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The mission of the Louisville Bar Association is to promote justice, professional excellence and respect for the law, improve public understanding of the legal system, facilitate access to legal services and serve the members of the association.

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We are excited to welcome Tess Taylor as our new LBA Communications and Marketing Specialist. Tess earned her MA in Creative Business Leadership from Savannah College of Art and Design in 2022, and she has a background in social media management, website design, branding, advertising and sponsorship development. She will be overseeing our LBA Communications channels and helping us ramp up our advertising and sponsorship programs. Welcome to the team, Tess!

TESS
taylor



Sadly, we're saying farewell to our Marketing and Relationships Associate, Keelin Davis, who is returning to WKU for his senior year. Keelin managed our social media and worked to grow our advertising accounts this summer. He also helped us develop marketing pieces for our advertising programs and new conference center meeting spaces. We will miss him and wish him the best in his last year of college!

KEELIN
davis

Speaking Out: Making an Impact vs. Just Making Noise

After finding their product strewn about the Capitol Building on January 6th, Axe Body spray issued a statement boldly condemning the acts of violence on January 6th and strongly supporting the democratic process and peaceful transition of power. Gushers, the kids' snack company, issued a statement in favor of Black Lives Matter. Fruit by the Foot too stood proudly with Black Lives Matter. Kid Rock famously gunned down Bud Light bottles with an automatic rifle after the company's partnership with transgender rights activist Dylan Mulvaney. Finally, my old condo association with six units in it issued a statement condemning Putin's invasion of Ukraine. As proud as these male grooming products, children's snack companies, musician/rapper and condo associations are of their strong stances, who is listening to them and why?

We live in a divided society. Recently, I was in Greenwich, Connecticut at the Round Hill Club. Being a guest, I met several new folks. Each tried to feel me out within 30 seconds of meeting me: am I liberal or conservative; a Trumper or Biden fan. That night, I just wanted oysters on the half shell and clam pasta. We see this everywhere. My clients do the same when initially meeting me. I see this within the bar and throughout our community. Once elected President, members have come to me and complained they or their firm left because the bar is pushing a woke liberal agenda.

Let me be very clear here: The Louisville Bar Association is not a political organization. While we elect our leaders, we are a 501(c)6: a professional organization. We exist to serve our members. We are not in the business of supporting politicians or individual judges. Of course, we as individual members have our own personal leanings, but we are not an organization of democrats or republicans. I refuse to allow our bar to fall into political camps.

We follow our mission, to:

- 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.

We are a professional organization designed to help the community and the law. The bar has recently been asked to consider commenting on the LMPD consent decree, the omnibus criminal reform House Bill 2, and issues surrounding JCPS bussing. There is no doubt that these are important and pressing issues that have serious consequences for our community. I have my own strong opinions on these matters, but they have nothing to do with our mission as a professional organization. Therefore, it is improper for the LBA to comment on them.

Consequently, the Louisville Bar Association's Board put in place a new Public Position Policy based on a similar policy from the Cleveland Metropolitan Bar Association. Essentially, our bar will take public positions and make statements if and only if:

- 1) The position would further the interests of the LBA, its members and the community at large; *and*
- 2) The vast majority of its members would agree with the position.

Finally, the LBA shall not endorse candidates for public office or judicial appointments.

Briefly, the requests for statements are sent to the President and the Executive Director. They will collectively determine whether a 48-hour response is required. If so, they and the Executive Committee will take a unanimous public position if 1) an accurate public position can be formulated and issued with enough speed so as to be relevant to the public discussion and 2) the issue is of such significance to warrant a rapid response. If a rapid response is not required, the matter will go to the full Board for investigation and evaluation and put to a vote. Any public position by the LBA will be in service to and limited to our mission.

Put differently, the LBA will stay in its lane. We are not burying our heads in the sand. We are sticking to our purpose, our mission and what we are best at. We will continue to do what we were designed to do.

At the end of the day, Gushers should make their packages easier to open without using our teeth, the condo association should fix the back stairs, Kid Rock should quit wasting beer, and Axe Body Spray should just stop.



We are not burying our heads in the sand. We are sticking to our purpose, our mission and what we are best at. We will continue to do what we were designed to do.

Bryan R. Armstrong
LBA President

The Challenge of Challenges

Chief Judge Ann Bailey Smith

“Well most folks seem to think they’re right and you’re wrong...”

“They’re certainly entitled to think that, and they’re entitled to full respect for their opinions,” said Atticus, “but before I can live with other folks I’ve got to live with myself. The one thing that doesn’t abide by majority rule is a person’s conscience.”

From “To Kill a Mockingbird” by Harper Lee

Peremptory – not open to appeal or challenge; final. As lawyers, we are all familiar with peremptory challenges during the jury selection process. A peremptory challenge allows a party to eliminate a prospective juror from serving on a jury without stating a reason for doing so... Well at least in most instances. Peremptory challenges are not constitutionally guaranteed, however, KRS 29A.290 states that the Supreme Court shall prescribe the number of peremptory challenges. The Kentucky Supreme Court stated in *Glenn v. Commonwealth*, Ky., S.W. 3d 186 (2013) that while this statute encroaches upon the prerogatives of the judiciary, the Court would tolerate this encroachment because it is not inconsistent with rules of the Supreme Court. Civil Rule 47.03 provides for three peremptory challenges for opposing sides, with that number increased by one if alternate jurors are to be seated. Additionally, co-parties with antagonistic defenses shall be given three peremptory challenges each. On the criminal side, RCr 9.40 allows for eight peremptory challenges for each side in a felony trial with an additional peremptory being given to each side when alternate jurors are seated. Where there are codefendants being tried together, then each defendant is entitled to one additional peremptory to be exercised independently of the other codefendants.

Not surprisingly, peremptory challenges are a carryover from English jurisprudence. Originally in England, only the prosecutor was given peremptory challenges, but eventually, in order to level the playing field, defense counsel was also permitted to exer-

cise peremptory challenges. Over time, the prosecutor’s use of peremptory challenges was taken away. Then, in 1989, Parliament abolished the use of peremptory challenges by either side as a result of concerns about their discriminatory use and the threat to the increasing diversity of venirepersons.

In doing research for this article, I reread the United States Supreme Court’s opinion in *Swain v. Alabama*, 380 U.S. 202 (1965), delivered by Justice Byron White. His words took my breath away, and not in a good way. He writes about the history of the peremptory challenge in deciding a case where “Robert Swain, a Negro, was indicted and convicted of rape (of a white woman) in the Circuit Court of Talladega County, Alabama and sentenced to death.” Swain challenged at the trial level and on appeal the composition of the Grand Jury, the jury pool and the use of peremptory challenges by the prosecutor to exclude prospective jurors of color. There were eight blacks on the jury panel; two were struck for cause and the prosecutor used six peremptory challenges to remove the rest. The *Swain* Court saw no problem with this when it stated:

...the question... is not whether a juror of a particular race or nationality is in fact partial, but whether one from a different group is less likely to be... Hence veniremen are not always judged solely as individuals for the purpose of exercising peremptory challenges. Rather they are challenged in light of the limited knowledge counsel has of them, which may include their group affiliations, in the

context of the case to be tried. *Id.*, at 221.

This troubling opinion goes on to say:

The presumption in any particular case must be that the prosecutor is using the State’s challenges to obtain a fair and impartial jury to try the case before the court. The presumption is not overcome and the prosecutor therefore subjected to examination by allegations that in the case at hand all Negroes were removed from the jury or that they were removed because they were Negroes. *Id.* at 222.

The *Swain* Court elevated the use of peremptory challenges over the constitutional guarantee of a fair and impartial jury. The *Swain* decision imposed a burden on criminal defendants to not only show discriminatory behavior by prosecutors in the use of peremptory challenges in their own case but also in other cases to establish pervasive discriminatory conduct. Justice Goldberg, in his dissenting opinion joined by two other justices, pointed out that no person of color had ever served as a juror in Talladega County, Alabama.

Some twenty years later *Batson v. Kentucky*, 476 U.S. 79 (1986), was decided, which found that a prosecutor’s use of peremptory challenges to dismiss jurors based on race without giving a race neutral explanation for doing so violated the Equal Protection Clause of the Fourteenth Amendment and discrimination had to be shown in the present case, not in past cases as required by *Swain*:

[T]he Equal Protection Clause forbids the prosecutor to challenge potential jurors solely on account of their race or on the assumption that black jurors as a group will be unable impartially to consider the State’s case against a black defendant. *Id.* at 89.

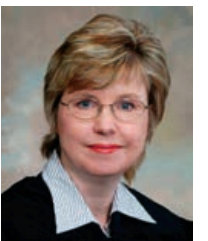
Justice Marshall concurred in the result but cautioned in his concurring opinion that the procedure set forth in *Batson* for challenging a peremptory will not end racial discrimination that “peremptories inject into the jury selection process.” *Id.*, at 103. Instead, Justice Marshall asserted that peremptory challenges should be banned all together. It was his belief that prosecutors could easily formulate a racially neutral reason for the use of a peremptory challenge which would withstand further scrutiny from the trial judge.

Since the *Batson* decision, its holding has been expanded to include not just prosecutors but also defense attorneys and has been applied to civil jury trials. Additionally, it now prohibits discrimination based on ethnicity and gender. But discrimination persists in the use of peremptory challenges, as can be seen in the facts discussed in the 2008 opinion of the United States Supreme Court in *Snyder v. Louisiana*, 552 U.S. 472, where the Court rejected the two race neutral reasons put forth by the prosecutor as to a black prospective juror when compared to similarly situated white prospective jurors.

In 2022, Arizona became the first state in the nation to eliminate the use of peremptory challenges. Three reasons were advanced for doing so: 1) peremptory challenges are not constitutionally guaranteed; 2) research demonstrated that the *Batson* analysis had failed because peremptory challenges were still being exercised in a discriminatory way by both the prosecution and the defense; and 3) protecting a defendant’s due process right to a jury of his or her peers and a citizen’s equal protection right to serve on a jury improved confidence in the justice system. As a result, the Arizona Supreme Court removed all peremptory challenges from Arizona’s civil and criminal procedure rules.

Washington also sought to address *Batson* problems; its Supreme Court adopted a rule which seeks to eliminate both intentional and implicit bias in jury selection. While peremptories are still allowed, an objective observer standard has been adopted as to whether that observer could view race or ethnicity as a factor in the exercise of the peremptory challenge. A similar standard was enacted in California through its legislature. Other states have formed task forces to study whether peremptory challenges continue to be exercised in a discriminatory manner based on race, ethnicity or gender so there may be, in the near future, actions taken in line with Arizona, Washington and California. It remains to be seen whether Kentucky will consider reform as to peremptory challenges.

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





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Thanks for joining us!

SUMMER ASSOCIATES & NEW ADMITTEES RECEPTION



The Louisville Bar Association hosted its 3rd annual Summer Associates/New Admittees Reception on Thursday, July 11 at the newly-renovated Bar Center. The reception honored those who passed the Bar in the fall of 2023 or spring of 2024. This was a wonderful opportunity to network with attorneys in the legal community and members of our judiciary. Thank you to all who attended. We look forward to seeing you at future LBA events.



It was a pleasure to meet so many summer associates and new attorneys. Thank you for joining us.

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Bankruptcy Appellate Panel for the Sixth Circuit: A Helpful MAP for Understanding BAP

Chief Judge Alan C. Stout

A Bankruptcy Appellate Panel, or “BAP,” is authorized by 28 U.S.C. § 158 (b) to hear, with consent of all the parties, appeals from bankruptcy courts that otherwise would be heard by district courts, but only in those districts in which the district judges authorize appeals to BAPs. BAPs were originally created by the Bankruptcy Reform Act of 1978, and the first BAP was established in the Ninth Circuit in 1979.

Currently, only the First, Sixth, Eighth, Ninth and Tenth Circuits have BAPs. In the Sixth Circuit, there are six bankruptcy judges currently sitting on the BAP: Chief Judge Randal S. Mashburn (Middle District of Tennessee), Judge Jimmy L. Croom (Western District of Tennessee), Chief Judge Suzanne H. Bauknight (Eastern District of Tennessee), Judge Alan C. Stout (Western District of Kentucky), Judge John P. Gustafson (Northern District of Ohio) and Judge John T. Gregg (Western District of Michigan).

The Sixth Circuit BAP’s case administration, from filing to oral arguments, typically goes as follows. First, the clerk’s office docket the appeal or motion for leave to appeal once it is filed. An appellant may elect at the time of filing to have the appeal heard by the appropriate district court. The ap-

pellee is allowed thirty days from service of notice of the appeal to elect to have the appeal heard by the district court (the opt-out period can be waived). 28 U.S.C. § 158(c)(1). Next, the clerk’s office sets the initial briefing schedule. This may include ruling on preliminary non-substantive motions, such as requests for briefing extensions. The BAP members (three per appeal) are then assigned by a blind draw after the appellant’s brief is filed, or a motion is filed which requires a Panel decision. To avoid conflicts, any judge sitting in the district where the appeal originated is excepted from the draw for that appeal.

Appeals may be mediated before the BAP ever needs to resolve the dispute. All appeals are referred for mediation, except those involving *pro se* parties and those in which there is no appellee. The mediation office can extend the briefing schedule without the Panel’s involvement. The mediation office also communicates the status of the mediation for the Panel’s information, particularly in cases fully briefed or where dispositive motions are pending.

Assuming mediation is unsuccessful, the parties may want to present oral arguments before the Panel. Oral arguments are scheduled four times a year. Typically, they are set on or near the second Tuesday of February, May, August and November. The time and place for holding oral arguments is decided one month prior to the next available date for scheduling oral arguments via conference call. The location is typically chosen during the prior BAP meeting session, if not earlier. Oral argument may be waived upon written stipulation of the parties unless the Panel orders otherwise.

Then comes the decision-making process.

The Panel agrees upon an authoring judge following oral argument or submission on briefs. On average, written opinions are published two to six months after oral argument or submission. These opinions may be deemed “RECOMMENDED FOR PUBLICATION” or “NOT RECOMMENDED FOR PUBLICATION.” The entire appeals process generally takes approximately six to nine months (or faster if oral argument is waived by the parties).

Statistically, in the Sixth Circuit as a whole, appellants choose the BAP approximately 65% of the time in first instance. Only approximately 8% of appellees opted out of the BAP and had their case transferred to the District Court. The Sixth Circuit BAP affirms the lower bankruptcy court’s decision approximately 65% of the time. Approximately 34% of BAP decisions are further appealed to the Sixth Circuit, which affirms the BAP’s rulings approximately 84% of the time.

There are several common problems that arise at the BAP appellate level:

- Failure to File Forms in the Bankruptcy Court: Appellants are required to pay the filing fee in the bankruptcy court, as well as file a statement of issues and a designation of record, which are then transmitted to the BAP from the bankruptcy court. Cases may be dismissed for failure to prosecute if these forms are not properly filed.
- Failure to Designate the District Court as Choice of Forum: Appellants must actively choose the District Court by selecting it on their Notice of Appeal, or the appeal will be heard by the BAP unless the Appellee opts out.
- Failure to Provide Transcripts or Designate a Complete Record: An appeal is less likely to succeed (and may be dismissed) if the Panel is not provided with all related documentation.

- Filing a Notice of Appeal and Motion for Reconsideration at the Same Time: Filing a motion to alter or amend a

judgment tolls the time for filing a notice of appeal. The bankruptcy court retains jurisdiction over the motion, and the notice of appeal is not effective until the motion for reconsideration is ruled upon. Therefore, filing both at the same time creates unnecessary confusion and possible delays.

- Corporate or Business Entities Attempting to File a *Pro Se* Appeal: Corporations and the like require representation by counsel. They cannot be *pro se*.
- Failure to Offer a Viable, or even Comprehensible, Argument: The BAP cannot make a party’s argument for them. Thus, parties should try to make their filings as clear as possible and include correct citations to recent case law.

For more information on BAP Rules and Regulations, please visit the following sources:

- Sixth Circuit United States Court of Appeals website (contains general BAP info, e.g. judges, calendar, opinions search, forms, procedures and rules) available at: <https://www.ca6.uscourts.gov/bankruptcy-appellate-panel>
- General information regarding BAP appeals PDF (contains details re: BAP filing fee, supporting documents, electronic filing) available at: <https://www.ca6.uscourts.gov/sites/ca6/files/documents/bap/General%20Information%20Regarding%20BAP%20Appeals.pdf>
- BAP Local Rules PDF (contains all local rules applicable to BAP cases) available at: <https://www.ca6.uscourts.gov/sites/ca6/files/documents/bap/BapLocalRules.pdf>

Judge Stout acknowledges the assistance of Kelli Dexter, Staff Attorney for the Sixth Circuit Bankruptcy Appellate Panel, as well as Staff Attorney Mina Kahlil in preparation of this article.

Judge Alan C. Stout was appointed U.S. Bankruptcy Judge for the Western District of Kentucky in 2011 and was appointed Chief Judge in 2020. Judge Stout holds court in Louisville and Paducah. In 2022, Judge Stout was appointed to the Sixth Circuit Bankruptcy Appellate Panel (BAP). He is a member of the National Conference of Bankruptcy Judges (NCBJ) and currently serves on the Legislative Committee. ■

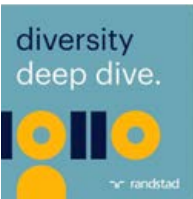


Diversity and Inclusion Committee Corner

August 2024

READING RECOMMENDATION

4 Tips for Becoming an Effective Workplace Sponsor



PODCAST RECOMMENDATION

Diversity Deep Dive Podcast

VIDEO RECOMMENDATION

Inclusive Diversity: The Game Changer – a TED Talk by Toni Carter



DIVERSITY & INCLUSION COMMITTEE

Would you like to submit a resource to share? Email Lisa Anspach.

BACK TO SCHOOL

WEDNESDAY,
AUGUST 14

IS THE DEADLINE FOR DONATIONS.

The 2024-25 school year starts on August 9! Help us support local children in need through our Back to School project. We are collecting new school supplies and donations for local elementary school students.

\$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



CLICK HERE to Amazon wish list and have donations delivered straight to our office.

Last year we supplied our schools with individually packaged snacks, and the appreciation was resounding.

“

“The individual snacks have been used for students in the afternoons who possibly didn't eat enough lunch or are just hungry and need an afternoon pick-me-up. We have also made good use of them with students who are at school late. We have several buses that don't get to us until well after dismissal... I honestly can't thank you enough for being willing to steer away from traditional supplies and address our real needs.”

- Family Resource Center Coordinator at Frayser Elementary

This year we have reached out to the following schools for their participation: Atkinson, King, Frayser, Rutherford, Semple and the West End School.

Each of these schools has a high percentage of students on free or reduced lunch programs, and we have worked directly with the Family Resource Centers in those schools to match children with necessary supplies. This process ensures that all donations reach students and families with the greatest need. All donations will be split between Jefferson County Public Schools in need and the West End School.

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



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Submit for a quick quote at www.LMICK.com



meet our summer 2024 students!

Legal Aid Society would like to introduce the students supporting our mission of "Equal Justice for All" this summer. Without generous donations, scholarships, and grants, this program would not be possible. Thank you to all of our donors for your support!



ANNA HUDSON

HOMETOWN: Greenup County, Kentucky
LAW SCHOOL: University of Louisville

The thing I enjoy most about LAS is actually working with clients. In law school, you have a lot of knowledge of the law thrown at you. You learn a lot, but it can seem very overwhelming and daunting. Actually seeing how what you are learning affects real people makes all of the work worth it.

I enjoy the challenge and fast pace of working at LAS. I also love being able to communicate directly with clients, learning from the rest of the staff, and really being able to see that I'm making change, along with so many other passionate people around me.

HOMETOWN: Louisville, Kentucky
LAW SCHOOL: University of Louisville

MCKENLEY BUTLER



JAKE MACE

HOMETOWN: Chicago, Illinois
LAW SCHOOL: University of Louisville

I love the environment – I appreciate the relationships both within and between teams, I know that I can go to anybody if I need help with something, and it's important to me that I'm working somewhere with a strong worker's union.

Everyone is helpful and trusting in one another. As an intern, it is nice knowing that the attorneys and paralegals feel comfortable giving me tasks, and questions are always welcome. I believe I have been educated and gained experience that can never be fully taught in a classroom. The clients are amazing and grateful for all the work attorneys put into their cases. It is a special feeling being a part of something that is life changing."

HOMETOWN: Louisville, Kentucky
LAW SCHOOL: Lincoln Memorial University

MACKENZIE NEWTON



I enjoy collaborating with different community members and organizations to navigate complex legal issues for victims of crime. I appreciate the opportunities to go to neighborhood meetings and anti-violence coalitions where I get to listen, learn and become a part of the groups that work to find solutions to eliminate gun violence.

KORTNEY SMITH

HOMETOWN: Louisville, Kentucky
LAW SCHOOL: University of Louisville



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MESA ONE-HOUR ETHICS

You're a Lawyer Not a Fighter: The Ethical Imperative to Remain Peaceful at All Times

Wednesday, August 7

Lawyers serve a vital role in society – to help others resolve their disputes peacefully. And while we do so through the adversarial process, we must not lose sight of the fact that we are not “fighting” for our clients. We are striving to help them reach a peaceful solution to their problem. Sadly, lawyers often get so hung up in the confrontational manner of depositions, cross-examinations and contract negotiations that we develop a fighting mentality, which doesn't serve our clients' best interests or our personal or professional interests.

Speaker: **Sean Carter**, MESA CLE

Time: 1 – 2 p.m. — Program
Place: Zoom – a link will be sent prior to the seminar
Price per hour: \$55 LBA Members | \$50 Sustaining Members | \$25 Paralegal Members | \$125 Non-members
Credits: 1.0 CLE Ethics Hours — *Approved*

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

ANNUAL BANKRUPTCY LAW CONFERENCE

Hosted by LBA Bankruptcy Law Section

Friday, October 25

Join us for the LBA's Annual Bankruptcy Law Conference on October 25, 2024. This conference will bring together industry experts to cover the latest developments and trends in bankruptcy law. You can also network with fellow practitioners and grow your practice through your new connections. Sponsor and vendor opportunities are available. Contact Lisa Anspach, lanspach@loubar.org, today!

This conference is a hybrid event, taking place both at the LBA Bar Center and via Zoom. Please choose your preferred attendance method during registration. Lunch is provided for in-person attendees; please indicate your lunch preference during registration.

The agenda is available on the LBA website, www.loubar.org.

Space is limited – register now!

Time: 9 a.m. – 5:15 p.m. — Program
Place: Hybrid: LBA Bar Center or via Zoom (Please choose your preferred attendance method during registration).
Cost: \$280 LBA Members | \$252 Sustaining Members | \$140 Government/Non-Profit Members | \$99 Solo/Small Firm Practice Section Members or YLS Members | \$25 LBA Paralegal Members | \$560 Non-Members.
Lunch is provided for in-person attendees, please indicate lunch preference with registration.
Credits: 7.0 (Including 1.0 Ethics) CLE Hours — *Pending*

MESA ONE-HOUR

ChattyGPT: Using AI for More Effective Communication

Wednesday, September 18

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 – a link will be sent prior to the seminar
Price per hour: \$55 LBA Members | \$50 Sustaining Members | \$25 Paralegal Members | \$125 Non-members
Credits: 1.0 CLE Hours — *Pending*

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

14TH ANNUAL KENTUCKY COMMERCIAL REAL ESTATE CONFERENCE

Hosted by Kentucky CCIM Chapter & Louisville Bar Association

Wednesday, November 6

Building Knowledge. Building Connections.

Join real estate professionals from across Kentucky for an extraordinary day of lively panel discussions, informed conversations and comprehensive one-hour courses covering a variety of commercial real estate and land use law topics. This event is a prime opportunity to network, gain insights and stay ahead in the fast-evolving field of commercial real estate.

Don't miss this chance to hear from one of the industry's leading experts and connect with peers who share your passion for commercial real estate. Mark your calendar and be part of the conversation that will shape the future of our industry.

Keynote Speaker: **Patrick Nessenthaler**, CFA, CAIA, MAI, CRE Founder and CEO, Ness & Associates “Dynamic Geopolitics, Critical Elections, and a Shifting Capital Market: Shaping Commercial Real Estate's Future in the U.S.”

Time: 8 a.m. – 5 p.m. — Program
Place: Louisville Marriott East
Credits: 7.0 (Including 1.0 Ethics) CLE Hours — *Pending*



LOUISVILLE BAR ASSOCIATION

BANKRUPTCY LAW SECTION

Annual Bankruptcy Law Conference

Friday, October 25 | Bar Center or Zoom | 9:00 AM - 5:15 PM

Join us for the LBA's Annual Bankruptcy Law Conference to gain insights from experts, network with peers, and stay updated on the latest trends in bankruptcy law.

FOR MORE INFORMATION AND TO REGISTER VISIT WWW.LOUBAR.ORG

This Conference is a hybrid event, taking place both at the LBA Bar Center and via Zoom. Please choose your preferred attendance method during registration. Lunch is provided for in-person attendees; please indicate your lunch preference during registration.

TIME	SESSION	SPEAKER
09:00 AM - 10:00 AM	Local Issues in Filing Cases and Pleadings in the Western District	Elizabeth H. Parks, Clerk of the Court
10:00 AM - 10:15 AM	BREAK	
10:15 AM - 11:15 AM	Navigating Interactions with the US Trustee in Your Case	Jamie L Harris, UST Trial Attorney and Timothy Ruppel, Asst. US Trustee
11:15 AM - 12:15 PM	Bankruptcy and Non-Bankruptcy Student Loan Solutions	Katherine A. Bell, U.S. Attorney's Office
12:15 PM - 01:00 PM	LUNCH	
01:00 PM - 01:30 PM	Current Issues in Chapter 13	Charles Sydenstricker, Chapter 13 Trustee Staff Attorney
01:30 PM - 02:30 PM	Sub-Chapter V Issues	Charity Bird, Kaplan Johnson Abate & Bird
02:30 PM - 02:45 PM	BREAK	
02:45 PM - 03:45 PM	Ethical Challenges in Conflicts and Dual Representation in Bankruptcy Law	James R. Irving, Dentons
03:45 PM - 04:15 PM	Procedures Before the Bankruptcy Appellate Panel	Hon. Alan C. Stout, U.S. Bankruptcy Court
04:15 PM - 05:15 PM	Case Law Update	Hon. Charles Merrill and Hon. Alan C. Stout, U.S. Bankruptcy Court

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More Documentation will be Required to Substantiate R&D Credit Claims in the Future

Helen V. Cooper and H. Collier Clay

The last several years have brought a whirlwind of changes for taxpayers claiming the Credit for Increasing Research Activities (R&D Credit or the credit) under § 41 of the Internal Revenue Code of 1986, as amended (the Code). The R&D Credit is a powerful incentive for companies to conduct research in the United States. Eligible taxpayers can reduce their tax liability dollar-for-dollar based on increased research and development spending. But, recent tax controversy and requirements implemented and proposed by the Internal Revenue Service (IRS) indicate that taxpayers who qualify for the credit should consider streamlining their documentation procedures to ensure that claims can be adequately substantiated.

The R&D Credit is currently the focus of an active audit campaign with the IRS Large Business and International Division (LB&I). In 2021, the Tax Court's decision in *Little Sandy Coal Co., Inc. v. Comm'r*, 121 T.C.M. (CCH) 1113 (T.C. 2021), *aff'd*, 62 F.4th 287 (7th Cir. 2023), and the Seventh Circuit's subsequent affirmation of the Tax Court's ruling in 2023, confirmed that taxpayers claiming the credit need to be ready to prove their claims. Post-*Little Sandy Coal*, IRS examinations of the R&D Credit have increasingly focused on documentation supporting the claim.

On June 21, 2024, the IRS released a new proposed draft of the Form 6765 used to claim the R&D Credit. The proposed draft Form 6765 requires more robust qualitative and quantitative reporting than the current version of the Form 6765. Likewise, the IRS recently updated its guidance for filing amended returns to claim R&D credit refunds, requiring more detailed reporting.

Background

The R&D Credit is calculated based on a portion of the taxpayer's increased qualified research expenses (QREs) incurred in a given tax year. Not all research spend qualifies for the credit. For costs to be eligible as QREs, they must be incurred in the performance of "qualified research."

Qualified research is (1) research incurred in the taxpayer's trade or business, intended to discover information or eliminate uncertainty concerning a business component's capability, method or design, and represents research and development in the experimental or laboratory sense, (2) undertaken for the discovery of information which is technical in nature, (3) the application of which is intended to be useful in the development of a new or improved business component, and (4) substantially all of the research activities must involve a process of experimentation for the purpose of developing a new or improved function, performance, reliability or quality (the Four Part Test). Code § 41(d). The research activities must take place in the United States. Further, the research need not be successful to qualify.

QREs include either in-house research expenses or contract

research expenses. In-house research expenses are the costs of labor, supplies and the right to use computers in the conduct of qualified research. Contract research expenses are amounts paid to any person, other than an employee, to conduct qualified research, reduced by 35%. Code § 41(b).

Little Sandy Coal Company, Inc. v. Comm'r of Internal Revenue

"Taxpayer asks us to take on faith that the percentage allocations of each nonproduction employee's wages were only for research activities that involved a process of experimentation. But Section 41(d) requires us to walk by sight, not by faith."

Little Sandy Coal Co., Inc. v. Comm'r, 62 F.4th 287, 308 (7th Cir. 2023).

The U.S. Tax Court rocked the R&D Credit world with its decision in *Little Sandy Coal*. The taxpayer, a shipbuilder, claimed the R&D Credit for research related to the development of a tank barge and dry dock. The Taxpayer claimed approximately \$6.4 million and \$2 million in QREs related to the tank barge project and the dry dock project, respectively. Additionally, the Taxpayer claimed \$609,276 in QREs that were not associated with a specific project.

While the taxpayer successfully convinced the Tax Court that it had engaged in a process of experimentation, it failed to prove that substantially all of its activities in designing the tank barge and dry dock involved a process of experimentation (thereby failing to meet the fourth prong of the Four Part Test). Further, the Court found that the taxpayer had not produced enough evidence to apply the shrinking-back rule under Treas. Reg. § 1.41-4(b)(2), which allows the Court to revive a R&D Credit claim at the sub-component level where the Four Part Test is not met at the business component level.

While the Tax Court's decision in *Little Sandy Coal* generated a great deal of commentary regarding its implications for what constitutes qualified research and which expenses can be claimed, the Seventh Circuit's affirmation cemented *Little Sandy Coal's* lasting impact on the substantiation of R&D Credit claims. The Seventh Circuit recognized that the taxpayer's "research activities to develop these parts [of the tank barge and dry dock] may very well constitute elements of a process of experimentation. But...[the] Taxpayer's documentation lacks the necessary detail to prove that." *Little Sandy Coal*, 62 F.4th at 303. The Court further cautioned "[o]ther taxpayers seeking to avail themselves of the research tax credit would be well-advised to document research activities for subcomponents if they cannot demonstrate a process of experimentation at the business component level." *Id.*

Proposed Changes to Form 6765

The current Form 6765 is strictly quantitative. Initially, the IRS released a proposed draft Form 6765 in September 2023, adding new sections to the Form that increased the focus on information reporting at the business component level. The latest version, released in response to taxpayer commentary, will keep the new quantitative and qualitative requirements for each business component proposed in the September draft. If implemented, taxpayers claiming the credit on an original return will need to describe the information sought to be discovered and provide a breakout of types of QREs claimed for each business component.

The latest draft scaled back the reporting requirements initially proposed in September 2023. The original draft required all QREs to be reported at the business component level. The new draft only requires a taxpayer to report 80% of its total QREs by business component, with a cap of 50 business components. The business component level reporting requirement is optional for qualified small business taxpayers, meaning taxpayers who check the box for the reduced payroll tax

credit, and taxpayers with \$50 million or less in gross receipts and claiming \$1.5 million or less in QREs.

Claiming the R&D Credit on an Amended Return

In October 2021, the IRS announced a new Chief Counsel memorandum (20214101F) clarifying the information necessary to meet the specificity requirements of Treas. Reg. § 301.6402-2 for claiming a R&D Credit refund on an amended return. The memorandum concluded that a valid refund claim must identify (1) all the business components for which the refund claim is related, (2) the research activities performed for each business component, (3) the individuals who performed each research activity, (4) the information each individual sought to discover, and (5) the total QREs, broken out by wage expenses, supply expenses and contract research expenses by business component for the claim year.

LB&I later released interim guidance and frequently asked questions (FAQs) for applying the memorandum. This summer, the IRS revised its FAQs to eliminate the requirement for reporting the name and information sought to discover for each individual performing the qualified research.

Documentation, Documentation, Documentation

The current regulations governing the R&D Credit do not require taxpayers to keep any specific records pertaining to qualified research. Instead, Treas. Reg. § 1.41-4(d) says "[a] taxpayer claiming a credit under section 41 must retain records in sufficiently usable form and detail to substantiate that the expenditures claimed are eligible for the credit," then refers to the general record keeping requirements of Treas. Reg. § 1.6001-1.

Historically, taxpayers have relied on the rule from *Cohan v. Comm'r*, 39 F.2d 540 (2d Cir. 1930) (the *Cohan* rule). The *Cohan* rule is implicated where a taxpayer proves some entitlement to a tax benefit. *Little Sandy Coal*, 62 F.4th at 301 (citing *Shami v. Comm'r*, 741 F.3d 560, 568 (5th Cir. 2014)). Where a taxpayer can establish that qualified research occurs, the qualified research expenses subject to the R&D credit may be estimated. *Id.*

In the future, taxpayers should consider the Seventh Circuit's advice in *Little Sandy Coal*, as well as the IRS's proposed changes for claiming the R&D Credit on an original return and recent guidance concerning the information required to claim a R&D credit refund. The current trend is that more documentation will be needed to claim the credit going forward.

The R&D Credit can be a game-changer for companies with high research costs. An experienced tax professional can help navigate the process and ensure that taxpayers claiming the R&D Credit are ready to defend it, if necessary. Taxpayers claiming the R&D Credit should be ready to show an IRS examiner (and maybe the Tax Court) exactly why they qualify.

Helen V. Cooper is a Senior Managing Associate in Dentons' US Tax practice. Before joining the firm in 2023, Helen was a Tax Manager in Quantitative Services at Ernst & Young, LLP where she focused on the Research Credit, Accounting Methods Planning and Tax Controversy. As a member of Dentons' US Tax practice, Helen assists clients at all stages of the tax return lifecycle, including advising on developments in the Internal Revenue Code, regulations and case law, defending tax positions and negotiating post-assessment collection compromises.



Henry "Collier" Clay is a Managing Associate in Dentons' US Tax practice. Collier's practice includes federal, state and local tax controversies. Collier also assists with federal tax planning. While in law school, Collier was actively involved with the Kentucky Law Journal, serving as Senior Staff Editor, Staff Editor and on the Student Note and Disciplinary committees. ■





2ND ANNUAL LBA PICKLEBALL

Palooza

09.22.24

1:00 PM - 4:00 PM

GENESIS HEALTH CLUB - BLAIRWOOD



LBA Member: Team (Two players): \$40.00 | General Admission: \$15.00
Non-LBA Member: Team (Two players): \$50.00 | General Admission: \$20.00

Cost includes admission to tournament, lunch and two (2) drink tickets (non-alcoholic or alcoholic). Teams (2) also receive play time and use of paddles and balls. Additional food and drinks available for purchase. LBA Member Teams must have at least one LBA member to be eligible for member pricing.

REGISTER ONLINE AT WWW.LOUBAR.ORG OR EMAIL LANSPACH@LOUBAR.ORG

Monthly Health and Wellness Corner



PODCAST RECOMMENDATION



This podcast, from legal mental health charity LawCare, looks at how the legal mind works and offers mental health and wellbeing tips for lawyers and guidance for legal workplaces on how to build healthy cultures which support mental wellbeing.

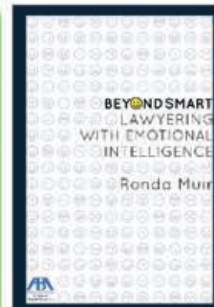
VIDEO RECOMMENDATION

Transitioning to Adulthood: Supporting the Mental Health of Young Adults

This webinar explores the rise in mental illnesses and suicide during young adulthood, examining various influences like health insurance, relationships and identity. Instead of focusing solely on mental illness, we identify ways to support individuals facing these challenges.



BOOK RECOMMENDATION



Beyond Smart: Lawyering with Emotional Intelligence
By Ronda Muir

Dive deep into the role emotional intelligence plays in successful lawyering, including its impact on negotiation, leadership and judgment.



THE LOUISVILLE BAR FOUNDATION

LBF 2024 Grant Recipients

The Louisville Bar Foundation recently awarded approximately \$125,000 in grants for fifteen law-related programs in the Louisville area. These grants were approved by the Board of Directors at its board meeting in June. Additional grants may be awarded in December. Our profession is helping in these times through our collective gifts to the Foundation.

Grants are made possible by the generosity of Louisville area lawyers and law firms. Since its founding in 1982, the Foundation has distributed more than \$3.3 million in grant funds. For more information on the LBF's grants process or to make a charitable contribution in support of the LBF's grantmaking activities, contact Jeff Been at (502) 292-6734 or jbeen@loubar.org.

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 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 as to achieve or maintain financial stability and economic independence.

CHILDREN'S LAW CENTER

Holistic Education Law Program: \$3,333

Children's Law Center (CLC) provides advocacy services on behalf of students in the educational setting. CLC staff and legal volunteers identify sources of education-related problems, work with the children and guardians and engage school officials to address students' needs and monitor outcomes. LBF funds will support advocacy and problem-solving efforts from CLC to ensure that special-needs children get appropriate

educational services, allowing them to make academic progress toward graduation and meaningful employment.

FAIRNESS EDUCATION FUND

Name Change Clinics: \$3,333

The Fairness Education Fund initiates and develops projects that broaden community awareness and understanding of discrimination based on sexual orientation or gender identity and expression. With the assistance of volunteer attorneys who donate their time and services, the organization offers a Name Change Clinic for individuals to file the formal paperwork necessary for a court to approve a change in a person's legal name. The LBF grant will provide funds to the organization to assist applicants who lack the financial ability to pay the filing fee associated with the court process.

THE HEALING PLACE

Peer Mentor Program: \$3,333

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 EQUAL JUSTICE CENTER

Legal Clinics for Tenants' Rights: \$10,000

As a poverty law research and advocacy center, Kentucky Equal Justice Center (KEJC) works with the regional legal aid programs and community partners to promote equal access to justice for all Kentuckians. Low-income residents often face housing instability because they lack information on legal protections and how to access legal services. KEJC will collaborate with Louisville community partners in offering monthly clinics educating tenants on issues related to maintenance of rental premises, illegal fees, unlawful rent increases, retaliation and other issues threatening tenants' housing stability. The LBF grant will support monthly clinics and related outreach materials.

KENTUCKY REFUGEE MINISTRIES

Immigration Legal Services: \$15,000

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. The LBF grant will provide partial fee subsidies for immigrants who cannot afford to pay the entire cost of preparing and filing these documents.

KENTUCKY YMCA YOUTH ASSOCIATION

Civic and Leadership Development: \$5,000

Kentucky YMCA Youth Association's conferences bridge classroom civics education with the personal understanding of our state's branches of government. These experiential learning programs allow teens to meet their peers from throughout the state as they learn about the legislative process and 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.

LA CASITA CENTER

Legal Outreach and Clinic Services: \$10,000

In addition to the numerous social, nutritional and cultural programs La Casita Center provides in the Latino immigrant community, it specifically conducts outreach to Latina women and families in need of legal services. Through its targeted outreach and legal clinics, participants receive help on understanding the legal system, immigration issues, family law matters and other legal problems. LBF funds will support the Center's targeted outreach to the Latino community and the development of a pro bono attorney panel to assist program participants in understanding legal problems and how to resolve them.

LEGAL AID SOCIETY

Food Justice Project: \$20,000

Legal Aid Society has a long tradition of serving the civil legal needs of low-income individuals and families in Louisville Metro. The Food Justice Project seeks to increase access to food benefits by removing the legal and administrative barriers to accessing these benefits. The FJP boosts the economic means of low-income citizens by ensuring equal and full access to SNAP benefits. The LBF grant will support outreach efforts to educate eligible participants on their right to these benefits and to assist participants in appealing any denials.

NEW AMERICANS INITIATIVE

Universal Representation Clinic: \$5,000

New Americans Initiative is an organization focused on assisting eligible immigrants and refugees become naturalized citizens. Through a network of volunteer attorneys and law students, the organization offers legal clinics to identify pathways and processes by which eligible immigrants and refugees may seek family reunification, work status authorizations and other benefits that will help them achieve stability as a naturalized citizen. The LBF grant will underwrite clinics in the Louisville region.

LOUISVILLE BAR ASSOCIATION

Summer Law Institute: \$5,000

The Summer Law Institute is a partnership of the LBA, the University of Louisville

(continued on next page)

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LBF 2024 Grant Recipients Continued

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.

UOFL SCHOOL OF LAW

Ackerson Law Clinic Mediation Program: \$10,000

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

YMCA SAFE PLACE

YNOW Mentoring Program: \$5,000

YMCA Safe Place focuses on breaking

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

YOUTHBUILD

Legal Assistance Case Management Services: \$5,000

YouthBuild helps young adults (18-24 years old), often with prior involvement with the court system, obtain GEDs, secure employment and enroll in college or vocational programs. As a result of YouthBuild's intensive interventions and programming, only eleven percent of its participants re-offend, compared to national recidivism rates trends where over fifty percent generally re-offend. YouthBuild's case managers provide individualized support to participants to accomplish this success. LBF funds will assist case managers in identifying legal issues for participants and linking participants with legal resources to avoid and resolve issues that could lead to court involvement. ■



<p>SUICIDE IS THE 13th leading cause of death in Kentucky</p>	 <p>\$1500 GOAL</p>	<p>10% of adult Americans have thought about suicide</p>
<p>Support. Walk. Donate.</p>		
<p>WALK WITH US TO PREVENT SUICIDE</p>  <p>American Foundation for Suicide Prevention</p>	<p>Saturday, Nov. 2 Waterfront Park 9 a.m.</p>	 <p>visit www.loubar.org for more information</p>
<p>The LBA Health and Wellness Committee is committed to fostering well-being within our legal community. With this in mind, our team "Walking for Tomorrow" has set a fundraising goal of <u>\$1,500</u> for the Out of the Darkness Walk, and we need your support to achieve it.</p> <p>Why is this walk important?</p> <p>Lawyers, like many other professionals, are not immune to mental health challenges. According to the American Psychological Association and other studies, depression is one of the most common triggers for suicide, and lawyers are 3.6 times more likely to suffer from depression compared to non-lawyers.</p> <p>By participating in this walk, donating, sharing or simply showing your support, you can profoundly impact raising awareness about suicide prevention and mental health in our legal community.</p> <p>Let's walk together, advocate for mental health and show that we care.</p>		



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In Memoriam



Judge Ken Corey, 82, died on July 1, 2024, in Florida, where he and his beloved wife of 63 years, Judge Mary Lewis Corey, had retired.

Judge Corey graduated from the University of Louisville Brandeis School of Law and entered private practice before being elected a Jefferson District Court Judge and then a Jefferson Circuit Court Judge. After retiring from the bench, Judge Corey enjoyed a long and successful career as a mediator. He enjoyed boating, whether on the Ohio River or the open seas. He survived some scary situations on land and water, lost a few fingers along the

way, never met a stranger, loved life and lived it to the fullest.

A gathering to celebrate Judge Corey's life and honor his memory will take place at Captain's Quarters on August 22 from 4-8 p.m. ■

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Through the LBA Placement Service

Real Estate / Foreclosure Attorney:

The LBA's Placement Service is currently working with a multi-state law office seeking to add an attorney to their Louisville office. The firm specializes in real estate matters representing mortgage lenders. Primary duties will include real estate transactions and foreclosure litigation throughout the state. Travel to various counties for Sheriff Sales and hearings is required. Real estate or foreclosure experience a plus, but other experience considered. Must be licensed in Kentucky and in good standing and have excellent references. Competitive salary commensurate with experience and benefits offered. Send resumes in MS Word format to the LBA Placement Service Director, David Mohr, dmohr@loubar.org.

Business and Civil Litigation Attorney:

The LBA's Placement Service is currently working with a well-established boutique law office located on the east side of Louisville. This firm has a varied practice and is seeking an experienced litigation attorney to support a mix of civil and business litigation disputes. These disputes can arise from employment, contract and business matters. Candidate must have at least five years of experience with such matters in Kentucky. An Indiana or Tennessee license is a plus. Must be in good standing and have excellent references. Salary is based on experience, plus full benefits, including 100% paid health and dental insurance, retirement plan with a 3% match, PTO and a 10% origination credit if you bring any business. There is a 1600/hour billable goal for the year and a 25% bonus if billings are over 1600 hours. The firm feels a competent team player will find they offer an excellent work-life balance. Send resumes in MS Word format to the LBA Placement Service Director, David Mohr, dmohr@loubar.org.

Associate Attorney:

The LBA's Placement Service is currently working with a well-established boutique law office located on the east side of Louisville that concentrates exclusively on business litigation matters. They are seeking to hire an associate attorney with at least three+ years of experience practicing as an attorney in Kentucky. Business litigation experience would be a plus, but they would consider any civil litigation experience. A small book of transferable business or the ability to drum up a little bit of business would be a plus as well, but not a deal breaker, as the firm has a steady amount of work to keep you busy 90% of the time. Salary is commensurate with experience and benefits are offered, as well. Send resumes in MS Word format to the LBA Placement Service Director, David Mohr, dmohr@loubar.org.

Family Law Litigation Associate:

The LBA's Placement Service is currently working with a medium size firm located in downtown Louisville that is looking to hire a lateral associate for their family law practice. The candidate should be licensed to practice law in Kentucky and should have two to six years of experience practicing law; excellent reading, writing and advocacy skills; experience with family law litigation (preferred but not required), including property, support and custody disputes; litigation experience, including trial work, motion practice and discovery; and experience working with highly emotional clients and circumstances. Salary is based on experience and benefits include health insurance (individual coverage for employee, we pay 90%, they pay 10%), dental insurance (at their expense); eligible to participate in our 401k plan after one year of employment. Paid holidays, vacation days, etc. In addition, we pay for parking as well as bar dues, KBA and LBA membership, and CLEs. Send resumes in MS Word format to the LBA Placement Service Director, David Mohr, dmohr@loubar.org.

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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 a 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.

**NOMINATIONS DUE BY
WED., OCTOBER 9.**

MEMBERS *on the move*



Aprile



Decker



Gibbs

Vince Aprile, who practices law with Lynch, Cox, Gilman and Goodman, has been reappointed to the editorial board of *Criminal Justice* magazine, the quarterly publication of the American Bar Association's Criminal Justice Section. Aprile has been a member of the magazine's editorial board for well over 30 years (1989-2012, 2014-present) and twice has served as its chair (2005-09, 1991-93). He continues as the author of his column, *Criminal Justice Matters*, a regular feature of the magazine (1992 to present). His latest column is *Judicial Recusal and the Duty to Disclose*, which will appear in the Fall 2024 issue. Aprile was also recently reappointed as co-chair of the Ethics Advisory Committee of the National Association of Criminal Defense Attorneys (NACDL), a position he has held since 2010.

The Kentucky Bar Association (KBA) recently elected two Stites & Harbison attorneys to leadership roles in the Intellectual Property (IP) Law Section. **Mandy Wilson Decker** was elected Chair of the IP Law Section while **Donovan D. Gibbs II** was elected Vice Chair of the section. Both attorneys will serve a one-year term. Decker is a Member (Partner) of the firm based in Louisville and Lexington, Ky. 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. Gibbs is an intellectual property attorney based in Louisville. His practice focuses on counseling clients in litigation and transactional matters involving intellectual property. He assists clients with the selection, adoption, registration and protection of their trademarks as well as registration of copyrights. He also assists clients with a variety of transactional issues including those related to licensing of copyrights, trade secrets, trademarks and other intellectual property rights. ■



Judge David P. Bowles (Ret.)



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Member Appreciation & Awards Luncheon

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New this year! There will be a vendor fair on-site prior to the luncheon.

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

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Contact our Membership and Public Outreach Director, Marisa Motley, at mmotley@loubar.org for information!

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