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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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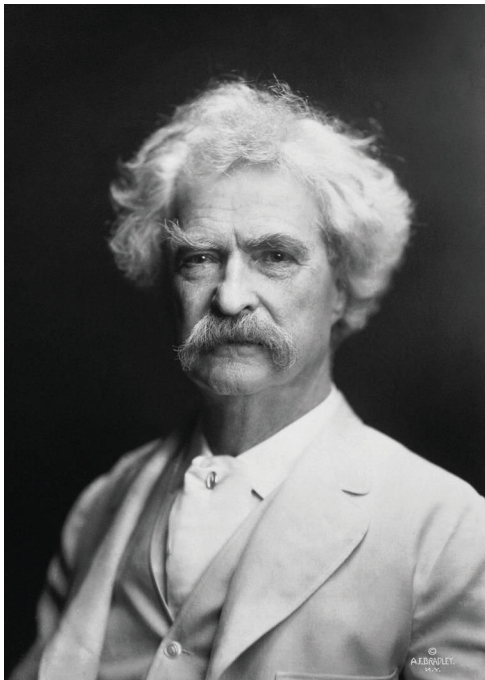


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Loyalty, Honesty and the Rule of Law

As I write these President's Page submissions each month, I agonize on what to write about. I feel that while it is "my" page as president, I should steer away from topics that could polarize or upset our members. But this month I might just not worry about that.

In my previous President's Pages, I have highlighted each month's significance. We will continue to do that as we recognize that there are more than 20 different "months" for August. Some of them, in no particular order of importance, are Black Business Month, National Golf Month, Happiness Happens Month, National Sandwich Month, International Peace Month and National Dog Month.



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...Mark Twain said,
"Never discuss politics and
religion in polite company."

He also said, "Loyalty to
country ALWAYS. Loyalty to
government, when it
deserves it."

said, "Never discuss politics and religion in polite company." He also said, "Loyalty to country ALWAYS. Loyalty to government, when it deserves it." The Cambridge Dictionary defines polite company or society as "people who have been taught how to behave in a socially correct way." Since I was taught to speak up for the underdog, defend myself and my siblings as necessary and vote my conscience, I do not think that definition feels right for me. I agree with the proverb, "honesty is the best policy."

This month's edition of *Bar Briefs* is the Taxation and Bankruptcy edition, featuring articles on both of those subjects.

For many of us, August also represents the month where summer ends and school starts. As a child, I remember going back to school after Labor Day. Some of my childhood friends were still on vacation during Labor Day weekend. A few missed the first week of school and no one was ever worried about missing class or homework.

August is also the month that many universities and colleges start their fall semesters. For many students, it is the first time that they are away from their families, their support systems and friends. It is their first foray with independence and what they should do—or not do—and still stay out of trouble.

I went to college in Miami, Florida—not a small place to grow up in or study, and a place surrounded by temptations. I am proud to say I was never in trouble or arrested. I was a member of student government organizations and other groups that sometimes participated in sit-ins and peaceful protests. I worked on political campaigns and helped manage a couple of them.

I have been reminded more than once recently that Mark Twain

In recent months, the Louisville Bar Association has issued a statement regarding the importance of the rule of law, <https://www.loubar.org/louisville-bar-association-issues-statement-on-protecting-the-rule-of-law/>.

The LBA has also made a statement standing in solidarity with other bar associations, including the American Bar Association, supporting the rule of law, <https://www.loubar.org/louisville-bar-association-supports-collective-bar-association-on-the-rule-of-law/>.

Additionally, we have signed on to an editorial supporting the Legal Services Corporation and funding for the Legal Aid Society. In full disclosure, I also serve on the Board of the Legal Aid Society.

The LBA has formed a Civics Education Committee to pursue initiatives that explain and support of the rule of law, including community outreach and education. We are seeking individual member participation on this project. If you'd be interested in helping our efforts, email Executive Director Kristen Miller at kmiller@loubar.org.

I get questions from non-lawyers about what the Rule of Law is and why it matters. I was asked by someone who I considered very well educated (multiple degrees) what is the "big deal" about these "checks and balances."

How do we define that term? According to the United States Courts' website, the definition of the rule of law is:

Rule of law is a principle under which all persons, institutions and entities are accountable to laws that are:

- Publicly promulgated
- Equally enforced
- Independently adjudicated
- And consistent with international human rights principles.

<https://www.uscourts.gov/educational-resources/educational-activities/overview-rule-law#:~:text=Rule%20of%20law%20is%20a,with%20international%20human%20rights%20principles>.

My family emigrated to the United States in the 1950s to escape a dictatorial country. My father served in the military during the Vietnam War, and I and my siblings were born in the United States. He and my mother worked many jobs to maintain our growing family. My mother worked at different factories. My father was a union organizer (I walked a picket line when I was four years old), a salesman for duplicator company and a fiberglass bathtub manufacturer, and ultimately, they became business owners. He used to say that the United States was the greatest country in the world. It saddens me to see what is happening in our country and shudder to think what could happen to others like my father because they are Hispanic.

I just hope the American people stand up for the rule of law, the separation of powers and the Bill of Rights. To paraphrase Mark Twain, our loyalty should be to our country, not necessarily the government or politicians. That is the end of the editorial on my President's Page, and I hope no one is offended.

Just a reminder, we are finalizing plans for our 125th Anniversary celebration, a Picnic Party, details will be shared soon. It is a family-friendly event and I hope to see you all there.

Photo by A.F. Bradley, New York - steamboattimes.com, Public Domain, <https://commons.wikimedia.org/w/index.php?curid=11351079>.



Maria
Maria A. Fernandez
LBA President



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& STEMPIEN PLLC



THANK YOU TO EVERYONE WHO JOINED US
FOR THE SUMMER ASSOCIATES AND NEW
ADMITTEE RECEPTION AT THE BAR CENTER.

It was a fantastic evening of connection and celebration as we
welcomed new faces to the legal community and celebrated
125 years of the LBA.

A special thank you to Josh Logan for providing the perfect
soundtrack for the evening and to our generous sponsors for
making this event possible.

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If you're a student or newly admitted attorney and haven't
yet signed up for your complimentary LBA membership, we
invite you to join today and take full advantage of everything
the LBA has to offer.

We're so glad you could be part of this special evening.

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Observations from the Bench: Tips from Recent Trials

Chief Judge Ann Bailey Smith

“

The attorneys who tried these seven cases certainly were a credit to the legal profession and I felt proud on behalf of them as they advocated for their clients in front of these juries.

Seven jury trials in 13 weeks in Circuit 13. Now, I'm not claiming that is a record number of trials in circuit court, because it most assuredly is not. But it was a lot. It was both exhilarating and exhausting. The first of the seven took place the first full week of March and took two weeks to try. The last of the seven was tried the first week of June and lasted only two days. Each one was interesting in its own way. Four of the trials were civil and three were criminal. There was no duplication of attorneys in any of the trials. Large firms, medium sized firms and solo practitioners were represented in the civil trials while both public defenders and a private attorney represented the defendants in the three criminal trials. All of the attorneys were well-prepared and enthusiastic about presenting their case before a jury.

The first trial was a medical malpractice case. A man was seriously injured in a car accident and treated at University of Louisville Hospital, but did not recover. His estate, his wife and his minor children brought this lawsuit against the treating physician alleging negligence and loss of consortium. The jury returned a verdict in favor of the doctor.

Trial number two was a criminal case where the defendant was indicted for possession of a handgun by a convicted felon. The entire incident was captured on bodycam video. The defendant was found guilty and sentenced to 10 years after also being found guilty of being a persistent felony offender.

The next trial was a civil case where the plaintiff, an elderly man, was visiting Louisville from Virginia with some family members to watch his granddaughter play in an AAU tournament. He stayed at a local hotel and, after going for a swim in the indoor pool, he exited through a door where the hydraulic hinge came loose and hit him in the head, causing injury, both physical and mental. The jury returned a verdict for the Plaintiff awarding \$440,000 for his damages.

The fourth trial was a homicide where the defendant was found guilty of wanton murder for shooting his girlfriend in the head in her

apartment. He was sentenced to 35 years in prison.

Next up was a bad faith insurance case where the insurance company challenged a widow's claim to her deceased husband's life insurance policy which was, in fact, not contestable. After a four day trial, the jury returned with a verdict for the plaintiff for \$8 million.

Trial number six was another murder trial where the offense was captured on a co-defendant's (who pleaded guilty and testified for the prosecution) home security cameras. The shooter's face was covered by a mask, but the defendant's cellphone data put him in the area where the shooting occurred and established there were a number of calls between the defendant and the co-defendant on the day of the shooting, which ended shortly before the murder. The defendant was convicted and settled the sentencing for 30 years.

The final jury trial involved a claim by the plaintiff, an employee, against a used car dealership for workplace discrimination. The jury rejected the claim finding for the defendant.

The attorneys who tried these seven cases certainly were a credit to the legal profession and I felt proud on behalf of them as they advocated for their clients in front of these juries. They were well-prepared and presented their cases clearly and, for the most part, concisely. Here are some of my takeaways from presiding over these trials:

1. Voir Dire – pay close attention to the information provided on the jury qualification forms and ask follow-up questions. Information is included about the juror's employment as well as the spouse's employment. This could be important information to take into account based on the particular facts of your case or to provide insight into the jurors' mindset.

Also, the juror or a family member may have been involved in a court case; follow up questions could lead to critical information to consider as to whether to exercise a preemptory challenge with this juror.

2. Also as to voir dire – questions should be designed to draw out information that you can then use in determining whether to make a strike for cause or, if that's not successful, to use a preemptory challenge. In other words, why inquire about whether circumstantial evidence will be given as much weight as testimonial evidence if there is no circumstantial evidence in the case?

3. In one of the trials, there were a number of documents which the lawyer intended to introduce as exhibits through several of the witnesses. The attorney put together a binder with all of these documents tabbed and numbered. The binder was left at the witness stand and,

when the attorney was ready to have the document identified, he would ask the witness to turn to a certain numbered tab. This kept the attorney from having to repeatedly ask for permission to approach the witness to hand the document to the witness. Not only did this save time but it eliminated the disruption in the questioning of the witness by having to repeatedly walk between the counsel table and the witness stand.

4. Don't snipe at each other, particularly not in front of the jury. For most of the trials, opposing counsel appeared to get along well with each other while still strongly advocating their side of the case. In fact, in several of the trials, the attorneys assisted each other with the audio/visual equipment. But in one of the trials, the attorneys became personal with their attacks on each other while at the bench and, even after I ruled on the underlying objection, they continued to snipe at each other as they returned to their respective tables. This not only does not look good to jurors but the animosity does not assist the jury in making its decision.

5. Use of PowerPoint and courtroom technology – juries expect to see surveillance videos, bodycam footage or at least photographs and documents displayed on the large screens in the courtroom. In most of the seven trials, there was significant use of technology to reinforce the points made during direct and cross-examination. It becomes very noticeable when one side uses technology to their advantage while the other side fails to use it at all. One point of caution, however, from my observation is that the closing argument loses some impact when the jurors are reading along on the screen word for word as the attorney delivers the summation. The attorney spends more time looking at the screen than at the jurors.

I hope the takeaways from my trials this year will be helpful to you as you prepare for your next trial. I look forward to seeing you in action in Circuit 13.

Chief Judge Ann Bailey Smith presides in Division 13 of Jefferson Circuit Court. ■



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Translating Tax: How the *Kovel* Doctrine Extends Privilege to Experts in Tax Litigation

Helen V. Cooper and Lucy McAfee

For many, tax is like a foreign language. Attorneys frequently leverage expert assistance to help “translate” complex tax concepts. In litigation, this assistance can be vital to understanding the underlying transaction. However, without careful planning, the retention of experts can inadvertently waive privilege. The *Kovel* Doctrine bridges the gap between privileged communications and expert assistance.

In 1961, the Second Circuit recognized that attorney-client privilege could be extended to various experts, and specifically tax accountants. *United States v. Kovel*, 296 F.2d 918 (2d Cir. 1961). Since then, the majority of courts have adopted the *Kovel* Doctrine to the attorney-client privilege, work product doctrine or both. *See, e.g., Dublin Eye Assocs., P.C. v. Mass. Mut. Life Ins. Co.*, No. 5:11-CV-128-KSF, 2013 WL 653541 (E.D. Ky. Feb. 21, 2013). There are limitations to the doctrine so it is important for practitioners to understand the boundaries to effectively preserve privilege.

Kovel and its Progeny

Kovel was a former IRS agent who used his accounting skills in connection with his law firm employment. *Kovel*, 296 F.2d at 919. Under attorney supervision, he engaged in confidential client communications. One of these clients, Hopps, was the subject of a grand jury investigation related to federal income tax violations. *Id.* *Kovel* was called by the grand jury to testify against Hopps, but at the direction of his employer, asserted that attorney-client privilege barred him from answering certain questions. Despite pressure from the assistant United States attorney and district judge, who both contended that the attorney-client privilege did not apply to accountants, *Kovel* remained firm and was held in contempt of court. *Id.* at 919–20.

The Second Circuit evaluated *Kovel*’s claims by looking to the basic elements of the attorney-client privilege from Wigmore’s Code of Evidence:

- (1) Where legal advice of any kind is sought, (2) from a professional legal adviser in his capacity as such, (3) the communications relating to that purpose, (4) made in confidence (5) by the client, (6) are at his instance permanently protected, (7) from disclosure by himself or by the legal adviser, (8) except the protection be waived, save (7); literally, none of them is within (7) since the disclosure is not sought to be compelled from the client or the lawyer.

Id. at 921–22 (quoting 8 Wigmore § 2292, Evidence; 53 A.L.R. 369 (Originally published in 1928)). Analogizing that “[a]ccounting concepts are a foreign language to some lawyers in almost all cases, and to almost all lawyers in some cases,” the Second Circuit reasoned that:

[t]he presence of an accountant...while the client is relating a complicated tax story to the lawyer, ought not to destroy the privilege, any more than would that of the linguist in the second or third variations of the foreign language...the presence of the accountant is necessary, or at least highly useful, for the effective consultation between the client and the lawyer which the privilege is designed to prevent.

Id. at 922. It is “vital to the privilege” that the communication in question “be made in confidence for the purpose of obtaining legal advice from the lawyer.” *Id.* Any communications in furtherance of accounting services or advice of the accountant would be outside the scope of the privilege. *Id.* The result is a fact-specific inquiry into the nature of any potentially privileged communication.

More recently, the U.S. District Court for the Middle District of Louisiana weighed in on the limits of the *Kovel* Doctrine. *See United States v. Melissa Rose Barrett*, No. 3:22-cr-00071 (M.D. La. 2023). In *Barrett*, a law firm employed an accountant who prepared, signed and submitted a collection information statement to the IRS on behalf of a client. The forms omitted material information about the client’s finances, which became the subject of an indictment for criminal tax evasion. The government subpoenaed the accountant’s testimony, and her employer filed a motion to quash based on the attorney-client privilege and work product doctrine.

In a decision that provides some insight into how a court will evaluate the *Kovel* Doctrine, the *Barrett* court denied the motion to quash because the firm did not show that the potentially privileged communications involved (1) translating “complex tax terms into a form intelligible

(Continued on next page)



The Louisville Bar Association recently concluded its annual Summer Law Institute (SLI), held from Saturday, June 14, through Saturday, June 19, 2025, at the Bar Center. This immersive program welcomes local high school students eager to explore a career in law. Throughout the week, participants engaged in dynamic panel discussions, toured the courthouse and capped off their experience by presenting a mock trial.

Admission to SLI is competitive; students apply and are selected based on their GPA, letters of recommendation and a submitted essay. This year, we proudly accepted 32 students, with more than half of the class being either recent May graduates or rising seniors.

This invaluable program is made possible thanks to a generous grant from the Louisville Bar Foundation. Their support allowed us to award a record 12 scholarships, ensuring that tuition costs are not an obstacle for families who might otherwise be unable to afford this enriching experience.

We extend our sincere gratitude to the following speakers who generously dedicated their time to share their expertise with our students:

Benjamin Barberie	Amy D. Cabbage	Sean P. Oates
Hon. Joan L. Byer	Seth A. Gladstein	Heend S. Sheth
Jason Cebe	Amy I. Hannah	Nicholas Stiegemeyer
Hon. A.C. McKay Chauvin	Zoe Jessie	Claude O. Tackett
Ryane E. Conroy	Deana Lively	Erin C. White
Jasmine Cox	Marc S. Murphy	Milja Zgonjanin

Finally, a huge thank you to the Bellarmine Mock Trial Team for dedicating almost 20 hours of time to help our students prepare for their mock trial. We also extend our gratitude to **Judge Yvette De La Guardia**, Jefferson District Court, Div. 4, and **John Young**, Executive Director of the Legal Aid Society, for presiding over the court!

Bellarmine Mock Trial Team
Shamir Patel
Jack Wathen
Norah Wulkopf

“I didn’t know how many opportunities there were in the legal field and the importance of each part. Learning this surprised me as I was able to learn about how they all connect and really figure out what and who I want to be in the future by looking at all the opportunities.”
- SLI participant, 2025

to a lawyer at the lawyer's behest," or (2) the accountant's work was intended to aid in anticipated litigation. Instead, the court reiterated that no accountant-client privilege applies under federal law and that to the extent that the *Kovel* Doctrine extends the attorney-client privilege or work product doctrine to accountants, such extension is necessarily narrow. Further, the defendant in the criminal tax evasion case filed a similar motion asserting privilege under the *Kovel* Doctrine, which was denied because confidentiality was not maintained when the forms were disseminated to the IRS. The defendant also waived privilege by asserting as a defense that the forms were incorrectly filled out by the accountant.

Application of the *Kovel* Doctrine

First, all the elements of the attorney-client privilege or work product doctrine must apply. Thus, if one of the exceptions to either is present (e.g., confidentiality is not maintained) then the *Kovel* Doctrine is inapplicable. Next, a court will generally analyze (1) whether the expert assisted in providing legal advice, (2) whether the expert interpreted complex subject matter for the attorney

and (3) whether the attorney directed the actions of the expert. As with attorney-client privilege, any privilege extended by the *Kovel* Doctrine belongs to the client. *United States v. Goldberger & Dubin, P.C.*, 935 F.2d 501, 504 (2d Cir. 1991). The burden is on the party asserting the privilege to show that the *Kovel* Doctrine applies. See *United States v. BDO Seidman*, 337 F.3d 802, 811 (7th Cir. 2003). "A blanket refusal to tes-

tify [or produce evidence] is unjustified," instead the party asserting the privilege must establish the privilege "with respect to each question sought to be avoided." *United States v. Schmidt*, 343 F. Supp. 444, 446 (M.D. Pa. 1972), *supplemented*, 360 F. Supp. 339 (M.D. Pa. 1973) (¶ added).

There is an exception to attorney-client privilege for communications made with respect to preparation of a tax return. See, e.g., *United States v. Davis*, 636 F.2d 1028, 1043 (5th Cir. 1981). However, some courts have recognized that privilege may apply to legal advice with respect to a tax position taken on a return or information contained in workpapers that is not intended to be disclosed. *Id.* at 1043, n.17; see also *United States v. Baucus*, 377 F. Supp. 468, 471 (D. Mont. 1974). Thus, if tax return preparation is conducted in connection with anticipated litigation, it is important to delineate between data entry and tax advice. The intention behind workpapers should be carefully documented.

The *Kovel* Agreement

While not required, many practitioners execute a *Kovel* Agreement to memorialize the relationship between the attorney and the expert. See *Schmidt*, 343 F. Supp. at 445. The agreement may serve as evidence of the expert's relationship with the attorney, so that if necessary, the attorney can assert that any communications to which the expert is privy are privileged. Likewise, the agreement binds the expert to terms that support the extension of privilege.

The scope of the *Kovel* Agreement should be clearly defined to demonstrate that the expert will assist in the rendering of legal advice. It should indicate that the expert will take the direction solely from the attorney. Additionally, there should be terms clarifying that the attorney owns all the expert's analysis and workpapers in connection with the engagement. The expert should be restricted from breaching confidentiality or providing work product to third parties outside the permission of the attorney or pursuant to a court order. Finally, the expert should be paid by the attorney, although such payment is often contingent upon the receipt of funds from the client. Where the expert has already been engaged by the client for routine tax services, a separate *Kovel* Agreement can avoid involuntary waiver of privilege.

Best Practices for Preservation of Privilege

All potentially privileged documents should be segregated. Proper labelling and Bates-stamping can mitigate problems with proof that arise through the co-mingling of privileged and non-privileged documents. Any communications between the expert and the client should include the attorney. Maintaining these best practices supports the extension of privilege to an expert under the *Kovel* Doctrine.

Helen V. Cooper is a Partner in Dentons' U.S. Tax group. Her practice focuses on tax controversy and litigation. Before joining Dentons, Helen worked at a Big Four accounting firm, serving on engagement teams that assisted taxpayers with accounting methods planning, the research and development credit, and tax controversy. She is also a Certified Public Accountant.

Lucy McAfee is a member of Dentons' Tax group, where she assists with tax planning, tax controversy matters, state and local taxation and more. She is also a member of the Corporate group, where she assists with business formation and development, regulatory issues and due diligence. ■



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LEGAL AID SOCIETY'S SUMMER 2025 STUDENTS



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Volunteer, Working with Volunteer Eviction Defense Program / University of Louisville, Louis D. Brandeis School of Law

"Before law school, I was a freshman math teacher at Southern High School, where many of my students faced housing

insecurity and other systemic barriers that deeply impacted their lives. Working with LAS allows me to address those same structural issues more in a more direct way."



TAYLOR GRIFFITH

Wedekind Fellow working with Economic Stability Program / University of Louisville, Louis D. Brandeis School of Law

"I believe everyone deserves access to justice, regardless of their financial situation. Legal Aid Society's commitment

to serving underrepresented communities aligns with my passion for equity and advocacy. I'm excited to learn from this team and contribute to work that makes a meaningful difference."



HAYDEN MANNING

Ellen Ewing Fellow working with Domestic Relations Advocacy Program / University of Louisville, Louis D. Brandeis School of Law

"I have always wanted to help people that need it the most. Many of the clients that come to legal aid are in dire situations

and need us. Being able to provide them with any support at all makes me feel good at the end of the day."



GRACIE THORPE

Greenwald Family Fellow working with Project HELP / University of Louisville, Louis D. Brandeis School of Law

"I want to help people and feel like I am actually making a difference in people's lives."



SOPHIE OWEN

Student Employee working with Doctors & Lawyers for Kids / University of Louisville, Louis D. Brandeis School of Law

"Legal Aid Society offered me the opportunity to connect with my community in a way that I haven't been

able to before. This position has allowed to explore the world of civil law while maintaining my goal of working in public service."



MICHAEL ARCHER

IOLTA Fellow working with the Low Income Taxpayer Clinic / University of Louisville, Louis D. Brandeis School of Law

"Over time, I found that I had a passion for advocating on behalf of people in my community whose voices have been

diminished due to age/circumstance or whose voices are still in development."



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Civics Education in the TikTok Age

Kurt X. Metzmeier

The partisan arguments and legal boundary-pushing that seems to be endemic to today's politics has confused many Americans as to the basic rules of our democratic republic. Misinformation on social media compounds this confusion. Many despair over the lack of understanding of citizens about our constitutional structure, the principle of rule of law and the precious Bill of Rights that we inherited from prior generations.

It has amplified the cry for better civics education, both in the public schools and in society. If the public does not understand the value of democracy, personal liberty, due process and the separation of powers, the popular foundations of our nation are weakened. Lawyers depend on a basic understanding of the rule of law by their clients and juries.

This is reflected in a recent survey by the American Bar Association done annually in conjunction with Law Day that found that confidence in government was beginning to fail, with high confidence under 50% in all three branches of government. Survey takers were concerned about political partisanship. Around 20% favored more civics education.

That survey also tested recipients on 13 questions from the current U.S. naturalization test. Only 30% correctly answered that the U.S. Constitution along with federal statutes and treaties were the supreme law of the land. Barely half knew John Roberts was the chief justice of the United States; 44% did not. Four in ten erroneously believed that non-citizens could serve on juries and hold federal office.

The ABA's renewed interest in civics has coincided with recent and current Supreme Court justices' passion for the issue. Retired Associate Justice Sandra Day O'Connor has long promoted civics education, founding two organizations to promote it, and Chief Justice John Roberts has called for continuing civics education in almost all of his year-end reports on the federal judiciary since 2019.

The desire for civics education is also reflected in the popularity of bar association and library adult programming on the legal system. A recent "Law School 101" program by the Louisville Free Public Library in conjunction with the Jefferson County Public Law Library was extremely popular, attracting full rooms for presentations on landlord-tenant law, wills and probate, divorce and family law and criminal law.

General Resources

There are several online resources for groups trying to instruct the public on these issues. This article will highlight the organizations trying to organize civics education programs and review materials they provide on the American political system. In addition, I will reference some resources for civics educational programming on the political system of the Commonwealth of Kentucky.

After retiring from the U.S. Supreme Court, Justice O'Connor founded **iCivics** (<https://vision.icivics.org/>) in 2009 as part of her mission to improve civics education. Aimed primarily at K-12 teachers, it provides free, high-quality educational resources, including curricula, lesson plans and interactive games, designed to promote informed civic engagement. (Many of the materials could be adapted to adult education.)

While iCivics provides resources for public school teachers, O'Connor's **Civics for Life** project (<https://civicsforlife.org/>) aims squarely at adults. Its "Civics 101" online course (<https://civicsforlife.org/civics-101/>) is "designed to provide every American with the civic knowledge necessary and fundamental for every citizen" in a series of 10-minute micro lessons.

Any adult civics programming would be benefited by reviewing the annual **Annenberg Public Policy Center's Civics Knowledge Survey** (<https://www.annenbergpublicpolicycenter.org/political-communication/civics-knowledge-survey/>), which gauges the civics knowledge of Americans with a yearly survey that is released every Constitution Day (September 17). For example, since the 2024 survey found that 22% of Americans thought the First Amendment protected the right to bear arms, the Bill of Rights might be a point of emphasis.

The Kentucky Civic Education Coalition (KCEC), hosted by the Kentucky Council for the Social Studies (<https://www.kyssouncil.org/kcec.html>), seeks to "promote civic education and engagement in Kentucky by convening a broad range of stakeholders." It is focused on K-12 and has lesson plans and resources on "civic and political institutions; the roles and responsibilities of a citizen; civic virtues and democratic principles; processes, rules, and laws; Kentucky government; and current events."

The **Federal Judicial Center**, overseen by the federal judiciary, produces resources to teach its employees and the public (<https://www.fjc.gov/education/civic-education-about-courts>), using eLearning modules, monographs, guides, videos and podcasts. A useful federal publication is the *Journalist's Guide to the Federal Courts* (<https://www.govinfo.gov/content/pkg/GOVPUB-JU10-PURL-gpo39434/pdf/GOVPUB-JU10-PURL-gpo39434.pdf>)

Kentucky Civics Resources

One subject of civics education is federalism, the principle by which those issues of national importance are delegated to the federal government and those subjects best dealt with at a more local level are delegated to the elected representatives of state governments. In the Commonwealth of Kentucky, these entities are the General Assembly, the governor and the rest of the executive branch and the Court

of Justice. In addition to the KCEC materials described above, there are several useful resources available to those seeking to inform oneself and others about these key parts of the state democratic process.

The **Kentucky Legislative Research Commission** (<https://legislature.ky.gov>), the administrative agency of the Kentucky General Assembly, has useful materials on the Kentucky Constitution, the legislature, state government and local government on its Publications page (<https://legislature.ky.gov/LRC/Publications/>).

Constitutions of the US and Commonwealth of Kentucky (informational Bulletin No. 210) has the texts of both the federal and state charters. It is available online and can be requested in book form.

The website is best at explaining the legislative branch. A chart, *The Road to Passage: How a Bill Becomes a Law*, gives a "Schoolhouse Rock" overview of the legislative process, while an excellent 48-page pamphlet, *Inside the Legislative Branch of Kentucky State Government*, describes the details in plain language.

The Informational Bulletins (IB) series covers other areas of interest, including a trilogy of pamphlets on local government: *Kentucky Municipal Statutory Law* (IB No. 145), *County Government in Kentucky* (IB No. 115) and *Duties of Elected County Officials* (IB No. 114).

The Executive Branch of Kentucky State Government (IB No. 171) is a good introduction to the state's multi-headed executive, where a governor of one party may have to co-exist with an elected attorney general of the other party.

The Legal Aid Network of Kentucky's *kyjustice.org* project was created to provide legal self-help resources but also has information useful for civics learners seeking information about Kentucky courts. Under Court Basics (<https://www.kyjustice.org/topics/court-basics>) there are videos on court procedure and guides like *Your Day in Court*:

A Guide to Representing Yourself Without a Lawyer.

Books for Advanced Students

Of course, the advanced students of Kentucky civics might benefit from pausing their scrolling to read a few books. The University Press of Kentucky has some appropriate titles widely used in undergraduate political science and history courses across the Commonwealth.

I highly recommend *Kentucky Government, Politics, and Public Policy* (2013). It begins with chapters by scholars on the Kentucky constitution, federalism and intergovernmental relations in Kentucky; the General Assembly, the executive branch and the Kentucky judicial system; then moves to topical chapters on subjects like campaign finance, Kentucky regulatory agencies, education reform and healthcare.

It is impossible to have a good civics education without an understanding of history. James C. Klotter and Freda C. Klotter's *A Concise History of Kentucky* (2008) provides readers with a readable survey of Kentucky's diverse history, integrating government, social life, cultural achievements, education and economic themes. Readers seeking more depth can try James C. Klotter and Craig Thompson Friend's *A New History of Kentucky* (2018).

As a solid civics education is a continuing education, these resources should be considered just a beginning.

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. He is the author of *Writing the Legal Record: Law Reporters in Nineteenth-Century Kentucky*, a group biography of Kentucky's earliest law reporters, who were leading members of antebellum Kentucky's legal and political worlds. ■



LOUISVILLE BAR ASSOCIATION
YOUNG LAWYERS SECTION

TABLE TALK:
LBA Young Lawyers
Networking Lunch

Thursday, August 7
noon - 1:00 PM
LBA Bar Center

Free for LBA Young Lawyers
\$25 for Non-LBA Members

Registration is required for lunch.
Register online at www.loubar.org.

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MESA ONE-HOUR ETHICS

May It Displease the Court? Keeping Your Head (and Your Law License) in Court

Wednesday, August 20

In this hilarious webinar, legal humorist Sean Carter reviews some of the most outrageous breaches of lawyer decorum in recent years. In doing so, he will address the reasons why lawyers acted out in this manner and provide tips to prevent losing control of our emotions (and our law licenses).

Speaker: **Sean Carter**, MESA CLE

Time: 1 - 2 p.m. — Program

Place: Zoom

Price per hour: \$55 LBA Member | \$50 Sustaining Member |
\$25 Paralegal Member | \$125 Non-member

Credits: 1.0 CLE Ethics Hour

Please note this is a partnered CLE program. Register through MESA CLE, and attendees must follow MESA CLE's cancellation policy.

MESA ONE-HOUR

ChattyGPT: Using AI for More Effective Communication

Wednesday, August 27

Join us as we delve into the revolutionary ways AI is transforming lawyer communications. Discover how this cutting-edge technology can enhance your interactions with clients, streamline internal collaborations and facilitate negotiations with opposing counsel. This engaging session will provide practical insights and hands-on exercises, equipping you with the tools to leverage AI for greater efficiency and effectiveness in your practice.

Speaker: **Sean Carter**, MESA CLE

Time: 1 - 2 p.m. — Program

Place: Zoom

Price per hour: \$55 LBA Member | \$50 Sustaining Member |
\$25 Paralegal Member | \$125 Non-member

Credits: 1.0 CLE Hour

Please note this is a partnered CLE program. Register through MESA CLE, and attendees must follow MESA CLE's cancellation policy.

FAMILY LAW SECTION ANNUAL CONFERENCE

Experts in the Courtroom

Thursday, September 18

Join fellow family law practitioners for a dynamic full-day CLE program focused on practical insights and timely topics that impact your cases and your clients in and out of the courtroom. We'll bring together leading voices in Kentucky family law to explore critical areas of practice, including:

- Judicial panels offering perspective from the bench on expert use and courtroom strategy.
- GAL and FOC articles brought to life with real-world application and ethical considerations.
- AI integration in family law practice.
- Family law legislative and case updates.
- Visitation centers - how they function, where they fall short and what attorneys need to know.
- Custodial evaluators - when they help, when they hurt and how to address their findings in court, with a focus on ethical considerations.

Whether you are litigating high-conflict custody cases or navigating evolving ethical standards, this conference provides expert perspectives and practical tools to keep you informed and effective.

The day will conclude with a social hour—an opportunity to connect with colleagues and continue the conversations.

Speakers include: **Briana G. Abbott**, Johnson Cook Abbott Ahrens & Shiffman; **Jason A. Bowman**, Bowman Legal; **Cassie Chambers Armstrong**, Kentucky State Senator; **Laurel S. Doheny**, Straw-Boone Doheny Banks & Mudd; **Hon. Lori N. Goodwin**, Jefferson Family Court; **Tonesha Hearn**, Safe Haven Family Resource Center; **John "Hal" Helmers, Jr.**, Helmers + Associates; **Hon. Lauren Adams Ogden**, Jefferson Family Court; **Hon. Derwin L. Webb**, Jefferson Family Court; **Louis P. Winner**, Winner Law Group – and more to be announced!

Sponsorship opportunities available. Please contact Lisa Anspach at lanspach@loubar.org for more information.

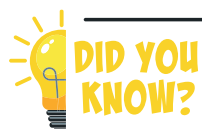
Time: 9 a.m. - 5 p.m. — Program; social hour will follow.

Place: Bar Center, 600 W. Main St., Ste. 110

Price per hour: \$315 LBA Member | \$283.50 Sustaining Member | \$25 Paralegal Member | \$50 for qualifying YLS Member |
\$175 Solo/Small Practice Section Member, Government or Non-Profit Member | \$630 Non-Member

Credits: 7.0 CLE (Including 1.0 Ethics) Hours — Pending

2025 LBA Family Law Section Leadership: Melina Hettiaratchi, Helmers + Associates and Amy DeRenzo Hulbert, DeRenzo Law Office



UNPROCESSED GRIEF MAY MIMIC BURNOUT.

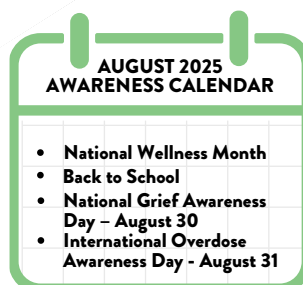
Did you know that symptoms of grief—like exhaustion, disconnection or decreased productivity—can mirror burnout, especially in high-stress professions like law?

LAWYERS EXPERIENCE “SECONDARY GRIEF.”

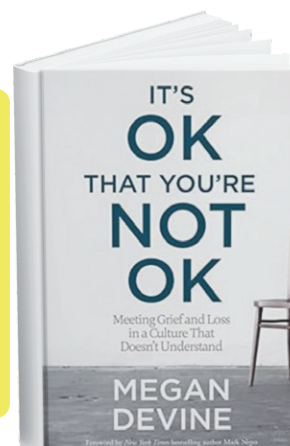
Did you know that lawyers, particularly in family law, estate planning or criminal defense, may absorb their clients' grief and trauma over time — called vicarious grief or compassion fatigue?

WORKPLACE GRIEF IS COMMON AND OFTEN UNSUPPORTED.

Did you know that over 50% of employees say they have no access to grief support through their workplace—even though grief can impact performance, morale and engagement?



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ASSOCIATION

HEALTH & WELLNESS COMMITTEE

HEALTH & WELLNESS CORNER

SAVE THE DATE!

2025 Annual Bankruptcy Law Conference

Friday, October 10

Join us for the Louisville Bar Association’s Annual Bankruptcy Law Conference on Friday, October 10, at the LBA. Designed for attorneys and legal professionals practicing or interested in bankruptcy law, this full-day conference will offer timely insights and practical guidance from experienced practitioners and members of the judiciary. A social hour will follow the program.

Sponsorship opportunities are available. Contact Lisa Anspach at lanspach@loubar.org for details.

Mark your calendar now and plan to attend this important event for the bankruptcy law community. Stay tuned for more information as it is confirmed.

2025 LBA Bankruptcy Law Section Leadership: Brian R. Pollock, Stites & Harbison, and J. Gabriel “Gabe” Dennery, Kaplan Johnson Abate & Bird

LBA IN PARTNERSHIP WITH THE BRANDEIS INN OF COURT, STITES & HARBISON AND THE KBA CRIMINAL LAW SECTION

15th Annual Lively M. Wilson Memorial Lecture Series on Ethics, Professionalism and Civility

Thursday, October 16

This year, the annual Lively M. Wilson Memorial Lecture Series, is entitled, “Professional Responsibility and Ethical Obligations in the American Judicial System.” Speakers and panel participants will address these timely issues: (1) duty of candor to the tribunal by prosecutors, defense attorneys, civil litigators and expert witnesses; (2) duty to reject and counteract political or partisan interests from influencing prosecutorial decision-making; (3) right to counsel and the duty of lawyers and law firms to disregard pressure to decline representation of individuals or entities based upon outside influence and extrajudicial considerations; (4) the role of the organized bar in ensuring the unfettered right to counsel and in preserving and protecting the rule of law; and (5) the independence of the judiciary and dealing with conflicts of interest and recusal issues.

In addition to their keynote remarks, Professors Peter Joy and Rodney Uphoff will moderate a panel discussion among local judges and lawyers concerning these issues.

Speakers include: **Prof. Peter A. Joy**, Henry Hitchcock Professor of Law, Washington University School of Law (St. Louis, MO) and **Prof. Rodney J. Uphoff**, Elwood L. Thomas Missouri Endowed Professor Emeritus of Law, University of Missouri School of Law (Columbia, MO).

Time: Noon - 12:30 p.m. — Program
Place: TBA
Price per hour: \$125 LBA Member | \$112.50 Sustaining Member | \$25 Paralegal Member | \$15 for qualifying YLS Member | \$25 Solo/Small Practice Section Member | \$62.50 Government or Non-Profit Member | \$250 Non-member
Credits: 2.5 CLE Ethics Hours — Pending

LBA REAL ESTATE LAW & KY CCIM ANNUAL CONFERENCE

15th Annual Kentucky Commercial Real Estate Conference hosted by Kentucky CCIM Chapter and LBA Real Estate Law Section

Tuesday, October 28

Join real estate professionals across Kentucky for an extraordinary day of lively panel discussions, informed conversation and comprehensive one-hour courses covering various commercial real estate and land use law topics. For more details, visit the LBA website.

Sponsorship opportunities are available. Contact Lisa Anspach at lanspach@loubar.org for details.

Time: 7:30 a.m. — Registration; 8:30 a.m. — 5:00 p.m. — Program
Place: Zoom
Price: \$169
Credits: Pending

LBA Real Estate Law Section Leadership: Abigail Fargen Riley, Stoll Keenon Ogden, and Ashley K. Russell, Stites & Harbison

LBA PROBATE & ESTATE LAW SECTION IN PARTNERSHIP WITH UL BRANDEIS SCHOOL OF LAW

Annual Estate Planning Institute

Thursday, October 30

Designed for estate professionals, the Estate Planning Institute provides top-notch instruction on current issues in the field, catering to a diverse audience. Our relevant topics ensure a comprehensive learning experience for all, helping you stay ahead in the field of estate planning.

More information to be announced. Sponsorship opportunities are available. Contact Lisa Anspach at lanspach@loubar.org for details.

2025 LBA Probate & Estate Law Section Leadership: Monica B. Davidson, Baird Trust, and Kathryn Beck, Stoll Keenon Ogden

LBA LABOR & EMPLOYMENT LAW SECTION IN PARTNERSHIP WITH UL BRANDEIS SCHOOL OF LAW

The Carl A. Warns, Jr. and Edwin R. Render Labor and Employment Law Institute

Thursday, November 6 — Friday, November 7

The Carl A. Warns, Jr. and Edwin R. Render Labor and Employment Law Institute, sponsored by the LBA Labor & Employment Law Section and the UofL Brandeis School of Law, provides high-quality continuing legal education to local and regional labor and employment law attorneys, human resource professionals, union representatives and other workplace experts. The Institute creates a dialogue between academics, government officials and practitioners and is an inclusive forum where employees, union and management-side representatives all feel welcome.

We are excited to announce the 2025 Carl A. Warns Jr. Keynote speaker, **Philip A. Miscimarra**, Morgan, Lewis & Bockius LLP.

More information to be announced. Sponsorship opportunities are available. Contact Lisa Anspach at lanspach@loubar.org for details.

2025 LBA Labor & Employment Law Section Leadership: Marianna Melendez, Jefferson County Public Schools, and Catie A. Wheatley, Faegre Drinker

MEETING ANNOUNCEMENTS

LBA Committee Meetings

CLE Committee:
Wed., August 13 at 10 a.m. via Zoom

Diversity & Inclusion Committee:
Wed., August 13 at 4 p.m. via Zoom

Health & Wellness Committee:
Thurs., August 21 at noon via Zoom

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

Association of Legal Administrators

The monthly chapter meeting of the Kentucky Association of Legal Administrators will be held in person and via Zoom on Thursday, August 14, beginning at noon at the office of Frost Brown Todd in Louisville (400 W. Market St., Ste. 3200) and Lexington (250 W. Main St., Ste. 2800).

Please RSVP by registering online at www.ky-ala.org. Any questions, please contact Deana Lively, dlively@dbllaw.com. ■



ANNUAL FAMILY LAW CONFERENCE:

“Experts in the Courtroom”

THURSDAY, SEPTEMBER 18

9 AM - 5 PM

LBA BAR CENTER

Social hour to follow.

More details to be announced!

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Attorney at Law, P.S.C.
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Jeff Gorski, Gorski Law Office, PSC
Insolvency, Insurance and Tort Law

Nicholas Horne, Thomas Law Offices
Professional Negligence/Product Liability
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Elizabeth Mosler,
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Alicia Stofferahn,
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Thank you to Steven Snow, having served as a past KLRS Committee Chair, for stepping in again to serve for 2025.

PROFESSIONAL EXCELLENCE

A Void Judgment Can Be Worth the Paper It Is Printed On

Brian Pollock, J. Gabriel Dennery and Joshua Wolford

The U.S. Supreme Court recently granted *certiorari* to consider a case in which the Sixth Circuit affirmed a bankruptcy court's denial of a Rule 60(b)(4) motion to vacate a purported void judgment. The Federal Rules of Bankruptcy Procedure, with a few exceptions and some modifications, adopt the Federal Rules of Civil Procedure in the bankruptcy case and adversary proceedings. The Sixth Circuit's application of these rules in *Coney Island Auto Parts Unlimited, Inc. v. Burton (In re Vista-Pro Automotive, LLC)*, 109 F.4th 438 (6th Cir. 2024), held that a purported void judgment could be enforced against a dilatory judgment debtor, and the U.S. Supreme Court will now consider this departure from the holdings of several other circuits. As debated below, the decision on this issue will have implications beyond the bankruptcy courts—and even into state courts—which practitioners should consider in advising their clients.

Majority Requires Timeliness

The court's ruling placed the emphasis where it belonged—on what the Federal Rules of Civil Procedure plainly say. Rule 60(c)(1) states that all motions under Rule 60(b) must be filed within a reasonable time and Appellant's motion under Rule 60(b)(4) was subject to that requirement. The Rule's unequivocal language precludes any other result.

The court found support in *United States v. Dailide*, 316 F.3d 611 (6th Cir. 2003), in which Dailide waited four years to move to vacate a judgment under Rule 60(b)(4). Dailide argued that the lower court had entered judgment without subject-matter jurisdiction, and so the judgment was void. The Sixth Circuit affirmed the district court's denial of his motion, holding that a Rule 60(b)(4) motion is only cognizable if brought within a reasonable time, and his delay made his motion untimely.

The appellant (and the dissent) attempted to distinguish *Dailide* because it concerned subject-matter jurisdiction, as opposed to

personal jurisdiction, and argued that the latter implicates due-process rights. But the court correctly dispensed with appellant's due-process arguments. For one, the appellants did not challenge Rule 60 on constitutional grounds—it only argued that *Dailide*'s holding was limited to challenges to judgments void for lack of subject-matter jurisdiction. However, Rule 60(c)(1) places a timeliness requirement on *all* motions for relief from void judgments. Certainly, one cannot argue that a judgment entered without personal jurisdiction is more void than one entered with a lack of subject-matter jurisdiction. As the court noted, a void judgment is a void judgment, and Rule 60(c)(1) does not distinguish between types of void judgments. Moreover, personal jurisdiction, unlike subject-matter jurisdiction (as was the issue in *Dailide*), is waivable. And as a practical matter, due process was not implicated here because the appellant became aware of the judgment in 2016 and sat on its rights until 2022.

Because the court relied upon the plain language of the rule, a large portion of its analysis was targeted at the dissent's misapplication of inapposite case law. The dissent relied upon *Antonie v. Atlas Turner, Inc.*, 66 F.3d 105 (6th Cir. 1995), which also concerned a Rule 60(b)(4) motion. But the *Antonie* court never mentioned the timeliness issue, and it is improper to speculate as to a court's holding on issues it elects not to address. Likewise, the dissent's reliance on *United Student Aid Funds, Inc. v. Espinosa*, 559 U.S. 260 (2010), was misguided, as *Espinosa* also failed to address the timeliness issue.

Finally, the court noted that its decision comports with basis equitable principles. Not only do the rules and circuit precedent compel the result reached, so does common sense and equity. A judgment debtor sitting on its rights for years prejudices the judgment holder, undermines the finality of judgments and “upsets reliance interests.” As the court said,

“[i]t is not clear why Rule 60 should be given an atextual meaning to permit such results.” And on the flip side, requiring timely motions for relief from void judgments does not leave a judgment debtor with no recourse. Ultimately, a court faced with this issue will look to the facts of the case, including the reason for the delay, in determining what constitutes an “unreasonable” delay.

In so holding for the appellees, the court refused to chase phantoms and provided the only outcome that is faithful to the rule's plain language. Indeed, if the drafters meant to prevent a district court from ever dismissing 60(b)(4) motions as untimely, mandating a reasonable-time limit for such motions was “an odd way to express it.”

Dissent Requires Due Process

Judge McKeague's dissenting opinion provides a well-reasoned counterargument to the Sixth Circuit's decision categorically barring a Rule 60(b) motion to vacate on the basis of untimeliness alone. The dissent provides an arguably more common sense interpretation of the federal rule at issue, and, relying on binding Supreme Court precedents, gives the appropriate weight to due process.

Rule 60(b)(4) provides that “[o]n motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding” where “the judgment is void.” Rule 60(c)(1) provides that a “motion under Rule 60(b) must be made within a reasonable time.” The majority interpreted this term “reasonable” to mean that equity permits a court to enforce a default judgment against a party if that party takes too long to protest the court's authority, even if that party never received proper service—a constitutional prerequisite for a valid suit—because acknowledging a violation of due process or jurisdictional error “does not tell us what to

(Continued on next page)



Judge Hugh
Smith Haynie
(ret.)

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do about a void judgment.”

Judge McKeague thought that acknowledging a jurisdictional defect does tell us what to do: *set aside the judgment*. *Id.* at 452. “A federal rule cannot alter a constitutional requirement.” *Mahon v. Ticor Title Ins. Co.*, 683 F.3d 59, 64 (2d Cir. 2012). Nor should it be interpreted to do so. See, generally, *St. Martin Evangelical Lutheran Church v. S. Dakota*, 451 U.S. 772, 780, 101 S. Ct. 2142, 2147, 68 L. Ed. 2d 612 (1981) (“[a] statute, of course, is to be construed, if such a construction is fairly possible, to avoid raising doubts of its constitutionality”). The dissent offers a practicable and straightforward alternative reading: *any time* in seeking to set aside a judgment which lacks jurisdiction could be a “reasonable” time. This does not require the fairness based, “fact-specific inquiry” which the majority embraces, and thereby prevents the curious emersion of a simultaneously void but enforceable judgment.

The majority relied on *United States v. Dailide*, 316 F.3d 611, 618-19 (2003), a prior Sixth Circuit decision in which a four-year delay in moving to set aside a citizenship revocation, entered pursuant to a federal statute, was deemed to be an unreasonably long time. However, the dissent points out *United Student Aid Funds, Inc. v. Espinosa*, which cites with approval 11 Fed. Prac. & Proc. Civ. § 2862 (3d ed.), an authority stating that time alone does not render a void judgment valid. Besides that, the dissent further emphasizes that personal jurisdiction is an “essential element” of a court’s jurisdiction, “without which the court is ‘powerless to proceed to an adjudication.’” This requirement of personal jurisdiction “represents a ‘restriction on judicial power’ and is framed as a ‘matter of individual liberty.’” Whereas subject matter jurisdiction is often a statutory matter, personal jurisdiction is a requirement “rooted in fundamental due process principles, ensuring that parties to a suit are legitimately subject to a court’s lawful authority before the court adjudicates their rights.”

So yes, despite the absence of a carve-out in the reasoning in *Dailide* for decisions lacking personal jurisdiction, “a judgment obtained without personal jurisdiction” is arguably “more void than one obtained without subject-matter jurisdiction.” Assuming *Dailide* is not undermined by these Supreme Court authorities, it can be distinguished from the instant case, wherein there was an allegedly

unconstitutional defect in due process.

For these reasons, the dissent offers a potentially more sound alternative reading to Federal Rule 60(b)-(c) to the one proposed by the majority and warrants the Supreme Court’s consideration on cert.

The Choice with a Void Judgment

The U.S. Supreme Court has stated that a defendant who contests jurisdiction has a choice: (1) Submit to the jurisdiction of the court for the limited purpose of challenging jurisdiction and agree to abide by the court’s determination, subject to appeal; or (2) Ignore the judicial proceedings, risk a default judgment and then challenge that judgment on jurisdictional grounds in a collateral proceeding. An assumption underlying this case was that the judgment was in fact void. Rather than having a registered agent, the entity had identified itself as its own registered agent. While the U.S. Supreme Court may hold that “any time” is a reasonable time for a Rule 60(b)(4) motion, the bankruptcy court may decide service was valid on remand. Ignoring proceedings—even if not subject to jurisdiction—comes with inherent risks, which should be considered in advising clients both in and outside of bankruptcy.

Brian Pollock is a member of the Creditors’ Rights & Bankruptcy Service Group at Stites & Harbison PLLC. Josh Wolford is an associate in the Creditors’ Rights & Bankruptcy Service Group at Stites & Harbison PLLC. Both attorneys focus on representation of creditors in bankruptcy court, lender liability matters, commercial and residential foreclosures, defense of avoidance and preference actions, real estate litigation and commercial litigation. J. Gabriel Dennery is an attorney at Kaplan Johnson Abate & Bird, LLP. Dennery is a graduate of the UK J. David Rosenberg School of Law (J.D., 2024). His primary area of practice is commercial bankruptcy law.

Pollock and Dennery are chair and vice-chair, respectively, of the LBA Bankruptcy Section. ■



Pollock



Wolford



Dennery



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The Louisville Bar Association would like to welcome our new and returning members.

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Gordon Rees Scully Mansukhani LLP

Joseph D. Gaines
Attorney at Law

Annie Harb
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Erin Bishop
Albany Law School

Ava Cook
Brandeis School of Law

Megan Ryan
Brandeis School of Law

KNOW SOMEONE INTERESTED IN JOINING?
Contact our Chief Outreach Officer, Marisa Motley, at mmotley@loubar.org for information!

Kentucky Mediation

David Tachau (david@kymediation.org)



Why Use Kentucky Mediation?

I’ve been litigation counsel in dozens of mediations for 25 years. I’ve appreciated mediators who were tenacious, patient, creative – and who understood the pressures I faced as counsel. I want to use this experience to make your mediation successful.

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I’ve had a commercial litigation practice since 1984 for plaintiffs and defendants, individuals and businesses, handling a range of contract, employment, discrimination, noncompete, insurance/policyholder, and trusts/estates disputes.

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- Harvard Mediation Intensive (Harvard Law School)
- Basic Mediation Training (Kentucky Bar Association)

More info, rates and scheduling: www.KyMediation.org
References available

www.loubar.org

August 2025 15

THE LOUISVILLE BAR FOUNDATION

This is what you make possible when you contribute \$45 to the LBF when you renew your LBA membership.

The Louisville Bar Foundation recently awarded approximately \$135,000 in grants for 12 law-related programs in the Louisville area. The contributions of individual lawyers make an impact in the community through collective gifts to the foundation. Thank you for making an annual donation to the LBF.

If you did not contribute \$45 this year when you renewed your LBA membership, it is not too late!

The LBF will award additional grants in December. Your individual donation is needed. Please join your colleagues by making a gift to the foundation and supporting local non-profits. Make your gift by donating online at <https://loubar.ce21.com/donations/detail/lbf-endowment-donation-66> or by sending a check to Louisville Bar Foundation, 600 W. Main St., Ste. 110, Louisville, KY 40202.

RECENT LBF GRANT AWARDS

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 solve immigration and/or employment status issues so to achieve or maintain financial stability and economic independence.

FAMILY & CHILDREN'S PLACE

Child Advocacy Center Training: \$10,000

The Child Advocacy Center at the Family & Children's Place is the only facility of its kind in Kentucky providing services to child victims up to age 17 with compassionate, coordinated intervention and investigation of child sex abuse. The LBF grant will be used to pay for training of multi-disciplinary team, partners and community members to promote the coordination of the Commonwealth Attorney's Office, law enforcement, Child Protective Services, advocates, clinicians and medical providers and to meet the needs of children and families experiencing abuse, neglect, human trafficking and community violence.

GOODWILL INDUSTRIES

Support for Expungement Services: \$5,000

Goodwill helps adults with disabilities or other disadvantages achieve and maintain employment. Since 2021, Goodwill has of-

fered expungement services designed to guide individuals through the intricate legal process. Goodwill provides support to navigate the court process. LBF grant funds will be used to offset the court and filing fees associated with the expungement process for those individuals unable to pay these costs.

THE HEALING PLACE

Peer Mentor Program: \$5,000

Many of the clients who come to The Healing Place for addiction recovery are involved in Jefferson County's court system. The Peer Mentor Program at The Healing Place enlists men and women who have completed the program to serve as role models and mentors for those newer participants. These peer mentors provide one-on-one counseling and support. In particular, peer mentors help participants comply with court dates, court orders and other issues related to the justice system. LBF funds will support the Peer Mentor Program as it increases the chances of a participant's successful recovery and the efficient resolution of court issues.

KENTUCKY REFUGEE MINISTRIES

Immigration Legal Services: \$20,000

Kentucky Refugee Ministries provides legal services to immigrants who have resettled in the Louisville area. Many of these immigrants need to file applications with U.S. Citizenship and Immigration Services for permanent residence status or to petition for asylum. Due to recent developments and federal funding recissions, KRM looks to restructure how it delivers its legal services to existing and future clients. LBF grant funds will assist KRM to reposition its current service delivery model to a limited representation model while still maintaining services to current clients.

KENTUCKY YMCA YOUTH ASSOCIATION

Civic and Leadership Development: \$5,000

Kentucky YMCA Youth Association's con-

ferences 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.

LEGAL AID SOCIETY

Expungement Services Program: \$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 Expungement Services Program which provides comprehensive legal assistance to individuals seeking to clear criminal records through community clinics, pro se assistance, pro bono support and extended legal representation. This initiative removes barriers to employment, housing and education.

LOUISVILLE BAR ASSOCIATION

Summer Law Institute: \$5,000

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.

SAFE HAVEN

Family Support Program: \$15,800

Safe Haven is a supervised visitation site which provides a secure, neutral environment

where children can safely interact with their non-custodial parents, free from fear, conflict or intimidation. The LBF grant funds will help cover intake fees and subsidize the visitation costs for parents requiring court-ordered services. This program will help families navigating custody disputes affected by domestic violence, dating violence or stalking.

UoL SCHOOL OF LAW

Ackerson Law Clinic Eviction

Defense Program: \$10,000

The Ackerson Law Clinic at the University of Louisville Brandeis School of Law launched its Eviction Defense Program in 2024 to offer students practical experience in representing low-income clients in forcible detainer actions. Each clinic student obtains a limited license to practice under the supervision of a licensed supervising attorney. Legal services provided through the clinic are free of charge. Students gain knowledge and experience in litigation and interviewing skills, evidence collection, rules of evidence and legal research and analysis. The LBF grant funds support this program as it offers low-income clients free legal assistance while giving law students invaluable experience.

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.



School Supply Drive

The 2025-26 school year starts on August 7! Help us support local children in need through our Back to School project. As the needs for classroom supplies change and often teachers need specific items, we are asking for monetary donations this year. The total amount raised will be evenly distributed between the following six elementary schools: Atkinson, King, Frayser, Rutherford, Semple and the West End School.

**In honor of our 125th anniversary
we're looking for 125 donations.**

\$25 Provides a year's worth of supplies.

\$35 Provides a backpack stocked with a year's worth of supplies.

Donations are tax deductible. Checks should be made payable to the Louisville Bar Center and mailed to: 600 W. Main St., Ste. 110, Louisville, KY 40202
Visit <https://loubar.ce21.com/donations/detail/lbc-school-donation-63> to make your donation online.

We have worked directly with the Family Resource Centers in the above schools to match children with necessary supplies. This process ensures that all donations reach students and families with the greatest need.

Questions?? Contact Marisa Motley at mmotley@loubar.org.

donation deadline is August 31



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MEMBERS *on the move*



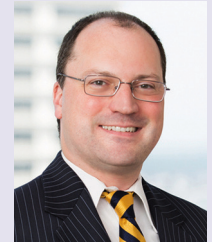
Cunningham



Dutton



Irwin



McTighe

Rachel Cunningham is excited to announce the opening of Cunningham Law, PLLC, 1860 Mellwood Ave., Ste. 117, Louisville, Kentucky, 40206. Through her full-service law firm, Cunningham will continue to serve clients across Kentucky in a variety of matters, including personal injury, wrongful death, general civil litigation, criminal, traffic, consumer debt collection defense, guardianship and probate and estate planning. Please visit the firm's website at rmclegalgroup.com or call (502) 659-7325 for more information.

Stites & Harbison, PLLC welcomes attorney **Cyrus Gilmore Dutton IV** to the firm's Louisville office. He joins the Torts & Insurance Practice Group. Dutton's practice focuses primarily on complex commercial litigation. He also represents companies with a vast array of needs from business litigation to corporate compliance. Dutton earned his J.D. from The George Washington University Law School in 2022, with a concentration in International Business Law. He is admitted to practice in Kentucky and Indiana.

Wyatt, Tarrant & Combs, LLP announced that it has launched a Software Practice Group as a way to better organize and enhance its already robust work for software developers and licensees. **Emily Irwin**, a Corporate &

Securities Partner is chair of the new Software Practice Group. Wyatt has brought together nine lawyers with extensive experience with software agreements, litigation, patent prosecution and the capital raising and sale of software businesses. The firm has assembled an overview of this experience for its website, which can be found at <https://wyattfirm.com/services/software/>.

The Leadership Louisville Center has selected Stites & Harbison, PLLC attorney **Chadwick A. McTighe** to participate in the Leadership Louisville Class of 2026. The 65-member class will spend 10 months of training and hands-on experiences with local leaders who currently tackle the community's biggest challenges. McTighe is a Member (Partner) of Stites & Harbison based in the Louisville office. He serves on the firm's Management Committee and is Co-Chair of the firm's Class Action Team. He advises and represents clients in a wide range of business and commercial litigation matters, including extensive practice in class action litigation, shareholder and membership disputes, real estate litigation, data breaches and fiduciary duty litigation. McTighe represents clients in various industries, including oil and gas, telecommunications, insurance, financial institutions, health care and many others. He has also served as a Special Justice for the Kentucky Supreme Court. ■



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The Louisville Bar Association
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Help Wanted

Through the LBA and Talis Group

Associate Attorney:

Blackburn Domene & Burchett PLLC engages in a diverse civil litigation practice throughout Kentucky and Southern Indiana, representing a variety of clients, such as large corporations, small businesses, hospitals and non-profit organizations. The firm represents clients in many types of civil actions, including the defense of personal injury and property damage claims, malpractice actions, employment claims and commercial disputes. When representing clients in litigation, the firm employs a proactive and efficient approach. We believe that clients are more likely to achieve a better result if we set the agenda and push a case to resolution, as opposed to simply reacting to the opposing counsel or party. Experience demonstrates that this approach typically shortens the lifespan of litigation, resulting in a more cost-efficient representation. The firm is able to remain proactive by ensuring that its attorneys maintain reasonable caseloads and that new representations are appropriately staffed. This philosophy also ensures timely communication with clients on all aspects of the litigation process.

Blackburn Domene & Burchett, PLLC, an AV-rated litigation defense firm, seeks an attorney with experience in civil defense practice. The firm maintains a diverse practice, including insurance and general tort defense, employment defense, commercial litigation and malpractice defense. The firm offers a competitive compensation package with benefits including excellent health insurance, paid parking and a 401k plan. Attractive and comfortable office space is located conveniently on Main Street in downtown Louisville. www.bdblawky.com.

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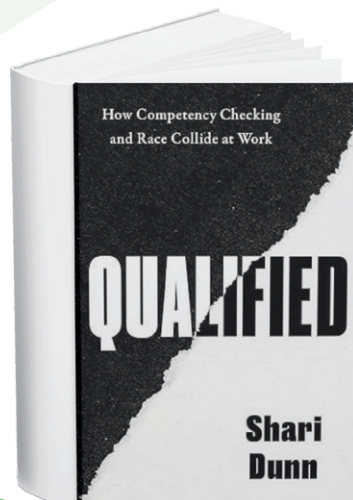
Please send cover letter, resume and transcript to Jennifer Stark, Director of Recruiting and Legal Personnel, Dinsmore & Shohl LLP, 255 E. Fifth St., Ste. 1900, Cincinnati, OH 45202, or to dinsmore.legalrecruiting@dinsmore.com.

For a full list of duties and requirements, or to apply, please visit the LBA Job Board, <https://www.loubar.org/placement-services>.

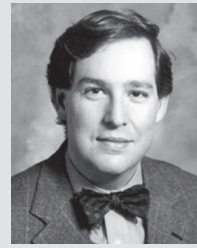
PODCAST RECOMMENDATION



BOOK RECOMMENDATION



IN MEMORIAM



Thomas JB Hurst passed away peacefully on June 26th, following a brief illness due to pancreatic cancer. He faced his diagnosis with the same quiet strength and grace that defined his life.

Born in Louisville, Tom was a man of intelligence and integrity who also approached life with curiosity and thoughtfulness. He earned a BA in economics from Vanderbilt University, then went on to earn an MBA from Indiana University's Kelley School of Business and then a J.D. from the University of Louisville Brandeis School of Law.

A respected attorney in Louisville for over 32 years, he started his career with Tilford Dobbins Alexander Buckaway & Black, moving on to Weber & Rose before starting his own firm, Lobb & Hurst. Tom's career came full circle in 2024 when Lobb & Hurst merged with Tilford Dobbins & Schmidt.

Beyond his profession, he was deeply committed to family. As he established his legal career in Louisville, he met his lifelong love and partner, Joanne Sweeney Hurst. Together they raised their two daughters, Jennifer and Anna, while enjoying their many mutual interests in horses, dogs, travel, music, friends and fine dining.

A lifelong reader and lover of ideas, Tom could always be found with a book in hand or learning about something new. In the past decade, he discovered a new passion for cycling, embracing the rhythm and solitude—or camaraderie—of long rides with the same quiet enthusiasm he brought to everything he did. ■



Bill V. Seiller, a distinguished Louisville attorney and founding partner of Seiller Waterman LLC, died at his home July 14 following long battle with blood cancer. He was 94.

A native of Louisville, Seiller graduated from Male High School before earning a business degree from the University of Kentucky in 1954 and a law degree from the University of Illinois in 1958. Throughout his legal career, Seiller represented clients in complex commercial litigation and zoning matters, including the Cherokee

Triangle Association in a decade-long battle to stop the construction of a 15-story tower in the neighborhood.

Seiller was a founding partner of the law firm Seiller & Handmaker in 1990 and later Seiller Waterman LLC in 2006. He was known for his willingness to mentor younger lawyers. Outside the courtroom, Seiller was an avid fencer, bridge player, history buff and traveler. For nearly 20 years, he and his wife, Lynn led trips to Turkey with friends and family. Seiller also was a dedicated community supporter. He served on the Veterans Administration Institutional Review Board, the Cherokee Triangle Association and the Legal Aid Society. ■

AUGUST 2025 AWARENESS CALENDAR

- Intersectionality Awareness Month
- National Black Business Month
- Aug 19 World Humanitarian Day
- Aug 26 Women's Equality Day

“

“DEI is not about lowering the bar—it's about expanding the bench.”
— Sherrilyn Ifill



DIVERSITY & INCLUSION COMMITTEE

Have a recommendation? Submit to lanspach@loubar.org.

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

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

Judge Benjamin F. Shobe Civility & Professionalism Award

Individuals receiving this award have consistently demonstrated adherence to the highest standards of civility, honesty and courtesy in their dealings with clients, opposing parties and counsel, the courts and the general public. They have shown sustained excellence through leadership in the profession.

Robert & Frank E. Haddad Jr. Young Lawyer Award

Nominees for this award must have been practicing as a trial lawyer—either criminal or civil—for less than five years. Nominees must demonstrate an ability to handle complex or unusual trials or appeals and they must have garnered the respect and admiration of the judiciary and of their colleagues.

Judge of the Year Award

This award is presented to a member of the judiciary who has shown judicial integrity and professionalism. A nominee for this award has contributed to the community by volunteering in civic organizations to help promote the image of the legal profession and has established a reputation for integrity, scholarship and professionalism.

Paul G. Tobin Pro Bono Service Award

This award recognizes the work of LBA members who have unselfishly given time to improve the quality of society through their legal work. Worthy nominees will be LBA members who helped deliver legal services to the disadvantaged through a pro bono program or cause.

Daniel M. Alvarez Champion for Justice Award

This award is given to a lawyer demonstrating a strong devotion to serving underrepresented individuals or groups by giving a legal voice to those who would otherwise be voiceless. These groups include, but are not limited to, the Hispanic and Latino communities, documented and undocumented immigrants, the LGBTQ community, incarcerated juveniles and indigent criminal defendants.

Judge Richard A. Revell Family Law Award

This award is presented to attorneys who have been in the forefront of new developments in the practice of family law. They have exhibited dedication to families and children through work both inside and outside the courtroom. Award recipients have made significant contributions to public service in the area of family law and have demonstrated innovation in the performance of their duties.

To Submit a Nomination

To nominate a deserving candidate, please submit an e-mail/letter including the following:

- Your nominee's name and the award for which you are nominating them.
- Detailed information about how they meet the specific award's criteria.
- Information about the nominee's service to the LBA and the community.
- Any other additional details that will assist the committee in its deliberations.
- Both your and your nominee's contact information, address, phone number and e-mail.

Nomination letters and information should be submitted either via e-mail to Kristen Miller at kmiller@loubar.org or postal mail to: LBA Awards, Louisville Bar Association, 600 W. Main St., Ste. 110, Louisville, KY 40202.

Quick and easy nominations can be made online here:

www.loubar.org/lba-annual-awards/

Nominations due by Thursday, October 9.

save the date!

NOVEMBER 6 - 7, 2025

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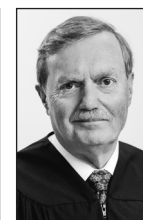
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