

Probate and Estate



In this issue, Kathryn Beck and Monica Davidson, co-chairs of the LBA Probate & Estate Section, discuss the fundamentals and importance of power of attorney documents with five estate planning attorneys in Louisville. Check out their discussion on pages 6-7.

Memories of Summers Past and Present

Welcome to summer. I am writing this and the temperature outside is 92 degrees! Never thought I would wish for Florida summers and an ocean breeze. Summers, when I was kid in Florida, meant the neighborhood pool, the ice cream man and occasional trips to the beach.

Memories are funny. They tend to change as we get older. What we remember must be what is most important to us. I taught swimming lessons on summer mornings in junior high school at the Bright Park Pool in Hialeah. When I taught there, we did not have a pool slide. Other than that, it looks the same (*photo courtesy of the pool's website sponsored by the City of Hialeah*).

My siblings and I would walk back in the afternoons and stay until closing time. The pool was the best babysitter ever.



Later in the day, on certain afternoons, the ice cream man, Frances, would ride his bicycle pushcart through the neighborhood. He knew all our names and what we liked. We moved from that neighborhood and missed seeing him every summer after that. I often wish I knew what happened to him.

I wonder what memories today's children will have. My daughters' memories include summers at my parents' home in Florida, affectionately called Nany's summer camp. Those trips include a weekend on Miami Beach, going to work with my parents at our family business and dinners where my dad ordered one of every appetizer (lots of leftovers).

July is also the month many people take a vacation. As a child we visited my grandfather in Florida one year and drove from Chicago to Miami. We stopped at many small roadside motels which boasted pools and shuffleboard courts. Our parents could watch us from the window as we spent time together at the pool.

These days, it seems international travel has become more popular, but this year it may be harder to travel

internationally as a no-fly ban may be expanded to include more countries. But that does not preclude a trip to many wonderful U.S. destinations. I am partial to big cities and love Chicago and New York as a tourist. San Francisco was great, less traffic than Los Angeles. New Orleans had great food. It's a great time to travel across the United States via Route 66 or take a train from Chicago to the West Coast.

* * *

This month, not only do we celebrate July 4th commemorating the adoption of the Declaration of Independence, but there are also a few other days of celebration. On July 1st, it is Canada Day for our neighbors to the north. July 14th is Bastille Day in France to commemorate the start of the French Revolution. July 17th is National Hot Dog Day, and July 30th is National Cheesecake Day.

* * *

As we end the first half of the year, I want to thank those of you that have supported our bar association in its efforts to support the rule of law. We have created a committee to further those efforts, and all members are welcome to join. If you have an interest in civics education, reaching out to community or speaking at a CLE program on the issue of the rule of law, please contact me, mfernandez@fhmlegal.com. These are but a few examples of the programs discussed at the most recent meeting and plans are starting to evolve.

We also have a committee to celebrate our Bar Association's 125th anniversary. We have already begun planning our signature event on August 24—a picnic party the whole family can enjoy (see page 14 for details). If party planning and fun events are your speed, please reach out to me.

I also want to thank those of you that support the Legal Aid Society (on whose board I also serve) as it deals with challenges with funding. Many of you also support the Louisville Bar Foundation, which recently made over \$125,000 in grants to worthy legal related programs in the area. Without the support of the Bar, both of these organizations might not be able to do what they do so well. Thank you, and happy summer.



“

*Memories are funny.
They tend to change
as we get older.
What we remember
must be what is most
important to us.*


Maria A. Fernandez
LBA President

July
17th



5:30 to
7:30 pm

Summer Associates and Newly-Admitted Attorneys Reception

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The Louisville Bar Association welcomes those recently admitted to the bar and those who are interning in area law firms this summer! Please join us for a reception on Thursday, July 17 at 5:30 pm at the Bar Center (600 W. Main St., Ste. 110). Get to know local attorneys and members of the judiciary as we welcome you to our wonderful legal community.

This year is particularly special for the LBA as we celebrate our 125th anniversary! For more than a century, we've been dedicated to supporting the legal profession, and a core part of that commitment is nurturing the next generation of attorneys. This reception is a fantastic opportunity to connect with those who have walked the path before you and those who are just beginning their journey. Join us for an evening of networking, camaraderie and celebration!

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Writ Large: the History of Habeas Corpus

Chief Judge Ann Bailey Smith

Habeas corpus has made its way into the news recently. In regard to immigration, there have been rumors that the president is considering suspending the writ of habeas corpus. Kristi Noem, the Secretary of Homeland Security, was asked during a Senate hearing to define habeas corpus, and she replied that it was the constitutional right of the president to remove people from this country. Habeas corpus is a Latin phrase, however, which means to produce the body in a court of law. The writ of habeas corpus is used to bring a detained person into court for the person's custodian to present proof of lawful authority to continue the detention of that person. Article 1, Section 9 of the United States Constitution, which primarily consists of limitations upon the power of Congress, includes the Suspension Clause, which reads:

The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

This is the only mention of habeas corpus in the Constitution.

President Lincoln suspended the privilege of the Writ of Habeas Corpus when he issued the following proclamation:

The Commanding General of the Army of the United States:

You are engaged in suppressing an insurrection against the laws of the United States. If at any point on or in the vicinity of any military line which is now or which shall be used between the city of Philadelphia and the city of Washington you find resistance which renders it necessary to suspend the writ of habeas corpus for the public safety, you personally, or through the officer in command at the point where resistance occurs, are authorized to suspend the writ.

The lead up to this action by President Lincoln began when he learned of an assassination plot against his life as he travelled to Washington, D.C. for his inauguration; then the firing upon Ft. Sumpter; and finally the State of Maryland's decision to destroy bridges within its boundaries so as to interfere with the president's decree to send federal troops to defend Washington by way of Baltimore. There had been anti-Union riots in Baltimore which resulted in the loss of lives and, as a result, with the approval of Maryland's governor, railroad bridges into Baltimore were burned to keep federal troops from entering the city.

General Ambrose Burnside, after being relieved of his post as Commander of the Army of the Potomac by President Lincoln, was named Commander of the

Department of the Ohio in March 1863. He became concerned about people who were disloyal to the Union cause yet were living in Union states. In April, he issued General Order No. 38 which read in part:

The habit of declaring sympathies with the enemy will no longer be tolerated in this department. Persons committing such offenses will be at once arrested with a view to being tried as above stated or sent beyond our lines and into the lines of their friends.

This Order was the basis for the arrest of a man named Clement Vallandigham, a lawyer from Ohio who had political ambitions. He had served in the state legislature and was later elected to the United States House of Representatives. He opposed Abraham Lincoln as president and rejected the views of the abolitionists. Vallandigham was defeated for reelection in 1862, primarily because of his insistence that fighting the Civil War was a mistake. He had hoped to be nominated as the candidate for governor by the Ohio Democratic Party but was rejected by party leaders.

In a speech at a Democratic rally in Columbus, Vallandigham criticized General Burnside's Order No. 38 by stating that citizens should be able to assemble to hear Lincoln's policies debated. Additionally, he was critical of the government's proclamation that citizens could be tried before military commissions. Burnside got word of Vallandigham's speech, so he had observers present when Vallandigham gave his next speech; they took notes and reported to Burnside. An observer later reported to General Burnside that Vallandigham had concluded one of his speeches by urging listeners to vote to "hurl King Lincoln from his throne." As a result, Vallandigham was arrested in the middle of the night in his home in Dayton, Ohio on May 5, 1863. His home was broken into by dozens of men to secure his arrest which was done without a warrant.

Vallandigham was put on trial the following day, not before a court but before a military commission, even though he was not in the military, for sympathizing with the Confederates, a violation of General Order No. 38. He protested to the presiding officer that the military had no authority to try him as he was a civilian. The trial went forward and he was found guilty on May 7. The commission sentenced him to imprisonment for the remainder of the war.

Two days later, Vallandigham's attorney sought a Writ of Habeas Corpus in the United States District Court for the Southern District of Ohio. His lawyer argued that habeas corpus had not been suspended in Ohio based on President Lincoln's

proclamation which had only delineated a specific area where suspension could occur. The lawyer for the government took an opposing view and the judge ruled for the government.

President Lincoln did not learn of Burnside's charge against Vallandigham until after the fact. The president and some members of his Cabinet were wary of the legality of Burnside's action but did not want to back down. Instead, President Lincoln amended the sentence from imprisonment to banishment beyond the Union lines into the Confederacy. General Burnside protested, but the amended sentence was carried out and Vallandigham was delivered to the Confederates in Tennessee. Vallandigham sought review by the United States Supreme Court but was refused as the Court held that it had no jurisdiction to review the decision of the military commission.

Vallandigham escaped from the Confederate states, took a boat to Canada, and settled in Windsor, Ontario, across the Detroit River from Detroit. He eventually returned to Ohio, where he continued mak-

ing political speeches while being ignored by the United States government until his death in 1871.

The takeaway from this historical incident is that a speech which included words critical of the president resulted in a man's home being broken into in the middle of the night, his arrest without a warrant, a trial within one day of his arrest by a military tribunal even though he was a civilian, his imprisonment even though he had broken no laws enacted by any legislature, and his eventual banishment from his home state. The suspension of habeas corpus resulted in martial law being defined by General Burnside, purportedly acting for the president of the United States.



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

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Understanding the Importance of Power of Attorney Documents

Kathryn Beck and Monica Davidson

A power of attorney (POA) is a legal document that grants a person(s), known as the agent, the authority to act on behalf of another person, known as the principal, in various matters. This authority can cover a wide range of actions, from managing financial affairs to making health care decisions. Without a POA, a conservator or guardian might need to be appointed for the principal.

A financial POA grants the agent the authority to manage the principal's financial affairs, such as paying bills, managing investments and selling property. Most often, attorneys use general durable powers of attorney. A durable POA remains in effect if the principal becomes incapacitated. This type of POA ensures that the agent can continue to manage the principal's affairs without interruption, even when the principal is unable to make decisions due to illness or injury. In Kentucky, a POA created under KRS 457 is durable unless the document expressly provides otherwise. See KRS 457.040.

As to when the POA becomes effective, it can either be effective immediately or upon the occurrence of a specified event, typically the incapacitation of the principal. The latter provides a safeguard, allowing the principal to retain control over their affairs until the triggering event takes place. This is commonly referred to as a springing POA. In Kentucky, unless the document

indicates the POA is to become effective at a future date or upon the occurrence of a future event or contingency, it is effective immediately. See KRS 457.090.

For health care decisions, the key documents usually include a health care POA, Health Insurance Portability and Accountability Act (HIPAA) authorization and living will. A health care POA allows the agent to make medical decisions on behalf of the principal, such as consenting to or refusing treatment and selecting health care providers. The HIPAA authorization ensures that those named in the authorization have access to your medical records. Without HIPAA authorization, they might face obstacles in obtaining necessary information to make informed decisions. A living will outlines your preferences for medical treatment in critical medical situations, such as life sustaining support and hydration and nutrition. It often works in conjunction with the health care documents to ensure comprehensive coverage of your medical wishes.

Understanding the fundamentals of POA documents is important for effective estate planning. Below, estate planning attorneys in Louisville – Jeremy P. Gerch at Dentons Bingham Greenebaum, Katherine P. Langan at Stoll Keenon Ogden PLLC, Matthew H. Burnett at Dinsmore & Shohl LLP, Phillip A. Pearson at McBrayer PLLC, and W. Seth Todd at Wyatt Tarrant & Combs LLP – answer common questions regarding POAs.

What advice do you give when helping clients choose who to name as POA or health care surrogate?



JEREMY: It is such a personal matter, and so my advice is to name someone who you think can handle the matters and will do what is in your best interest at every step.

MATTHEW: Make the decisions as if you were going to become disabled tomorrow. I see a lot of the following line of thinking: "My kids are in their late teens, but by the time I am old and disabled, I'll feel comfortable with them being my agent or health care surrogate." I wouldn't recommend that – if you aren't comfortable with your young children acting as your agent or health care surrogate right now, do not name them. You can always update your designations later.



PHIL: Pick the best person available. That isn't necessarily the oldest child. This is no honor bestowed, but a "burden" on the family member or friend, so pick the person who will do the best job. For example, if one child lives in California and one lives here in Kentucky, it might be best to choose the "local" child, as the usage of these documents often comes from emergency situations.

SETH: Whoever you name as agent under POA or your health care surrogate, we have to trust them completely. These individuals have substantial power to act on your behalf, and if we don't trust them 100% now while you have capacity, why would we trust them when you are incapacitated and they have little oversight? Particularly with the agent under POA, you want them to be extremely organized.

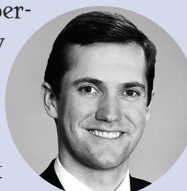


Is it a good idea to name co-agents?



KATIE: This depends on the family situation. Often if I have clients with adult children in different cities, I advise appointing them jointly and severally, assuming that is otherwise appropriate, so that they do not have to have multiple signatures and either child can act. This makes things much easier to administer when the time comes. If parents want to make sure their kids agree on everything and that both are involved, then we appoint as co-agents, not joint and several.

MATTHEW: It can be. I typically like to recommend naming one person at a time if it makes sense. However, if a client has a physically ailing spouse but the client feels emotional about not including them on their documents, the client can name the ailing spouse and the client's children jointly and severally. Or if the client has children who live all over the country but nowhere near the client, the client could name all of the children jointly and severally (each with the authority to act independently of the other, i.e., they do not have to act unanimously – so, whoever is around and available to assist at a given time would have authority to do so). If a client wants to name co-agents who must act unanimously, I typically try to encourage the client to instead name one agent at a time. With unanimous co-agents, you are just asking for an eventual disagreement between two people who have equal decision making authority over your care. Too many cooks in the kitchen.



PHIL: No. There is a reason "too many cooks in the kitchen" is a saying. People often have differing opinions, and if there are two agents, this could lead to a fight deadlock. Sometimes, people want their agents to work "jointly and independently," but a lot of banks and hospitals don't like these arrangements, because they don't know who has the ultimate authority.

(Continued on next page)



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Is it best to combine the health care surrogate and HIPAA authorization with a POA, or should these documents be separate?



JEREMY: I tend to separate them out. I do not see any reason why a hospital or medical facility would need to have a copy of anything other than health care specific information/authorizations.

KATIE: I typically use a Health Care Power of Attorney, Living Will Directive and potentially a separate HIPAA Waiver. If, for example, I have someone who wants a spouse to be agent but wants spouse and children to be able to speak with doctors and get health information, then I use a HC POA that does not include HIPAA waiver language, and use a separate HIPAA waiver that gives authorization to the broader group of people.



PHIL: I prefer separate documents, as I believe the institutions relying on them do as well. Hospitals prefer a separate health care surrogate and HIPAA document for their records. I think they are valid if combined, but it could muddy the water with the institutions and we never want to set up a scenario where the document is refused.

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 JD from the University of Kentucky College of Law.



Monica Davidson is the Senior Vice President and Director Trust and Estate Settlement at Baird Trust. She focuses on estate administration and client service. Davidson received her JD from the University of Louisville Brandeis School of Law.



Beck and Davidson are co-chairs of the LBA Probate & Estate Section. ■

Can a POA make gifts?

PHIL: I'm fine with POA making gifts, but it should be pointed out to the client. There are many good tax reasons to grant this power, but it needs to be clear to the client what the ramifications might be. And, if the client doesn't feel comfortable, then to take out this power. I tend to draft to "empower good actors," instead of "bad actors," as I'm of the opinion that a bad actor is going to take the money, regardless of what the document might say.



SETH: My preference is always yes, including adjusted taxable gifts. I do put limits on the gifts to include that it either must align with the principal's estate planning or be directed to their spouse or descendants. The gifting power can be extremely useful if Medicaid planning is needed.

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I call on you today, not just as the new executive director of the Legal Aid Society, but also as someone who has spent nearly 25 years here working directly with clients during some of their toughest times, whether facing eviction, escaping abuse or struggling to feed their children. I know firsthand that without the Louisville Bar Association and its members, Legal Aid simply wouldn't exist. Justice for our clients would not exist.

I believe every attorney has tremendous power. You may not wear a cape, but your bar card gives you something just as powerful: the ability to solve problems others can't. You understand the system, you can navigate it, and most importantly you can be the difference between despair and hope for someone who otherwise has nowhere to turn.

Legal Aid is one of the best returns on investment in our community.

Studies show that for every \$1 invested in civil legal services, there is a return of \$11 in economic benefits—including avoided emergency housing, health care and law enforcement costs, and increased economic self-sufficiency for clients who are able to work, pay taxes and provide for their families. Our homeless advocacy program, Project HELP, recovered over \$1 million for clients alone in 2024.

When we help a parent get custody and child support, it stabilizes two generations. When we help someone expunge an old criminal record, they're more likely to get a job, earn income and stay out of the criminal justice system. When we help a family avoid eviction, we prevent homelessness, and those effects ripple in schools, in health care and in social services.

And yet, despite the incredible impact of this work, we know that most low-income people with civil legal problems don't get help. The need far outpaces the resources. There are more than 170,000 Kentuckians in our service area that live in poverty, and more than 70% of them have at least one unmet civil legal need.

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With just 27 attorneys and 15 paralegals on our staff,
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Be an Advocate: Talk to your colleagues, your firms and your networks about the power of legal aid. Help us recruit the next generation of volunteers and supporters.

As I step into this new role, I carry with me a deep respect for this organization's legacy and a strong sense of purpose about the work ahead. Together, we can ensure that our justice system lives up to its ideals—not just for those who can afford representation, but for *everyone*.

With gratitude,

John Young
Executive Director
Legal Aid Society

Supreme Court Dedicates Portrait of Justice Hughes at Capitol Ceremony

Event marks court's final public appearance in historic courtroom before temporary relocation



Above: Retired Deputy Chief Justice Lisabeth T. Hughes is joined by her sons Shelton, Will and Sam (left to right), along with her grandson Ren, partially obscured in the background, during her portrait dedication Friday in the Supreme Court Courtroom at the Capitol. (Photo by Mark Cornelison)

The Supreme Court of Kentucky held a portrait dedication on June 20 for retired Deputy Chief Justice Lisabeth T. Hughes, marking the court's final public event in the Capitol before moving to a temporary location during renovations.

The ceremony took place in the Supreme Court Courtroom on the Capitol's second floor, where Justice Hughes served throughout her time on the Supreme Court bench. Chief Justice of the Commonwealth Debra Hembree Lambert noted the significance of holding the event in that historic space before the court relocates to 669 Chamberlin Ave.

Chief Justice Lambert described Justice Hughes as "a prominent and very grounding member of this court for more than 15 years," and reflected on their time serving together. "I was very, very fortunate to be able to serve with her about four years altogether."

While Justice Hughes' intellect was well known, it was her personal warmth that stood out most, the chief justice said. "She has that reputation of being brilliant, so much so that I don't even have to talk about that so much," Chief Justice Lambert said. "What I want to talk about is her kindness, her grace and her Western Kentucky hospitality, because I think that is what is so meaningful to those of us who developed a friendship with her as well."

She continued with a personal anecdote. "I'm convinced if I showed up unannounced on her doorstep she would offer me sweet tea and maybe some homemade pimento cheese sandwiches, and we would have a great conversation," Chief Justice Lambert said. "Not that she can't be tough ... but that kindness and sweetness coupled with brilliance is just a wonderful personality."

Chief Justice John D. Minton Jr. (ret.), who appointed Justice Hughes as deputy chief justice, opened the ceremony. He addressed a courtroom filled with friends and former colleagues, many of whom served alongside Justice Hughes. "The presence here this afternoon of so many former colleagues is a sign of our continued devotion to the work of this court and of our esteem for Justice Hughes," he said. "We look forward to the day when Justice Hughes' portrait hangs among those of our predecessors — and we all hope to live long enough to see that day," he added, referencing the Capitol's upcoming closure for a multiyear renovation. Portraits of retired justices have traditionally hung in a hall on the Capitol's second floor.

Justice Hughes thanked the audience and reflected on her early impressions of the Capitol, describing how deeply the building resonated with her from her first visit.

"I first walked into the beautiful building in the early 1980s," she said. "I had been in the U.S. Capitol. I had been in public buildings in London, Edinburgh ... but when I walked into this building it just really, really resonated with me. I thought it was just such a beautiful place. I never in a million years dreamed that one day I would work here, but I did."

Justice Hughes retired in January 2023. A native of Princeton, she represented the 4th Supreme Court District, which is made up of Jefferson County. She was appointed to the court in 2007 and elected in 2008 and 2014. She previously served three years on the Kentucky Court of Appeals and nearly eight years as a Jefferson Circuit Court judge.

In her remarks, Justice Hughes said she considered speaking about the rule of law

or quoting a prominent Kentucky jurist but chose a more personal reflection.

"What I'm going to quote today ... is actually on a coffee mug in all three of my sons' kitchens," she said. "The days are long, but the years are short. And that is the truth. The days are long when you serve on the Supreme Court. It is hard work. It is a true challenge. It is rewarding, but it is hard. And those days are long days. But when you look back, the years are so short. They just flew by."

Attorney Virginia Snell Brown also spoke at the ceremony. She thanked the donors who made the portrait possible and reflected on the justice's impact on the court and the commonwealth. "This portrait will provide a lasting tribute to Justice Hughes," Brown said. She said, "Justice Hughes ... consistently rendered justice fairly with insight, humanity and grace."

Painted by Grace Mehan DeVito of Connecticut, the portrait shows Justice Hughes on the balcony of the State Reception Room overlooking Capital Avenue. It will hang in the Supreme Court's temporary home. ■

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Disappearing As We Age

Dorothy Chambers

I recently finished submitting my required CLE credits, squeaking by virtue of a free CLE zoom hour offered by the LBA. But, being a bit insecure, I went back the next day to double check that all the credits were there, only to discover my CLE status now showed "Honorary Lifetime Exemption." Who knew that getting to 74 1/2 years old paid a dividend?

Was this a good thing? Or did it mean I no longer needed to show up for CLE? Or anything? More on that later.

While pondering this serious question I stumbled into our sunroom, coffee cup in hand, and proceeded to skim the AARP magazine. There I found a list of things that should be "going" as one reaches one's 70s.

Well, as I've already established, I'm squarely within my 70s. So, I read, hoping to find I was still holding on to some of the things that should be going.

Eyesight. The article talked about macular degeneration, glaucoma and cataracts. Well, I'm two out of three. Cataracts, check, but I've had them removed. Macular degeneration, check, but I've had the injections and the wet macular degeneration at present has stopped advancing.

Hearing. I've been doing what I'm supposed to be doing. Protecting my ears at loud concerts. Yes, people in their 70s still go to rock concerts. I've had my hearing tested by an audiologist for free at Costco. He said I have mild to moderate hearing loss. And then he tried to sell me hearing aids. For the most part, I'm not having serious trouble with hearing, except in noisy restaurants and with friends who mumble. Both situations seem to be happening more frequently.

Then I woke up one morning with a loud ringing—or more like the sound of standing next to a very loud vacuum cleaner. In only one ear. Were the cleaning people here? Had I lost track of the days or dates? No. It was just my ear that had lost track.

I managed to get in to see an ear, nose and throat doctor. That took about three weeks. By then, luckily, the ringing had long ago stopped. I brought along my audiologist report. The ENT said to come back if the ringing occurred again and "pfited" at any need for hearing aids at this point. He said my hearing loss was mild. I'm counting that as a win. And I like that doctor.

The AARP article also included some other sections about diminishing senses and abilities in aging people. But I'm forgetting what they were. Maybe it was memory?

The last category I recall was about feeling. I'm actually feeling pretty good. But this was about the sense of touch. How old people supposedly get "clumsier." The article suggested that is because their fingers lose sensitivity. Or they tend to trip because their feet are not as sensitive.

I'm batting .500 there. I don't think I have dropped too many things, but I certainly have a

tendency to trip if I'm not careful. But that also is probably because I have bursitis in my knee and hammer toes on the same foot. I didn't see either of those things mentioned in the article.

I did notice loss of sensitivity in my fingers today when trying to use an app on my phone. This actually was one of the losses mentioned in the article. As if the touch of our fingers would gradually become invisible to our phones.

A moment of dread. Was this yet another sign of my disappearing as I age?

I kept tapping my finger on the little arrow on the screen, but the video would not play. So, I took it to my husband who is a year older than I. It wouldn't work for him either. I concluded it was because we are both in our mid-70s and are both disappearing. He concluded the phone app is defective.

I went back and took another look at the app and realized a third possibility. I had yet to fill out some more screens on the app before the video would play.

I guess they need to add another category to the declining abilities of seniors. Something about failing to read the directions on cell phone apps. Maybe when next my granddaughter visits, she can add a shortcut for me. That is why God created grandchildren, isn't it?

One final thought. I'm still going to show up for things, especially

CLE, because I enjoy learning new information. If I were actively practicing law, those CLE sessions would be especially important for oldsters like me. There seem to be as many new wrinkles in the law as there are on our faces.

Dorothy J. Chambers, traveler, free-lance writer and grandma, is a member of the LBA Communication Committee. ■



“

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LBA Section and Committee Meetings

AI/IP/Privacy Law Section:
Wednesday, July 2 at 11 a.m. via Zoom

Diversity & Inclusion Committee:
Wednesday, July 9 at 4 p.m. via Zoom

Health & Wellness Committee:
Thursday, July 17 at noon via Zoom

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

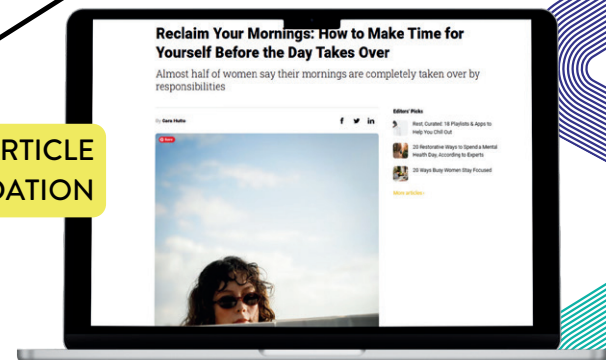
Association of Legal Administrators

The monthly chapter meeting of the Kentucky Association of Legal Administrators will be held in person and via Zoom on Thursday, July 10, 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. ■

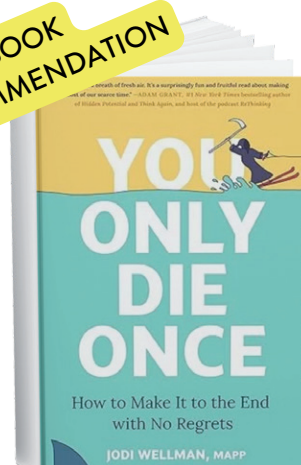
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DID YOU
KNOW?

Only about one in three Black adults who need mental health care receive it — and among Latinx adults, that number drops to one in five."

Practicing just 15 minutes of self-care a day has been linked to significantly lower stress levels and improved overall well-being."

Self-care isn't indulgent — it's essential.

JULY 2025
AWARENESS CALENDAR

- BIPOC Mental Health Awareness Month
- UV Safety Awareness Month
- Social Wellness Month

July 24 – International Self-Care Day

Brandeis School of Law Celebrates the Class of 2025 at Convocation Ceremony



On May 11, 2025, the University of Louisville Louis D. Brandeis School of Law celebrated the Class of 2025 with a heartfelt and inspiring Convocation ceremony at the historic Louisville Palace Theatre. The event honored the accomplishments, service and resilience of this year's graduates, as well as the community that supported them.

Assistant Dean for Student Affairs Crystal Rae Coel opened the ceremony by acknowledging the support behind every graduate. "This is your moment and this is your memory," she said. "You overcame many challenges... We could not be prouder of you than we are right now."

Dean Melanie B. Jacobs urged the new graduates to carry forward the legacy of Justice Louis D. Brandeis, known as the people's lawyer. "Being a lawyer also means a greater responsibility to our republic as a citizen and as a leader," she said. "Your voice carries so much more weight as a lawyer, and I implore you to use it."

She also commended the class of 2025 for living out the school's values through action. Collectively, the class completed nearly 4,800 hours of public service during their time at Brandeis School of Law. Several students also served in fellowships and clinics that provided free legal support to Kentuckians in need.

SBA President Andi Dahmer, who graduated magna cum laude, reflected on how the Brandeis community shaped their class. "We have grown not only professionally and intellectually, but also in courage and conviction," Dahmer said. "Let us continue this community of collegiality, and most importantly, let us use what we have learned to shape a more just society."

The keynote address by Jefferson Circuit Court Judge Brian C. Edwards echoed that call. Citing civil rights legend Charles Hamilton Houston, Judge Edwards reminded graduates of their responsibility to the

greater good: "Our world is in need of lawyers who are, in the words of Charles Hamilton Houston, problem solvers."

He continued, "You will be one of a precious few individuals with the privilege to ensure that the rule of law is utilized not just to punish, but to protect and to improve the lives of your neighbors."

Brandeis School of Law alumnus and Alumni Council President Matthew L. Bunnell ('20) welcomed the class into a growing network of more than 7,000 graduates. "Each of you planted the seed for your legal career when you decided to take the LSAT. And now today, you eat the fruit," he said. "This is not the end of your growth—it's the first harvest." He encouraged the new alumni to remain connected to the law school community and support future students by mentoring or serving on the council.

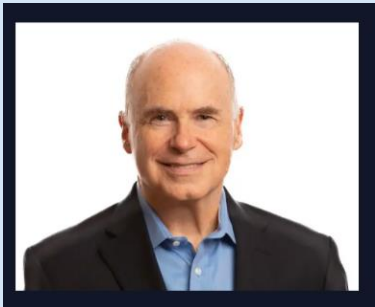
As the ceremony closed with the hooding of each graduate and a joyful video tribute, the Class of 2025 stepped forward—not just as lawyers, but as leaders, advocates and stewards of Justice Brandeis's enduring vision: that the law must serve the people.

To view more moments from the celebration, visit the full Convocation photo album on Flickr.

Pictured above: Faculty and graduates of the Louis D. Brandeis School of Law stand on stage during the Class of 2025 Convocation at The Palace Theatre in Louisville, Kentucky, on May 11, 2025. Photo courtesy of University of Louisville. ■

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Kentucky Disallows Trustee Fee Deductions

John R. Cummins and Thomas H. Monarch

In a recent Final Ruling on a Kentucky inheritance tax return, the Division of Protest Resolution at the Kentucky Department of Revenue entirely disallowed an inheritance tax deduction for the trustee fees paid to the trustee of a funded revocable trust for its trust administration during the period of estate settlement.

The growing trend in estate planning is to create a revocable trust to hold and manage your assets during your lifetime and then pass outside probate to your beneficiaries after your death. By avoiding probate, time and expenses are saved in the post-death administration. This streamlined administration is why the "Estate Settlement Trust" has become so popular in recent years.

The Department of Revenue's Final Ruling 25-02 noted the many administrative functions performed by the Trustee regarding the Trust assets after the owner's death. These functions were the usual administration actions required of an executor for an estate, but simply done for the trust assets rather than for probate assets. Despite recognizing that the Trustee was essentially functioning as an executor, the Ruling concluded that trustee fees for administering a funded revocable trust after the owner's death were neither "commission of executors and

administrators" under KRS § 140.090(1)(g) nor "a cost of administration, including attorney fees actually allowed and paid" under KRS § 140.090(1)(h). The Ruling cited a 2015 Kentucky court decision for the proposition that administration costs are limited to those "traditionally allowed." Attorney and accountant fees were mentioned as examples of traditional costs of administration in the court opinion as being traditionally allowed.

For estates that will pass to taxable beneficiaries and be subject to Kentucky inheritance tax, use of the funded revocable trust should be reconsidered. Parties may weigh the efficiency and privacy benefits of unsupervised trust administration against the potential tax savings from the Kentucky inheritance tax deduction for executor commissions.

Partner John R. Cummins and Managing Associate Thomas H. Monarch are based in Dentons' Louisville office and are members of the firm's Trusts, Estates and Wealth Preservation Group. ■



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MEMBERS on the move



Decker



Jackson



Whitmer

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.

Managing Intellectual Property (*Managing IP*) magazine recently selected Stites & Harbison attorney **Mandy Wilson Decker** to the 2025 edition of *Managing IP*'s "Top 250 Women in IP." This is the 11th time Decker has been honored on this list, and she is the only attorney honored from Kentucky. The "Top 250 Women in IP" list recognizes the leading women IP lawyers at the international level. Decker is a Member (Partner) of Stites & Harbison based in Louisville and Lexington. She is a Registered Patent Attorney. Her practice focuses on intellectual property protection strategy, including counseling clients on infringement, validity and patentability, transfer of intellectual property, patent drafting and patent prosecution. Contributing to her practice is a scientific background in chemistry and experience with academic and commercial research in the areas of biochemistry,

biotechnology and pharmaceutical sciences. Decker is regularly called upon to speak across the country on issues relating to patent prosecution, protecting intellectual property, intellectual property strategies in a global marketplace and life sciences technologies.

The University of Kentucky (UK) Law Alumni Association has honored Stites & Harbison attorney **Jennifer Henry Jackson** with the 2025 Young Professional Award. The UK College of Law Alumni Board of Directors established five awards to honor graduates who have distinguished themselves by their contributions to the practice of law and service to their communities. The Young Professional Award is given each year to a young alum who has graduated within the past 10 years and has distinguished themselves in the community or otherwise. Jackson is an attorney based

in the Louisville office. She is a member of the Torts & Insurance Practice Service Group, White Collar Criminal Defense Practice Group and the Health Care Service Group. Jackson handles a wide variety of litigation matters, including product liability, toxic and mass torts, medical malpractice, professional liability, premises liability and actions alleging serious personal injury or death. She routinely defends clients in state and federal criminal cases.

Bobby L. Whitmer has joined Dentons' Louisville office as a Managing Associate in the Commercial Litigation practice. Whitmer has experience assisting clients across a variety of litigation matters. He also has administrative law experience, representing clients in administrative hearings before federal and state agencies. ■



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Sunday,
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The Louisville Bar Association
is 125 years strong in 2025!
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Accretive is passionate about fueling our clients' innovation and growth. That makes us the perfect place for creative, dynamic people who want to grow their career while helping businesses, families and people thrive. We are proud to be one of the largest brokers in the country, but we're even prouder of the honest, caring relationships that our employees build with our clients every day.

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IN MEMORIAM



Joseph "J.D." Raine, Jr. passed away peacefully August 16, 2024, at Norton Pavilion Downtown after a resurgence of cancer and other health challenges in recent months. Born in Louisville in 1948, J.D. spent nearly his whole life there, moving away only for education. He passes on a deep love of Louisville, its history, neighborhoods, dining spots and sports. J.D. graduated in 1973 from University of Louisville Brandeis School of Law and was admitted to the bar the same year. One of his greatest points of pride was his 50-year membership in the Louisville Bar Association, which his father, Joe Sr., also achieved.

As a lawyer, his areas of practice were wide-ranging but eventually came to focus heavily on insurance-related cases. A trial lawyer with admissions to both state and federal courts, he greatly enjoyed practicing mediation in the second half of his career. He loved the law and loved sharing his knowledge of it, be it through seminars, mentoring or other avenues. He spoke in recent months with deep gratitude for one of his mentors, the late Louis Garlove of Morris, Garlove, Waterman and Johnson, with whose help J.D. changed the focus of his practice in the 1990s. ■

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your
thoughts

We're
listening

The LBA welcomes letters to the editor for
publication in Bar Briefs.
Email Kim Kasey, kkasey@loubar.org.

Accessibility allows
us to tap into
everyone's potential.
— Debra Ruh

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**JULY 2025
AWARENESS CALENDAR**

- French-American Heritage Month
- Disability Pride Month

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School Supply Drive

The 2025-26 school year is gearing up to start on August 7. You can help us support local children in need through our Back to School project. We will be collecting new school supplies and monetary donations for local elementary school students. We will be posting details in upcoming newsletters and on social media. Let's help kickstart a great year!



school starts
August 7th

OFFICIAL ANNOUNCEMENT

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We're excited to announce a new partnership with USI Insurance Services to support the LBA group health insurance plan through Anthem.

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Have questions or want to explore your options? USI is here to help and will be a visible presence at upcoming LBA events.

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