the cohort, month after month. Thank you for being candid about your own leadership journeys and for helping shape 12 better leaders for the Louisville legal community.

2026 Speakers: Leah Brown Waterman, Matthew Schad, Rebecca Fleischaker, James Beckett, Gretchen Hunt, Whitney Bishop, Hal Hedley, Phillip Longmeyer, Shirrod Le'Det, Donald Woolridge Sr., Hope Zoeller, Shelby Allen, Cameron Fathauer, Dr. Steve Gahagen, Holly Hartman, Jim Vaselopoulos, Yvette Hourigan, Henrietta Pepper, Belinda Gates, Keni Winchester, Kristen Valentine, Rania Basha, Kristen Miller, Jennifer Kleier and Samuel Wardle.

2026 Leadership Academy Inductees:

Matthew P. Dearmond, Gray Ice Higdon; Erika M. Fisher, Gordon Rees Scully Mansukhani; Maci B. Followell, Dinsmore & Shohl LLP; Gregory F. George, Tachau Meek PLC; Michael Grant Grissom, EssilorLuxottica; Brian P. Lee, Stites & Harbison PLLC; William T. Lloyd, Stites & Harbison PLLC; Annie S. Myers, Dinsmore & Shohl LLP; William E. Nixon, Wicker/Brammell PLLC; Annale R. Taylor, Jefferson County Attorney's Office; Sophia N. Wilson, Gordon Rees Scully Mansukhani and Anna C. Zwicky, Napier Gault Shupbach & Stevens PLLC

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Formal Induction This Fall

The 2026 class will be formally inducted at the LBA Member Appreciation & Awards Luncheon on November 19. More details forthcoming.



2026 Presenting Sponsor

Thank you to LMICK for its continued partnership and support of the 2026 LBA Leadership Academy.

Kentucky Senate Bill 50: A Major Overhaul to KY Estate and Trust Law

Kathryn Beck and Joe Zurschmiede

On April 13, 2026, Governor Andy Beshear signed Senate Bill 50 (SB 50) into law, making substantial changes to Kentucky estate and trust law. The legislation comprehensively revises Kentucky's probate, estate and trust statutes by amending multiple KRS provisions and incorporating five key Uniform Law Commission acts.

Because SB 50 includes major changes, some of which took effect immediately, practitioners should undertake a careful and prompt review as it may significantly affect estate planning matters, especially for blended families. While this article provides an overview of some of the key changes in SB 50, it is not intended to be an exhaustive list of all the updates.

Changes to Intestate Succession and Spousal Rights

The first significant change under SB 50 is the restructuring of intestate succession with a primary emphasis on the rights of the surviving spouse. Under the newly amended KRS 391.010, the surviving spouse is placed at the top of the intestacy order for real property with a tiered share structure for blended-family situations.

Below demonstrates intestate succession and inheritance of real property with real-world applications:

- **Surviving Spouse with No Descendants.** When a decedent is survived by their spouse with no descendants, the surviving spouse inherits the entirety of the real property. **For example**, if John dies intestate survived by his spouse, Mary, and no children, under the newly amended KRS 391.010, Mary inherits 100% of John's real property.
- **Surviving Spouse and Joint Children Only.** When a decedent is survived by their spouse and by descendants which are also lineal descendants of the surviving spouse, the surviving spouse inherits the entirety of the real property. **For example**, John dies intestate survived by his spouse, Mary, and two children they share together. Because all descendants are also descendants of the surviving spouse, Mary again inherits 100% of the real property.
- **Blended Family (Decedent Has Non-Spousal Child).** A surviving spouse

inherits one half of the real property if the decedent is survived by the spouse and one or more descendants are not lineal descendants surviving spouse. **For example**, John dies intestate survived by his spouse, Mary, and one child from a prior relationship. Because at least one descendant is not Mary's descendant, Mary inherits 50% of the real property, and the remaining 50% passes to his child.

- **Blended Family (Spouse Has Non-Decedent Child).** The surviving spouse will only inherit one half of the real property in a scenario where the decedent is survived by their spouse and lineal descendants of the marriage but the spouse also has one or more descendants who are not descendants of the decedent. **For example**, John dies intestate survived by his spouse, Mary, and one child they share together. Mary also has a child from a prior relationship (not John's child). In this case, Mary inherits 50% of the real property, and the shared child receives the remaining 50%.

In addition to the change in KRS 391.010,

the elective share and dower/curtesy framework under KRS 391.020 is replaced with a broadened concept of "surplus personalty" and "surplus real estate" that takes into account non-probate assets. Under revised KRS 391.020, the surviving spouse retains the right to receive one half of the personal property ("surplus personalty"), but the statute now recognizes personal property to include property passing via beneficiary designation, transfer (or payable) on death designation, and joint tenancy with right of survivorship. Revocable trust assets and assets subject to a general power of appointment held by the decedent at death are also included in the calculation. While life insurance death benefits are excluded from the definition of surplus personalty, life insurance proceeds payable directly to the surviving spouse are credited against the spouse's share.

Another important update in KRS 391.020 is the implementation of a two-year lookback rule; transfers made more than two years before death are excluded from surplus, while transfers made within two years of death are included.

(Continued on next page)

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(Continued from previous page)

SB 50 also trims the tail end of the prior intestacy descent order. The old provision allowed inheritance to pass indefinitely through remote collateral lines. Under the revised statute, if no kindred exist, the whole estate vests in the Commonwealth under KRS 393.020.

Implementation of The Uniform Electronic Wills Act and Uniform Electronic Estate Planning Documents Act

Under SB 50, Kentucky adopted the Uniform Law Commission's Uniform Electronic Wills Act, making Kentucky one of a growing number of states to recognize wills executed electronically. Under the new statute, an electronic will is valid if it: (1) is a record readable as text at the time of signing; (2) is signed by the testator, or by another person in the testator's physical presence and at the testator's direction; and (3) is signed by at least two witnesses in the testator's physical or electronic presence, provided the witnesses are Kentucky residents physically located in Kentucky at the time of signing.

SB 50 also adopts the Uniform Electronic Estate Planning Documents Act, which extends the validity of electronic execution to nontestamentary estate planning documents, including powers of attorney, trust instruments and advance directives. A document covered by the Act cannot be denied legal effect or enforceability solely because it is electronic.

These two acts significantly expand the universe of documents that may be electronically executed. Before updating execution protocols, practitioners should carefully review the exact statutory definitions, execution formalities, witness-presence requirements, rules for logical association of signatures, record retention and the interaction between KRS Chapter 394 and Kentucky's remote online notarization framework.

Transfer on Death Vehicle Titling

Following a trend of other states in recent years, Kentucky created a transfer-on-death mechanism for motor vehicles, motorcycles, motor homes, trailers and other like-titled property under KRS 186. The new KRS section will allow vehicle owners to designate a single transfer on death beneficiary on their vehicle's title. The designation is revocable during the owner's lifetime and cannot be changed by will or codicil. Unlike most changes under SB 50, this provision does not take effect until January 1, 2028.

Implementation of Modernized Trust Laws - Kentucky Qualified Dispositions in Trust Act, Uniform Directed Trust Act and Uniform Trust Decanting Act

Kentucky has adopted the Uniform Directed Trust Act (UDTA), the Uniform Trust Decanting Act (UTDA) and the new Qualified Dispositions in Trust Act under SB 50, which collectively modernize Kentucky's trust statutes to make it a more attractive jurisdiction for trust planning.

Most notably, SB 50 introduces Kentucky's first domestic asset protection trust statute under the Kentucky Qualified Dispositions in Trust Act. Prior to its enactment, a settlor of a trust in Kentucky could not be a beneficiary of a self-settled spendthrift trust with

creditor protection. Individuals previously seeking this level of protection were required to use a trust situs in states such as Delaware, Nevada, South Dakota or Tennessee.

With the enactment of the UDTA and UTDA, Kentucky repealed its old directed trust and decanting statutes and replaced it with a more comprehensive, detailed and procedurally robust framework. The UDTA's primary feature is its treatment of trust directors as fiduciaries subject to the same rules, liabilities and duties as trustees with respect to the powers they hold. In essence, the UDTA draws a clear line of accountability between the trustee's administrative responsibilities and the director's decision-making authority.

Additionally, the UTDA establishes two tiers of decanting authority based on the trustee's discretionary power over principal distributions. The first tier gives relatively broad modification authority for authorized fiduciaries with expanded discretionary power. Under the second tier, a fiduciary whose discretion is limited to an ascertainable standard (such as health, education, maintenance and support) holds narrower decanting authority.

Practitioners should note that the UDTA and the UTDA apply to both new and existing trusts. Existing trust instruments that contain trust director, trust protector or decanting provisions should be reviewed to assess conformity with the new statutory frameworks and to identify any gaps or conflicts with the new rules.

Conclusion and Practical Implications

In sum, SB 50 represents a comprehensive recalibration of Kentucky's estate and trust framework, with implications for both planning and administration. Its expanded treatment of spousal rights, recognition of electronic estate planning instruments, introduction of transfer-on-death mechanisms for titled property and adoption of modern trust doctrines collectively signal a shift toward greater flexibility, efficiency and national alignment. However, these changes also introduce new layers of complexity that warrant careful analysis and, in many cases, proactive revisions to existing plans. Practitioners should view SB 50 not merely as a statutory update, but as a catalyst for revisiting client strategies to ensure continued effectiveness under Kentucky's evolving legal landscape.

Kathryn Beck is a Member of Stoll Keenon Ogden PLLC. She focuses her legal practice on Business Services and Litigation, as well as Trusts and Estates and Trust and Estate Litigation. Beck serves on the firm's Board of Directors and chairs the Personnel Committee. She received her J.D. from the University of Kentucky College of Law.

Joe Zurschmiede is a 2020 graduate from the University of Louisville Brandeis School of Law and is currently a financial advisor with Cerity Partners where he assists clients in matters related to estate planning, federal/state estate and gift taxation and financial planning.

Beck and Zurschmiede are chair and vice-chair, respectively, of the LBA Probate & Estate Section. ■



 **LOUISVILLE BAR ASSOCIATION**
HUMAN RIGHTS LAW SECTION

Period Par(i)ty

A menstrual equity drive for immigrant girls and women, plus a push to end the pink tax.

Access to menstrual products shouldn't be a privilege. Right now, immigrant girls and women in our community are missing school and struggling to perform at their best because they lack basic sanitary supplies. That's not parity. That's a problem we can solve.

The LBA Human Rights Law Section is hosting a menstrual supply drive to collect pads, tampons and pantyliners for girls and women of all shapes and sizes. Alongside the drive we're supporting the push to end the "pink tax" on menstrual products and advocating for real legislative change.

CELEBRATE

Happy Hour Par(i)ty

Wed., August 26 (Women's Equality Day 2026)

Details to come

DONATE

**Pads, tampons and panty liners
700 W. Jefferson St., Suite 220 and floors 4-6
Amazon wish list available on www.loubar.org**

QUESTIONS?

**Lisa Murray, lmurray@loubar.org
Holly Houston, hollyh@win.net**



2026 Grant Recipients

The Louisville Bar Foundation recently awarded approximately \$105,000 in grants for 11 law-related programs in the Louisville area. These grants were approved by the Board of Directors at its board meeting in June. Additional grants may be awarded in December. Our profession is helping through our collective gifts to the Foundation.

Grants are made possible by the generosity of Louisville area lawyers and law firms. Since its founding in 1982, the Foundation has distributed more than \$4.1 million in grant funds. For more information on the LBF's grants process or to make a charitable contribution in support of the LBF's grantmaking activities, contact Jeff Been at 292-6734 or jbeen@loubar.org.

ARTS ANGLE

First Amendment Labs – \$5,000

Arts Angle, a Louisville-based non-profit, prepares young people for success by educating them on the underpinnings of arts journalism and the First Amendment. It conducts a free, student-led newsroom where high school aged participants research, interview, write, edit and publish original stories focused on arts and civic life. In its First Amendment Labs, students gain hand-on experience and develop skills in communication, accuracy, source verification and accountability. The labs also engage lawyers as mentors and guest speakers to provide real-world insight into freedom of speech, artistic expression and copyright.

CASA OF THE RIVER REGION

Advocacy Academy – \$10,000

CASA provides advocacy services to children with active cases in Family Court. To increase the number of volunteer advocates, CASA must continually train and provide education. The LBF grant will support CASA's Advocacy Academy program and increase its number of trainings to boost volunteers' advocacy skillset and the understanding of interrelated child welfare, justice and medical systems.

CATHOLIC CHARITIES OF LOUISVILLE

Fee Waiver Program – \$15,000

Catholic Charities Immigration Legal Services helps low-income refugees and immigrants living in Kentucky obtain legal assistance. The LBF grant will allow refugees and immigrants to solve immigration and/or employment status issues so to achieve or maintain financial stability and economic independence.

KENTUCKY RELIGIOUS COALITION FOR REPRODUCTIVE CHOICE

Community Educational Forums – \$4,000

The Kentucky Religious Coalition for Reproductive Choice (KRCRC) has a long history of organizing interfaith forums and educational events and a track record of community engagement. Its newest initiative is to provide educational forums to increase public understanding of the constitutional dimensions of reproductive health. The forums will bring together legal experts, faith leaders and reproductive health experts to discuss reproductive rights in the current legal landscape.

KENTUCKY YMCA YOUTH ASSOCIATION

Civic and Leadership Development – \$5,000

Kentucky YMCA Youth Association's conferences bridge classroom civics education with the personal understanding of our state's branches of government. These experiential learning programs allow teens to meet their peers from throughout the state as they learn about the legislative process, understand the judicial and executive branches. The LBF grant will provide funds to make attendance and participation at these statewide conferences available to public school students in low-income communities which otherwise would not have access.

LEAGUE OF WOMEN VOTERS (LOUISVILLE)

Voter Outreach and Education – \$4,067

The League of Women Voters is a nonpartisan organization working to educate the community and to protect and expand voting rights of persons eligible to participate. As part of its community education, the League distributes copies of the U.S. Constitution and a Citizens Guide. The League also provides outreach and education to eligible people on the process for restoration of voting rights made possible through the Governor's Executive Order 2019-003. The LBF grant supports this community education and outreach at high schools, neighborhood events and community festivals.

LEGAL AID SOCIETY

Russell Generational Wealth Project – \$30,000

Legal Aid Society has a long tradition of serving the civil legal needs of low-income individuals and families in Metro Louisville. LBF grant funds will support Legal Aid's Russell Generational Wealth Project, which is a partnership with Russell Place of Promise, a program for first-time, low-income home buyers in the Russell neighborhood. Legal Aid will provide buyers with pro bono volunteer legal assistance to remove barriers to homeownership before closing, represent buyers at closing and provide life-planning documents to protect against the risk of loss of homeownership.

LOUISVILLE BAR ASSOCIATION

Summer Law Institute – \$6,500

The Summer Law Institute is a partnership of the LBA, the University of Louisville Brandeis School of Law and Bellarmine University. The program provides high school students with an opportunity to interact with prominent local attorneys, judges and professors. It is designed to attract talented, ambitious students who are interested in a career in the legal profession. LBF grant monies will cover a portion of the direct costs of the program, thereby keeping the tuition affordable.

LOUISVILLE BAR ASSOCIATION

New Lawyer Academy – \$12,000

The Louisville Bar Association's New Lawyer Academy is a comprehensive six-month program, designed for attorneys with up to three years of experience. This academy aims to equip new lawyers with the skills and knowledge necessary for a successful legal career. The curriculum covers a wide range of topics, addressing both professional and personal development needs. Career development is a key component, covering personal branding, mentoring and partnership tracks. Ethical considerations, including confidentiality and pro bono work, are integrated into the curriculum. The New Lawyer Academy seeks to bridge the gap between law school education and the realities of legal practice, setting new attorneys on a path to long-term career success. LBF grant monies will fund scholarships for solo or small firm practitioners or others who otherwise cannot afford the full tuition.

UOFL BRANDEIS SCHOOL OF LAW

Ackerson Law Clinic Mediation Program – \$10,000

The Ackerson Law Clinic at the University of Louisville's Brandeis School of Law offers students who have completed initial course requirements the opportunity for practical experience by representing clients under the supervision of clinical instructors. The Mediation Program allows students to apply their mediation skills to assist low-income clients on issues which traditionally complicate and delay judicial resolution of Family Court disputes – custody, visitation, child support. LBF funds support this program designed to help the underserved population, to improve the efficiency of Family Courts and to enhance the practical skills of law students.

YMCA SAFE PLACE

YNOW Mentoring Program – \$5,000

YMCA Safe Place focuses on breaking the generational cycle of incarceration by providing youth who have an incarcerated or substance dependent parent with a mentoring program that engages the youth with a one-on-one trusted adult. The mentoring program is designed to help the youth overcome those barriers to success that result from the loss of adult guidance and financial stability. LBF grant funds will support a focused mentoring program for youth impacted by parental substance abuse, overdose and death.

HELP SUPPORT THE LOUISVILLE BAR FOUNDATION

The LBF’s endowment and grantmaking activities are made possible through the support of the legal community. Here are three programs of the LBF where your support can make a difference.

Your \$45 charitable contribution at dues renewal

When you renew your LBA dues each year, you have the option to include a \$45 charitable contribution to the LBF. This goes directly to support the work of the LBF in making grants to the local community. Did you forget to make your contribution this year? Not to worry. You can make a gift anytime to the LBF by simply clicking the link on the LBF webpage: <https://www.loubar.org/foundation-make-a-gift/>. Your gift is always appreciated.

Become a Fellow of the LBF

LBF Fellows Program participants are generous individuals who have made a one-time gift or pledge of \$1,000 or more to the Foundation’s endowment. LBA members may become LBF Fellows by pledging \$250 per year over a four-year period. The Foundation recognizes its Fellows in various promotional materials and invites Fellows to special events throughout the year. Over 375 of your colleagues are LBF Fellows. Join them!

Your law firm or legal department can become a Foundation Partner

To qualify for Foundation Partner status, firms or in-house corporate legal departments (of five or more members) make a \$45 contribution to the LBF for each LBA member attorney in the firm or department. Funds contributed through the Foundation Partners program will help continue the charitable works of the LBF by supporting the grant making operations and increasing the funds available for grant awards. Foundation Partners are recognized in the publications of the LBA and LBF, and on the organizations’ websites.

To learn more about these programs or to make a contribution to the LBF, please contact Jeffrey A. Been, LBF Executive Director, at (502) 292-6734 or jbeen@loubar.org. ■



Allen “Carl” Platt II
Honored as Fellow
of the LBF

Allen “Carl” Platt has been recognized as a Fellow of the Louisville Bar Foundation. The LBF Fellows Program recognizes individuals who have achieved success in the legal profession and whose generous personal gifts have supported the law-related mission of the Louisville Bar Foundation.

Platt has been a lawyer with a general civil litigation practice in Kentucky and Indiana for the past 52 years. He concluded his law practice in 2025 while at Ricketts Law Offices in Louisville. Platt is a graduate of University of Louisville and the University of Louisville Brandeis School of Law. He was admitted to the Kentucky and Indiana bars. During his legal career, Platt served as a real estate closing attorney and as an Assistant District Counsel and trial attorney for the U.S. Army Corps of Engineers, Louisville District.

To learn more about the LBF Fellows Program and how you may become an LBF Fellow, visit the link below or contact the Foundation Director, Jeff Been, at jbeen@loubar.org or (502) 292-6734.

To become a Fellow visit <https://www.loubar.org/foundation-fellows-program/>.

AOC UPDATES LEGAL FORMS

As a result of recently enacted legislation, the Administrative Office of the Courts (AOC) has updated several AOC legal forms impacting several areas of law, including probate and wage garnishment. The legislation necessitating these changes went into effect on July 15, 2026. In total, 23 forms currently available for public use have been revised, and two forms have been created. Below is a list of each of the forms, indicating whether the form was revised or created. Please review the list to determine whether these forms are utilized in your legal practice and take action accordingly.

The new versions of the forms listed below are available for use via the KCOJ’s public website Legal Forms page, located here:
<https://www.kycourts.gov/Legal-Forms/Pages/default.aspx>.

The pre-July 15 versions of these forms are now obsolete. If you or your office downloaded and/or printed the pre-July 15 versions of the forms, please destroy and begin using the revised versions.

1. AOC-150 Notice of Rights to Assert Exemption to Wage Garnishment (Rev. 7-26)
Action taken: Revision
2. AOC-150.5 Affidavit and Supplemental Order of Wage Garnishment (Civil) (Rev. 7-26)
Action taken: Revision
3. AOC-275.3 Order of Protection DVO/Amended DVO/IPO/Amended IPO (Rev. 7-26)
Action taken: Revision
4. AOC-296 Name Change Order (Rev. 7-26)
Action taken: Revision
5. AOC-411 Private Probation Agency Requirements and Agreement (Rev. 7-26)
Action taken: Revision
6. AOC-446 DVO/IPO (Following Stalking/Sexual Assault/Assault Conviction) (Rev. 7-26)
Action taken: Revision
7. AOC-495 DUI (Guilty Plea) (Rev. 7-26)
Action taken: Revision
8. AOC-715 Order Appointing Counsel, Setting Preliminary Hearing, and Setting Examination (Rev. 7-26)
Action taken: Revision
9. AOC-805 Petition for Probate of Will; and/or Appointment of Executor/Administrator (Rev. 7-26)
Action taken: Revision
10. AOC-805.1 Order Probating Will; or Probating Will and Appointing Executor/Administrator (Rev. 7-26)
Action taken: Revision
11. AOC-805.2 Order Appointing Administrator (No Will) (Rev. 7-26)
Action taken: Revision
12. AOC-808 Financial Disclosure (Rev. 7-26)
Action taken: Creation
13. AOC-809 Declaration of Oath of Fiduciary (Rev. 7-26)
Action taken: Creation
14. AOC-815 Affidavit of Waiver of Appointment of Fiduciary (Rev. 7-26)
Action taken: Revision
15. AOC-825 Fiduciary Bond (Rev. 7-26)
Action taken: Revision
16. AOC-841 Inventory and Appraisement of Estate (Rev. 7-26)
Action taken: Revision
17. AOC-845 Notice of Failure to File (Rev. 7-26)
Action taken: Revision
18. AOC-846 Settlement of Estate (Rev. 7-26)
Action taken: Revision
19. AOC-850 Application for Informal Final Settlement (Rev. 7-26)
Action taken: Revision
20. AOC-850.1 Informal Final Settlement Order (Rev. 7-26)
Action taken: Revision
21. AOC-851 Affidavit of Waiver of Formal Settlement (Rev. 7-26)
Action taken: Revision
22. AOC-JV-31.1 Disposition Order Public Offense (Rev. 7-26)
Action taken: Revision
23. AOC-JV-35 Juvenile Detention Order Status Offense (Rev. 7-26)
Action taken: Revision
24. AOC-JV-41 Affidavit and Truancy Evaluation Form (Rev. 7-26)
Action taken: Revision
25. AOC-JV-50 Adjudication Order (Public and Status Offense) (Rev. 7-26)
Action taken: Revision

DIVERSITY AND INCLUSION CORNER

August centers economic equity, women's rights and Indigenous recognition. For lawyers, each of these observances has a direct connection to the profession. The history we have built on, the gaps that remain and the clients we serve.

ALL MONTH AUGUST 2026

Black Business Month

Black Business Month honors the 2.6 million Black-owned businesses in the United States and calls attention to the structural barriers that continue to limit equitable access to capital, contracts and professional networks. For lawyers and law firms, this month is a prompt to look honestly at where business goes. Who are your referral partners? Who do you hire as vendors, consultants and co-counsel? Economic inclusion does not happen by default. It requires deliberate choices at every level of a practice, from the vendors who stock your breakroom to the firms you send clients to when a matter falls outside your expertise.

AUGUST 9 • UNITED NATIONS

International Day of the World's Indigenous Peoples

Designated by the United Nations and observed each August 9, this day recognizes the rights, histories and contributions of Indigenous communities worldwide. In the legal profession, Indigenous rights law is an active and consequential practice area. More broadly, this day invites reflection on land, sovereignty and the legal frameworks that have historically been used both to protect and to harm Indigenous peoples.

AUGUST 26 • 19TH AMENDMENT

Women's Equality Day

August 26 marks the 1920 certification of the 19th Amendment, granting women the right to vote. For the legal profession, Women's Equality Day is more than a historical marker. Women now make up the majority of law school graduates in the United States, yet remain underrepresented in firm leadership, the judiciary and equity partnership. The day is a useful prompt to examine whether the workplace culture at your firm reflects the equality it marks on the calendar.

PUTTING IT INTO PRACTICE

Six concrete actions to bring August's awareness focuses into your day-to-day practice.

- 1 Audit your referral network**
This month, take a look at who you refer clients to and who you hire. If Black-owned firms, vendors and co-counsel are not represented in your network, ask why and take a concrete step to change it.
- 2 Go beyond the post on August 26**
Women's Equality Day is a legal milestone worth knowing in full. Share the history with your team. Then follow it with a real question: do the women at your firm have equitable access to leadership, origination credit and mentorship?
- 3 Learn about land acknowledgment**
In recognition of Indigenous Peoples Day on August 9, research whether a land acknowledgment is appropriate for your firm's context. Done thoughtfully, it is a meaningful practice. Done carelessly, it is not. Take the time to do it right.
- 4 Review your client-facing language access**
National Language Month is a practical prompt. Are your intake forms, client letters and website accessible to non-English speakers? Language access is not a courtesy. For many clients, it is the difference between getting help and going without.
- 5 Intentionally support a Black-owned business this month**
As a firm, not just individually. Catering for your next team lunch, printing for your next event, supplies for your office. The choices are available. Black Business Month is the prompt to make them.
- 6 Acknowledge your firm's pro bono work in humanitarian contexts**
World Humanitarian Day on August 19 is a good moment to recognize lawyers at your firm who provide pro bono representation to refugees, asylum seekers and displaced individuals. If that work is not happening, ask how to start.

The D&I Committee works year-round to bring meaningful programming and honest conversation to the LBA and the Louisville legal community. New members from any practice area and experience level are welcome. The only requirement is a genuine commitment to the work. If this month's focuses sparked something for you, we'd love to hear from you. Contact Lisa M. Murray at lmurray@loubar.org to learn more.

LBA Diversity & Inclusion Committee co-chaired by
Michelle L. Duncan, Dinsmore & Shohl, LLP and John E. Selent, Dinsmore & Shohl, LLP

This monthly feature is prepared by the LBA Diversity & Inclusion Committee. Questions, submissions or ideas for future columns are welcome. Contact Lisa at lmurray@loubar.org.



LBA AWARD SEASON

Know a Luminary of our Legal Community?
Nominate them for an LBA Award!

The LBA is seeking nominations for its highest honors—the annual LBA Awards. Each year, we recognize our members who personify the best of our legal community with their work and professionalism. Do you know someone who deserves recognition? Read below for a description of each award and how you can make a nomination.

**JUSTICE MARTIN E. JOHNSTONE SPECIAL
RECOGNITION AWARD**

**JUDGE BENJAMIN F. SHOBE CIVILITY &
PROFESSIONALISM AWARD**

**ROBERT & FRANK E. HADDAD JR.
YOUNG LAWYER AWARD**

JUDGE OF THE YEAR AWARD

PAUL G. TOBIN PRO BONO SERVICE AWARD

**DANIEL M. ALVAREZ CHAMPION FOR
JUSTICE AWARD**

JUDGE RICHARD A. REVELL FAMILY LAW AWARD

Quick and easy nominations can be made online here:
www.loubar.org/lba-annual-awards/

Nominations are due by Thursday, October 8.

MEETING ANNOUNCEMENTS

LBA Committee Meetings

- Diversity & Inclusion Committee: Wed., August 12 | 4 p.m. via Zoom
- CLE Committee: Thurs., August 13 | 1:30 p.m. via Zoom
- Health & Wellness Committee: Thurs., August 20 | Noon via Zoom

If you are interested in joining any of these committees, please contact Lisa Murray, lmurray@loubar.org. ■

Association of Legal Administrators

The monthly chapter meeting of the Kentucky Association of Legal Administrators will be held in person on Thursday, August 13, beginning at 11:45 am at FBT Gibbons LLP (400 West Market, Suite 3200, Louisville, KY 40202.) **Please RSVP by registering online at www.ky-ala.org.** Any questions, please contact the Kentucky ALA Board at board@ky-ala.org. ■

IN MEMORIAM



Justice Martin E. Johnstone, 77, died on July 17, 2026, at home with family at his side.

Judge Johnstone was the epitome of a public servant, a distinguished and highly respected jurist who served on the Kentucky Supreme Court from 1996 until his retirement in 2006, ending his storied judicial career as Associate Chief Justice. He holds the unique historical distinction of being the first judge in Kentucky history to be elected to all four levels of the state's unified Court of

Justice, beginning with his first election to the bench in 1975. Notably, he was chosen by his peers for leadership positions on every level of the court system in which he served.

Judge Johnstone was renowned for his professionalism, his judicial integrity and his courtroom temperament and demeanor. During his three decades on the bench, Judge Johnstone received numerous awards recognizing his outstanding service and leadership, including Judge of the Year from four different professional organizations in multiple years. The LBA also named one of its most prestigious awards after him: the Justice Martin E. Johnstone Special Recognition Award.

He was a proud graduate of the University of Louisville Brandeis School of Law, which later presented him with the prestigious Laurence Grauman Award. He was valued as a mentor to many, especially recent law school graduates and attorneys newly admitted to the bar. His advice, guidance and the standards he set and modeled made a significant difference in the quality of practice in our courts.

While the extent of Judge Johnstone's service to Kentucky's legal profession and our justice system is unparalleled and the impact of his contributions unmatched, perhaps his most lasting legacy is reflected by the sentiment shared by everyone with whom he interacted, no matter how often or in what capacity, namely that he was a good and decent man with a genuinely big heart. Certainly he will be remembered for all his professional achievements, but equally for his kindness, his generosity of spirit, his bright and engaging personality, his sense of humor and fun-loving ways, and his enjoyment of good times with family and friends.

Read his full obituary here: <https://www.courier-journal.com/obituaries/psbn1524476>. ■



Retired Judge Richard Arthur Revell, 95, passed away on August 2nd.

Judge Revell graduated from the UofL Louis D. Brandis School of Law. While there, he worked as a night librarian to help pay for his tuition; served as President of Phi Alpha Delta Law Fraternity, editor of the Louisville Law Review, Law School editor of the UofL Cardinal and of the Thoroughbred; and was elected to Omicron Delta Kappa Honor Society. He met his wife Peggy while at UofL, and they married in 1955.

As a member of the Louisville (LBA), Kentucky and American Bar Associations, Judge Revell began practicing law in 1957, and was appointed as a Jefferson County Juvenile Court Judge. In 1971, he was appointed as a Jefferson County Circuit Court Judge, where he was re-elected through numerous elections. In 1985, Judge Revell was nominated to the Federal Bench by President Gerald R. Ford, but that nomination was blocked by Senator Wendell Ford.

During his time on the bench, Judge Revell was named the LBA's Judge of the Year, was awarded the Henry V. Pennington Award, was named a U of L Distinguished Alumni, was elected to The Law Club and was a member of The American Judicature Society. The LBA also named one of its most prestigious awards after him, the Judge Richard A. Revell Family Law Award.

At the request of the Chief Justice of the Kentucky Supreme Court, Robert Stephens, Judge Revell served as Chief Judge of the first Family Court in Kentucky in 1991. He retired from the bench in 1995, was awarded the Chief Justice Special Services Award, and continued to work in the law field as a mediator until 2016 when he was diagnosed with cancer.

Judge Revell was very active in the community, served in many different capacities on boards and in classrooms and won many awards and various accolades.

Read his full obituary here: <https://www.courier-journal.com/obituaries/psbn1534669>. ■

MEMBERS *on the move*



Edwards

Gwin Steinmetz & Baird PLLC is pleased to welcome **Ashton Edwards** as its newest associate attorney. Ashton, a Louisville native, earned both her undergraduate degree and J.D. from the University of Kentucky and was admitted to the practice of law in 2026. While in law school, she received multiple awards including the Judge Jennifer B. Coffman Judicial Internship Award. Ashton will be a valuable addition to the firm's Long-Term Care Practice Group.

Visually Impaired Preschool Services (VIPS) recently elected Stites & Harbison attorney **Paige E. Riley** to its Board of Directors. She will serve a three-year term. VIPS is a nonprofit that provides early intervention services to Kentucky and Indiana's youngest children with blindness and low vision. Services include evaluations, in-home visits and access to resources that help parents and caregivers better understand and support their child. Riley is a member of the firm's Torts & Insurance Practice Service Group, and handles a wide variety of litigation matters. She routinely represents health care providers in complex medical malpractice cases and represents nurses, nursing homes, long-term care facilities and a variety of allied health professionals in actions alleging significant personal injury or death. Her practice also includes product liability, professional liability, premises liability and motor carrier litigation. Outside of the firm, Riley is active in a variety of professional and community organizations.

Legal 500 has recognized the following Stites & Harbison, PLLC attorneys in its inaugural US City Elite 2026 rankings for Kentucky. Legal 500 US City Elite is a city-focused ranking series that recognizes exceptional attorneys practicing in local and regional US markets. The rankings focus on regional powerhouse firms that operate at the highest levels in their respective legal markets. Stites & Harbison's honored Kentucky Members (Partners) include: **Frederick (Reggie) Bentley, Bethany A. Breetz, Michael E. Kleinert, Chadwick A. McTighe, David B. Owsley II, T. Morgan Ward, Jr., Brian A. Cromer, Nicholas J. Lococo and Rachel Owsley.** ■



Riley

What have you been up to lately?

Did you know that Members on the Move announcements are a member perk and FREE of charge? Let us know what you've been up to! Send announcements to Kim Kasey, kkasey@loubar.org.

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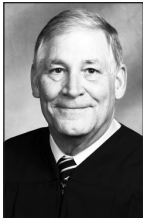
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