



2016, Issue 1

# BarNews

The Annual FCBA Holiday Party was held December at Arts Place. This year's party was complimentary to FCBA members who enjoyed great food, conversation and a photo booth. The night was capped off with servings of gelato from the new local shop, Sorella.



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# BarNews

A publication of the Fayette County Bar Association

## Bar News Article Submission Guidelines

Unsolicited manuscripts are accepted on subjects of interest to the legal profession. Manuscripts should be submitted in MS Word or WordPerfect in electronic form either on disk to the attention of Dana Arnold, FCBA, 219 N. Upper Street, Lexington, KY 40507 or as an attachment emailed to [info@fcba.com](mailto:info@fcba.com). Articles should not exceed 6 typewritten double-spaced pages. For complete set of submission guidelines visit [www.fcba.com](http://www.fcba.com) or contact the FCBA office at (859) 225-9897.

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### Fayette County Bar Association

219 N. Upper Street  
Lexington, KY 40507  
225-9897 - 225-9898 Fax  
[www.fcba.com](http://www.fcba.com)  
[info@fcba.com](mailto:info@fcba.com)

### FCBA Staff

**Sheila Isaac**, Executive Director  
**Dana Arnold**, Assistant Executive Director  
**Theresa Speaks**, Membership Coordinator

# Leading the Bar 2015-2016

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Contact Dana at 225-9897  
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## President's Message: *Ed Clark*



Edwin H. Clark

I recently read the following letter to Dear Abby about a man who has a problem that, fortunately, I have never had. He wrote:

*Dear Abby,*

*My calico cat, Rosie, seems to be fixated on my next-door neighbor Ron. Every morning Rosie grooms herself for an hour then jumps in the window to watch for Ron to go for his morning run. She sits there until Ron comes out of his house. He exercises a lot and has kept himself in shape, while I admit I have let myself go. As soon as she sees him, Rosie starts purring.*

*I have to say that I resent this. I provide her with room and board and brush her regularly, but while I'm doing it, she watches the window intently and then bolts to her lookout post if Ron appears. I bought new window treatments, which she scratched her way through, damaging the blinds and shades. Filling her food dish strategically before Ron goes out doesn't deter her.*

*I love my cat but feel she is unfaithful. What should I do?*

*P.S. I'm happily married (my wife thinks I'm crazy) and Rosie has been fixed.  
Larry in Delaware*

My first impression was that I have little in common with Larry. I am pretty sure that my cats, Fluffy and Tabby, are not violating the Tenth Commandment. It's not that they are more virtuous; I simply cannot imagine them letting lust interfere with their sloth. I felt little in common with Larry, but Abby helped me see that Larry and I share a problem. She wrote: "Dear Larry...You didn't mention how sedentary you are, but it's possible that Rosie watches Ron because he is a MOVING OBJECT. Consider joining Ron on his runs and you may find Rosie is watching you, too."

Like Larry, I lead a sedentary life. I sit at my desk, talk on the phone, answer emails, and draft pleadings (I rise when Judges enter the Court, but that probably does not qualify as exercise). In short, I am too seldom a MOVING OBJECT.

That became frightfully apparent to me this summer. My wife, son and daughter signed up for the annual 5K "Run for the Nun" race, the Catholic charity race where fake nuns with rulers urge runners along at various points on the route. On the day of the event, my daughter could not attend, so I took her registration materials and ran in her place.

It had been at least a decade since I had run a 5K, but somehow I finished the race without a stroke. When the race results were released, my wife informed me with great glee that I was the eighth fastest 11 year old girl that day. Clearly, I have some gym work to do.

In that regard, I believe I am not alone. We lawyers have to take better care of ourselves. This means taking care of our bodies through exercise and avoiding addictions, taking care of our minds by giving them a rest occasionally, and taking care of our souls by exercising our faiths and performing good deeds (including exercising tolerance and looking for the best in all people). None of this is easy. It is easy to "let ourselves go" in some manner. Still, a difficult task does not have to be a lonely task. Let's make 2016 the year of the lawyer. This year, let's help each other draw clear lines between our professional and personal identities. Let's encourage each other to stay fit and do good deeds. It is the right thing to do, and our pets will admire us for it.

*Ed in Lexington*

# Lawyers at Lunch

To sign up for Lawyers at Lunch, where you're randomly matched with a colleague, email [info@fcba.com](mailto:info@fcba.com). You go to lunch on us, make a new friend and write a brief report of your discussion. A selfie, or more precisely, an us-ie, is also required.

## Roland's Report on Linda

*Linda Hopgood and I discovered over lunch how much we have in common. Naturally, any conversation between lawyers always seems to start with law, and we were no exception. A native of Bowling Green, KY, Linda started honing her lawyerly skills in Paducah, before finally settling in Lexington.*

*We learned that in addition to practicing law, she and I are also mediators. She is also one of a small group of individuals who originally brought the mediation experience to Kentucky and made it a part of our ADR techniques. We each had lived a short time in Frankfort, have two grown children of whom we are very proud, and enjoy music from our era.*

*Linda enjoys the outdoors. When she is not hard at work (a lunch break is a rarity for her workday) there is no place she'd rather be than hiking, camping, or trekking in the mountains. Her favorite supply stores are of course, J&H and REI. Her love for the outdoors is a part of her creed: Healthy mind, healthy body, healthy spirit!*

*Along those lines Linda is also a gourmet cook, interested in preparing dishes that are healthy and tasty, with a strong leaning toward the spicy (as I observed from her requesting jalapenos and hot sauce for her lunch-time omelet). Among her joys are the preparation of sumptuous meals for her friends and family, listening to good music that everyone can sing along to, or playing board games where people actually interact face to face, enjoying the company, and sharing a good laugh or two.*

*Yes, Virginia. There is a good life to be had in addition to the practice of law!*



L: Linda M. Hopgood (Linda M. Hopgood, Attorney at Law)  
and R: Roland P. Merkel, (Roland P. Merkel, P.S.C)

## Linda's Report on Roland

*Roland and I had lunch at First Watch because it was half way between our two offices. We discovered that neither one of us take much of a lunch break so we decided to meet at a location half way between our two offices. Of course, we started talking law because we knew we had that in common. I discovered he was not a native Kentuckian (he is from New Jersey) but came to Kentucky because of his wife. So with Kentucky as an adoptive home, he began practicing in Frankfort.*

*He was mentored by an older lawyer who soon began to hand him cases and asked him to work with him. His practice is as varied as mine since he is a hearing officer, mediator and practicing lawyer. We shared mediator training stories and were surprised we had some of the same experiences. You know lawyers, we all like to tell stories.*

*We quickly moved to our lives outside of the law. Roland is married with two grown sons. Music and the outdoors are important to him. He was in a band where he played the guitar. Somehow, I got the impression he would love to still be in a band. We shared stories of what type of music we like and where people of "our age" go to listen to good music. He continues to play but only in the privacy of his own home.*

*I enjoyed our lunch and the opportunity to learn about the "human" side of a colleague.*



# Wills Clinic

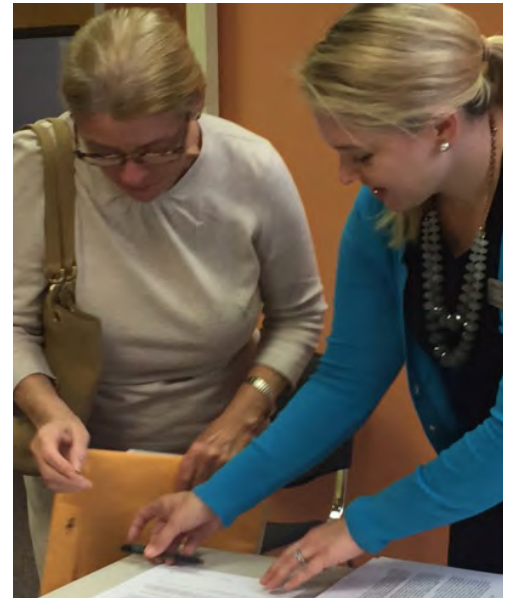
The FCBA was called upon to assist senior citizens by providing legal advice and documents in the areas of Wills, Powers of Attorney and Living Wills. Kristy Stambaugh, the LFUCG Director of the Division of Aging and Disability had previously relied upon the Access to Justice staff to provide these services. When that entity closed, it created a problem and a backlog of seniors who could not afford private attorneys. We sent out a blast email to our FCBA membership calling for volunteers and several attorneys stepped up to provide these needed services. They were: Mary Ellis Patton of Bluegrass Elder Law, PLLC who also acted as Chair; John F. Billings of Billings Law Firm, PLLC; Taylor Stuckey of Stites and Harbison, PLLC and Margaret S. Barr of McBrayer, Leslie & Kirkland, PLLC. Each of these volunteers traveled to the Lexington Senior Center and worked the entire day of November 4, 2015 providing 25 seniors with wills and other documents. The seniors were so appreciative of the services provided. There were many positive comments, such as “You have no idea how much this means to me. It takes a burden off me” and “This is a service that really helps people directly... I’m so glad you are helping in this way.” We are planning another Will Clinic next summer. Let us know if you would like to help.



John Billings and Mary Patton with Senior Center staff-person, Melissa Stiff



John Billings overseeing the signing of a will he prepared for a Wills Clinic client



Mary Patton, assisting a senior



Taylor Stuckey



Taylor Stuckey explaining documents to a senior

# In Tribute To John Famularo



**John Famularo**

There are true icons in every profession. These are people who make significant contributions to society through their passion for perfection and their quest to make a difference in people's lives. We all know from history about those individuals in our country and in our own community, who have made such contributions. On October 23, 2015, our city lost a true icon when John Famularo died. This was a blow to the very gut of our Bar Association.

In 1971, John graduated from the College of Law at U.K. and began his legal career in the office of the Attorney General of Kentucky wherein, after a short time, he was given the responsibility of briefing and arguing before the United States Supreme Court the case of *Ohio vs. Kentucky*. With less than two years as a practicing attorney, John told me about the unnerving feeling he had, in 1973, climbing those impressive steps to the door of our highest Court. All he could think about was the terrifying fear that he might go down in history as the guy who lost the state boundary line for the Commonwealth of Kentucky.

It is a privilege for me to have been asked to write about John in our Bar Newsletter. Having prosecuted together for many years, I knew him very well. I personally have enough stories to relate that would fill a book, but with this article, I have tried to give our members an informative, yet, concise view into the life of a man I greatly admired and loved.

I met John shortly after his victory for Kentucky in the United States Supreme Court when Pat Molloy hired him to be an Assistant Commonwealth's Attorney. This was in the mid 1970's when CB radios were popular and he confided in us one day that his "handle" was the "Flaming Arrow." We shortened that handle to "Flame" which forever became his nickname to his peers, judges, his friends and even his clients.

I want to share with you readers a thought or two from Pat Molloy. "Flame was the most naïve and gullible person I had ever met. Our prosecutors and police detectives played practical jokes and dirty tricks on him from the minute he arrived in our office. On the other hand, he was a brilliant book lawyer with incredible research and writing skills, something Larry and I seriously lacked. He had developed his considerable talents in the Attorney General's office writing endless appellate briefs. Larry and I were never known as book lawyers so we needed him desperately, but we thrived on playing jokes on Flame. Intuitively, we were afraid to go too

far and risk running him off; yet, we could not resist the fun of tricking him and were delighted in his reactions.

Flame was hyped up on the day of his first jury trial in our office. When Court recessed at noon for lunch, he darted across the street to the Courtyard Deli, grabbed a sandwich and burst through our office door at 12:15. He shut his door and was ready to unwind when Roberts, sensing Flame's tension, advanced the office wall clock to 12:55. Then the secretary was "ordered" to call our new assistant to come to the reception room. Flame saw the clock, panicked, threw on his suit coat, grabbed his files and bolted out the door. He was back in 15 minutes, mad as a raging bull. Best of all, when he went into his office to try to unwind and eat his lunch, it was gone. Larry was also gone, but not before he had eaten the sandwich, chips and drink, leaving the lunch sack behind."

When he joined the Commonwealth Attorney's office he was literally chomping at the bit to get into the courtroom. He studied the transcripts of the trials of our bar's great criminal trial lawyers like "Pooch" Mansfield, Harry Miller, and John Y. Brown, Sr. It wasn't very long until he became a very fine prosecutor, and during his five years in the Commonwealth Attorney's office he was highly respected by all of our Circuit Court Judges. Up to this point, John's successful career was founded primarily on the very capable mentoring of Pat Molloy.

It was also during this period that John spent a lot of time talking with George Barker and L.T. Grant. It was from these two tremendous Circuit Judges that John learned about complex civil litigation. From the insights of these former prominent trial lawyers, John began watching civil trials with great litigators like Joe Savage, Les Morris, B. L. Kessinger, Pete Perlman, Escum Moore, Rufus Lisle, Charlie Landrum and Bob Turley. He loved the aura of contested civil litigation, and he often talked with me about his desire to try cases at that level.

From 1978 to 1982, John served Lexington as a Fayette District Court Judge. For The Flaming Arrow, this was an abrupt change from the five previous years of the endless hours assisting police officers in their investigations and conducting the tedious preparation and stressful trials of major criminal prosecutions. But, he didn't just wade into this new path of his career without first getting valuable advice primarily from Judges Walter Tackett, Jim Keller and others about the responsibilities he was about to encounter. Very quickly the local attorneys saw a man who was patient and courteous, and who was a consummate problem solver for the myriad of litigations that occur in the criminal and civil divisions of District Court. He was deservedly honored by the other judges on the Court to be chosen as the Chief Judge.

*continued on page 7*



# John Famularo, continued

*continued from page 6*

Then one day in 1982, John's ultimate dream came true in what turned out to be thirty two years of phenomenal accomplishments in our legal profession. Suddenly, he was working for Harbison, Kessinger, Lisle and Bush in an office just down the hall from two of his idols, B.L. and Rufus. I can tell you he was so excited he could hardly stand it.

His love for the opportunity of being involved in complicated and very important cases was in his future but he wasn't satisfied with being just a journeyman trial lawyer. He became a highly respected opponent of the plaintiff's trial bar in Lexington and Circuit Courts throughout Kentucky. His specialty in defending physicians in medical malpractice cases will rank, for all time, in the top echelon of civil defense attorneys in our state. The entire medical profession knew and respected him and every one of those doctors he represented called him Flame.

The practical jokes that Pat Molloy and I perpetrated upon our buddy paled in ingenuity compared to what he was exposed to at Stites and Harbison. I became a voyeur watching Peter Ecabert come close to causing Flame to seek psychiatric help. The cunning, month long planning by Ecabert and other prestigious members of that firm to "get" Flame were record setting events and well worth it, you readers, to ask to hear about them from the witnesses.

Those of us who had the pleasure of knowing John loved and admired him for many other values than his trial acumen. He was an outstanding cook. Being schooled while growing up in the kitchen of an Italian grandmother who made the best meat balls ever, he was a master preparer of endless Italian specialties. I'll never forget his meals of Veal Marsala or Chicken Saltimbocca with noodles Alfredo.

Funny is rarely an adjective that we use for every encounter we have with an individual, but that without question defined John. I laughed at him and with him on hundreds of occasions. He made life fun for many, many people in his personal and professional life because of his natural sense of humor. I'll give you one example.

We had travelled to New York City in the mid 70's and were on our way back on an airplane. We both really wanted a bourbon and the stewardess was working her way back to us. Three rows away we heard her tell the customers that there was no alcohol available due to the short flight. Flame somehow got into my shopping bag that contained two masks which I had purchased at FAO Schwartz for my children to wear on Halloween. Before I knew it, he had put on the full cover head gorilla mask and "made" me put on the duck mask. When the lady got to us he started yelling "We're thirsty....We want whiskey!" This was many years before 9/11 and TSA, but the

stewardess turned on a dime, went straight to the head of the plane and disappeared. Holy S..., is all I could think, and Flame said, "What's the matter, buddy?" We looked like two fools and people were staring at us. He said, "Keep the mask on." Now, I was thirty- two years old, and presumably mature, but I did what he said!

Then the pilot's door opened, and the Captain walked down the aisle toward us. Everybody including me got very, very quiet. "Who's wanting Whiskey?", the stern faced uniformed man asked. Flame raised both hands, waived and bellowed, "The duck and I are dying of thirst." Now, I know I'm going to jail. "Ok", says the Captain. It's drinks on me for the duck and gorilla...He paused, and said "and everybody else." Cheers erupted throughout the plane and The Flaming Arrow was suddenly up in the aisle dancing with the Captain of the airplane. No one on that plane ever knew that the gorilla had actually saved Kentucky's boundary line from Ohio.

Over the years, I watched this terrific lawyer literally dissect opposing medical experts in multi-million dollar law suits. In his career, he most rightfully received many national recognitions and awards including: Kentucky Lawyer of the Year from the Civil Defense Bar; Named a distinguished Fellow by the American College of Trial Lawyers; and in 2015 was elected to the University of Kentucky College of Law Hall of Fame.

To you young lawyers in our Bar Association, what can you learn from the truly great attorneys that have left us? Some of us knew these outstanding people including John Famularo, and we have the benefit of appreciating and hopefully emulating their passion and devotion to our profession. I would encourage each of you to talk to the partners in your law firms, as well as some retired attorneys and judges to learn about the prestigious careers of some of those attorneys and judges I have mentioned. You'll discover there have been many other men and women over the last fifty years who have had wonderful careers in pursuing justice and fairness through our legal system. With this brief glimpse of history, hopefully, all of us, no matter what specialty of the law we practice, will personally strive to be the best we can be, and like The Flaming Arrow, have a lifetime of fun in the process.

**By Larry Roberts**

# Securing Your Communications With Clients



Bill Dotson

Is there a more sacred phrase than “attorney-client privilege” in the mind of your client? A client is under the assumption everything the attorney sends and receives is protected and cannot be seen by a non-affiliated entity.

But is this really true?

As a technology risk advisor, I can say with confidence the answer is “No”. In fact, we could say it is impossible for 100% protection. This leaves attorneys, office managers, and legal IT professionals with the task of deciding what is reasonable to secure communication with clients.

Here are ten tips to increase the security of your communication without putting an undue burden on others. If you do place a heavy burden on your clients then they will not use the system since it is too time consuming.

1. Use encrypted email services. We suggest ZixMail for most customers. Very affordable and does not require a password for the recipient unless you want to. I won't get techy and explain the magic behind this, but is it really nice and there's no excuse to send un-encrypted emails to clients. <http://zixcorp.com>
2. Do not use public wifi. These systems are too easy to abuse and often do not use business-level encryption and protection. If you need an alternative, get a tethering plan for your mobile phone or just relax and leave work at work.
3. Buy a privacy screen for your computer and mobile devices. Easy, inexpensive, and protects others from seeing what is on your screen.
4. Keep your applications, operating systems, and mobile devices up to date. This is really easy to overlook because it can seem like a hassle. However, updates to these tools often have security reasons. Don't be the person who “thought IT would handle it”.
5. Use a password manager and never email passwords or codes to others. Password managers like 1Password and LastPass allow you to maintain complex passwords and share them, securely, with others as needed.
6. Establish a phrase to validate highly private and valuable information with clients. For example, if I send communication to my attorneys about particular matters, then the encrypted email will also have a

phrase in it so they know it is me. I only use the phrase in special emails with sensitive approvals. Sound like James Bond stuff? Ask the title lawyers who authorized international wire transfers to Russia and China over \$100k because their clients' email was compromised. The emails looked legitimate, but were not.

7. Do not use hotel business centers to check any sensitive systems like email.

8. Establish two-factor authentication for accessing email and case management systems. Two-factor is as simple as a username, password, and a single use code sent to your mobile phone. This helps limit risk in the event someone has your username and password. The single use code is something the bad guy is not likely to have.

9. Educate your entire organization and consider educating your organization's family members. People are the #1 risk in any organization. The more educated people are on the latest threats, scams, and risky behavior, then the safer your firm will be.

10. Educate your clients. Tell them what measures you have in place to protect their data and why using these systems is important.

I hope you enjoyed these tips. If you have questions about any of them, feel free to email me: [bill@rocker.io](mailto:bill@rocker.io) or call 859-654-7625.

PS - I also suggest you look into reviewing your business insurance. Legal malpractice insurance probably does not cover you for digital activities.

*Bill is a partner at Rocker, a technology risk management & consulting company. His clients hire him to assess risk and put the right combination of IT tools, employee procedures, and cyberliability insurance in place to protect their assets. <http://rockerrisk.com>*





Nominations: In preparation for our Annual Law Day Celebration the FCBA would like your assistance with award nominations. After reviewing the award descriptions, please nominate a deserving candidate for the most befitting award and submit information to:

FCBA - Award Nomination  
219 N. Upper St.  
Lexington, KY 40507  
Fax: 859-225-9898  
E-mail: [info@fcba.com](mailto:info@fcba.com)

Please include the following:

- Letter of nomination explaining your desire to nominate this person and why;
- Any supporting documentation you wish to include.

Nomination deadline is **Friday, February 26, 2016**. If you have any questions, please contact our office at 225-9897.

### Henry T. Duncan Award

In 1960, during the tenure of then-FCBA President Alvin Trigg, the Henry T. Duncan award was created to honor a member of the association who had made an outstanding contribution to the community. In 1961 the first Duncan Award was presented to two such individuals, Herbert Sledd and William H. Townsend. By way of illustration and not by way of limitation, this award is presented to an attorney whose integrity, leadership and professional conduct serves to exemplify the high ethical and professional standards that benefit the community.

### Citizen Lawyer Award

This award honors one member of the Fayette County Bar Association who has:

- practiced at least 10 years in Fayette County;
- provides duties as an officer of the Court, fiduciary and advocate of clients;
- is involved in governmental, civic, charitable or community activities;
- and has demonstrated a sincere desire to maintain and improve the administration of justice, the quality of legal practice and the quality of life for all residents of Fayette County.

### Outstanding Young Lawyer Award

This award honors one member of the Fayette County Bar Association who has:

- practiced in Fayette County less than 10 years;
- Demonstrated promise in learning the practical application of law to human problems;
- admirably fulfilled the duties owed by an attorney to the Court, clients and the community the attorney serves;
- and shown dedication to the justice system through their involvement and enhancement of community life.



## New Attorney Swearing In

On October 28, 2015, Fayette Circuit Chief Judge Tom Clark presided over the swearing-in of Fayette County's newest attorneys. This ceremony has gone on for decades and may be the only local presentation of new bar members in the state. In addition to the Chief Judge, Judges Philpot, Brislin, Ishmael, Masterton, Stein, Scorsone and Bunnell sat en banc to hear the motions of sponsoring attorneys who presented the new attorneys to the court. Deputy Chief Justice Mary Noble administered the constitutional oath of office to the new attorneys who had been formally sworn in at the Kentucky Supreme Court. Judge James D. Ishmael Jr. then presented the words of wisdom and encouragement to the new attorneys.

Other dignitaries present were Court of Appeals Judges Larry VanMeter and Glenn Acree. Retired Circuit Judges Lewis Paisley and Rebecca Overstreet, District Judges Joe Bouvier, Julie Goodman, Bruce Bell and Circuit Clerk Vince Riggs.

FCBA President Elect Ed Clark spoke on behalf of the FCBA to welcome the new attorneys to the Fayette County Bar. Following the program, the FCBA hosted a reception for the Court and all the attorneys attending.



Judge Ishmael's charge to the new attorneys included a tribute to people who had mentored him in his career. Judge Ishmael (center), pictured with his special guests; retired Judge Rebecca Overstreet, for whom he served as a Domestic Relations Commissioner; Herb Sledd and Bill McCann, his senior partners when he first began practicing law; and Geneva Ginter, his first secretary and "mini-mentor."





### **Fayette County Bar Foundation Awards \$27,000 in Grant Funds to Eight Organizations/Projects**

On December 15, 2015, the Fayette County Bar Foundation announced \$27,000 in grants to eight (8) local organizations/projects. The Fayette County Bar Foundation has awarded grants totaling over \$197,000 in the eight years since its inception.

The FCBF is the charitable giving arm of the Fayette County Bar Association. Its mission is to raise and distribute funds for:

- delivery of legal services to the poor and indigent
- law-related public education
- improvement of the judiciary, the legal profession, and citizen access to the justice system

The Foundation awards grants to local not-for-profit organizations each year. The FCBF is supported by contributions from individual attorneys, law firms and corporations.

Below is a complete listing of the grant recipients and amounts awarded for 2015-2016.

**Legal Aid of the Bluegrass/DV Project (\$5,000):** Now in its 5th year, LABG sponsors a Domestic Violence project where local volunteer attorneys represent applicants for Domestic Violence Orders during their hearings. LABG does the administrative work, vetting the candidates and providing a client file for the volunteer lawyers with every assignment. The monies will defray the costs of LABG personnel to manage the DV project.

**Maxwell Street Legal Clinic (\$5,000):** Among other clients, the Clinic assists immigrant youth eligible under the category known as “Deferred Action for Childhood Arrivals” (DACA). Under DACA, youth brought to the US at a young age without legal status – and qualified based on age, school participation or honorable discharge from the military – may be granted two years residence here with deportation withheld and with eligibility for a work permit. The grant monies will go for ongoing operations.

**CASA of Lexington, Inc. (\$5,000):** Unlike a guardian ad litem appointed by the Court, a CASA volunteer works with 1-2 children/families at a time. Statistics show that children with a CASA volunteer spend less time in foster care, experience fewer out of home placements and do better in school. Funds will allow CASA to hire a volunteer manager to recruit more volunteers and help with logistics.

**Access to Justice-CAT (\$2,500):** Child Advocacy Today or CAT is staffed by one full-time attorney who provides legal representation to patients at UK Children’s Hospital and their parents. The grant money will help defray the cost of law students assisting the CAT attorney.

**Grandparents as Parents Conference (\$2,000):** The grant money will assist with the cost of the annual Grandparents as Parents Conference which provides training and legal education for those who are or seek to be the primary custodians for grandchildren.

**The Institute for Compassion in Justice, Inc. through The Imani Family Life Center, Inc (\$3,000):** A newly created non-profit, the ICJ will provide legal advocacy for youth and young adults in Fayette County who are disadvantaged by poverty, mental health issues, disabilities, maltreatment, incarceration, homelessness or lack of viable family support.

**Lexington Children’s Museum (\$3,000):** The grant money will be used to support the Kids Courtroom at this well-loved local venue for childhood learning and exploration.

**Nursing Home Ombudsman Agency of the Bluegrass, Inc. (\$1,500):** The NHOA is dedicated to improving the quality of care for residents of long-term care facilities in Kentucky. Grant money will be used to support advocacy services for nursing home residents.

## WANTED:

Talented and conscientious volunteer board members to lead and strengthen the Fayette County Bar Association.

*Each year, the terms expire for four members of our board.*

*The new two-year terms begin May 1, 2016.*

*If you would like to serve on the FCBA Board of Directors or know someone you would like to nominate to serve, please email us at [info@fcba.com](mailto:info@fcba.com).*

CALL FOR  
BOARD  
MEMBERS

# Pro Bono Program



*Judge Karen K. Caldwell, US District Judge, delivering the keynote address before presenting Andrea Welker with the Pro Bono Attorney of the Year Award.*

On October 27, 2015, Legal Aid of the Bluegrass in partnership with the Fayette County Bar Association and the Fayette County Pro Bono Project hosted its volunteer lawyer recognition luncheon honoring attorneys, law students and volunteers who have donated their time and expertise to help meet the civil legal needs of pro bono clients in Fayette County.

Hon. Andrea Welker was awarded the Attorney of the Year award for her many hours of service and participation in all 2015 wills clinics. The Outstanding Law Volunteer award was presented to Alexis Gonzalez whose work organizing pro se clinics around Fayette County allowed for services to be provided to many in the community. The Award of Excellence was given to Judge John Schrader (retired) for his role in developing Veteran's Treatment court and Law Care 4 Vets. Lastly, the prestigious Access to Justice Award was presented by Legal Aid's Advocacy Director, Glenda Harrison to Hon. Eileen O'Brien for her years of advocacy in promoting justice for all in Fayette County.

The keynote speaker was Judge Karen Caldwell who spoke eloquently on the many struggles of pro bono clients and the difficult job of providing them with legal assistance. She shared that attorneys aren't always thanked for the hours spent providing assistance but that they 'get it'.

Joshua Crabtree, Executive Director of Legal Aid of the Bluegrass, concluded the luncheon with his thoughts that 'Pro bono lawyers advocate for real people in real situations with real problems. Thank you for being part of real solutions.'

## Only in District Court... Recent Happenings

by Judge Joe Bouvier

The Defendant stood with his head bowed and his hands clasped behind his back as the Judge remanded him into custody for violation of a bond condition in a domestic violence case. The Bailiff put the Defendant against the wall and patted him down, then turned to the Judge and said, "Your Honor, he's already wearing handcuffs." It turned out that the Defendant had been arrested for DUI in another county the previous night, but had fled from the deputy after being handcuffed. Despite his fugitive status, he appeared in court the next morning on the assault case.

A recent set of charges appearing on the District Court docket:

AKA/ALI Information			
Charges			
10/20/2015	Cit# 5K0389732-1	Chg: 1	UOR0090030
PROPAGATION AND HOLDING OF PROTECTED WILDLIFE W/O ( V ) ( X )			150280
<i>Gila Monster</i>			
10/20/2015	Cit# 5K0389732-1	Chg: 2	UOR0090030
PROPAGATION AND HOLDING OF PROTECTED WILDLIFE W/O ( V ) ( X )			150280
<i>Gila Monster</i>			
10/20/2015	Cit# 5K0389732-1	Chg: 3	UOR0090030
PROPAGATION AND HOLDING OF PROTECTED WILDLIFE W/O ( V ) ( X )			150280
<i>Gila Monster</i>			
Witnesses			
CW KY DEPT FISH & WILDLIFE,			617
WI GOODLETT, D			605



# Why Do Fishermen Chum?



Jim Ray  
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Growing up, I spent summers with my dad in southern Alabama. He lived near a swamp formed by the backwaters of the Pea River, outside of New Brockton. A few times a week, I would dig for worms and head off to catch a few bluegills or bass with a cane pole and Zebco 404. My typical approach was to bait the hook, adjust the bobber, toss it in and wait, and wait some more.

A few years ago, I went on a fishing trip with my friend, Captain Brad. We jumped in his boat, found the right spot and spent a few minutes chumming the water with baitfish. Before you knew it, we were pulling in some large redfish off the Florida flats.

Both of the above techniques worked. One simply had much better results and produced them more quickly. This lesson applies to marketing your law practice. At the risk of overdoing the metaphors, let's consider a few tips you can use to grow your client base in 2016.

## Testing the Water

If you're new to marketing, fishing is a good example. Most successful outings begin with testing the water. You need to figure out where the fish are. A typical fisherman will put multiple lines in the water so he/she can use different lures positioned at various depths. Once the fish begin biting a certain lure, the fisherman will be able to adjust the other lines.

Law firms should put together plans to test the waters. Blog posts, videos, articles, social media all provide valuable information in different formats to a target audience. Certain clients will prefer specific formats or types of information. You may find clients gather and consume information in a variety of ways. If you only have one facet to your approach, you may not be presenting your "bait" in the most effective way. I spent hours sweating on the banks of the swamp with my hook and bobber.

By implementing multiple marketing tools (e.g. website, blog, YouTube channel, social media campaign, etc.), you'll be able to figure out what works best for your firm and client base. Chumming the water will produce effective results as long as you're using quality bait.

## There Are Other Boats on the Water

The legal services market is crowded. Depending on your area of practice, there may be a lot of other boats on the water. That's okay. You need to go where the fish are. Do you have a competitor who tends to be successful in a

certain type of law? Figure out what they're using to get the fish to bite. You may be able to incorporate or adapt it for your strategy. Realize there's always a risk that what worked yesterday may not work tomorrow. You'll still need to change your bait from time to time.

If you've used a couple of tools to market your practice in the past, consider adding something new. You can do this by adding a brief video to a few website pages, or doing a video post on your blog. It might mean dressing up your attorney profile or online listings. That new presentation can often wake up an existing client base, while attracting prospective clients to your firm.

## Develop a Brand that Attracts More Fish

Your blog post and videos do more than simply provide information. These assets provide insight into how you think, who you are and what you do differently. Posting this information online allows the Internet to keep your bait in the water.

I helped a client to promote his healthcare law focus. We used a number of tactics to deploy relevant information for a specific legal niche. Many fishermen are secretive about their favorite fishing holes. Realize though, once you've identified a niche, you still have to bait the hook. Internet marketing is a great way to do it.

My clients are frequently surprised when an older blog post they wrote shows up in a recent Google search. There are a lot of reasons this happens, but it's good to know that these lures are still actively attracting new fish. Remember, fish tend to swim in schools. It's important to continue chumming. Google rewards those who are actively engaged.

## Effort Yield Results

If you've ever been to southern Alabama in the summer, you've experienced a serious combination of heat and humidity. Sitting on the bank of a swamp swatting mosquitoes, fire ants and other pests can test the resolve of any fisherman. But like my dad told me when I started to complain, "Jimmy, it's a lot easier to catch one if you've got a line in the water." His advice still holds true today. While I get a little nostalgic when I see a cane pole in someone's garage, I still prefer a day on the water with Captain Brad chumming and reeling them into the boat.

# The Changing of the Guard: Natalie Wilson and Barbara Rosenbaum Retire

## The Unflappable Natalie Wilson

By Lori Shelburne

I doubt there are many in our ranks who haven't heard of Natalie Wilson. Those of you who know her well will agree that her retirement from the practice of law is a passage worthy of a Bar News article.

I spent the first seven (of my now 18+ years with Gess Mattingly & Atchison) as Natalie's associate. Natalie was a wonderful mentor to many young lawyers, me included, for lots of reasons. She attracted very desirable cases, often practicing on the cutting edge in her area, family law. Hers was the deep end and if you were Natalie's associate, you dove right in with her. She gave her associates the benefit of the doubt, believing they could handle the challenges of difficult cases. She listened with an open mind to their ideas. My personal experience was that of working for a woman who gave me confidence as well as opportunity. I wasn't just relegated to the office writing briefs. I was meeting with clients, going to court, and learning to exercise my own professional judgment from day one. Of course, dumb ideas were met with Natalie's usual unfiltered opinion, but that was okay. Her honest instruction was as important as her challenging work. I will be forever indebted to Natalie for those years. Enough about me.

There are many adjectives I can think of to describe Natalie, both in her personal and professional life, but I think three are particularly apropos.

*Unflappable.* Natalie is as unflappable as a ship's maiden carved in oak on the bow. When she had three young children at home she decided to go to law school. I know there are women (and men) who do the same thing today, but Natalie did it during the man's world of the 1960s. She didn't flinch when the dean of the law school, during her admissions interview, patronizingly advised her that she would have to attend full time because he didn't want to encourage any "professional dilettantes." Of course, she distinguished herself as anything but a dilettante in law school and in the years that followed.

*Passionate.* Natalie is one of the most passionate people I know. From her marriage of 59 years to her husband, George, to her wonderful relationships with her three children and eight grandchildren, Natalie's commitment and enthusiasm to her family are evident to all who know her.

Her passion toward her career was simply astonishing. Natalie practiced law for 48 years! She earned her huge reputation in a lot of ways. Her practice was always more about serving the client than it was about the fees they paid. She was choosy about her cases, but once she signed on, she represented her clients with enthusiasm and persistence and never stopped trying to help them, no matter how hard they made that task. Although she was a delight to work with, her

opposing counsels can likewise attest to her persistence. Woe be to those on her speed dial (Catesby, Martha). Natalie was a true professional to her clients, to her colleagues, and to the courts she practiced before.

In reflecting on Natalie's passion, I would be remiss in not acknowledging her tireless efforts to promote opportunities and self-reliance for women and girls. She liked to talk about the "F-word," feminism. She dedicated many years of active service on the Board of the Wilderness Road Girl Scout Council and most of the young lawyers she mentored were women.

*Balanced.* Natalie has always lived a balanced life, never losing sight of her values or priorities. For at least the last two decades she and her husband George have spent a month each year in Cabo San Lucas, Mexico relaxing and entertaining family and friends. She celebrates everything her children and grandchildren do. Around the office, she was always ginning up a lunch crowd. Natalie will never stop serving her family, her Church or her community and I think her example of happily balancing a professional career with those bedrocks is something we might all take note of.

Please join me in celebrating our remarkable friend and colleague. Thank you Natalie for 48 years of professional service to your clients and your community. You put a little extra shine on the Fayette County Bar Association.



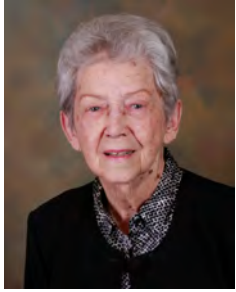
Guy Graves presents Natalie with the modern version of the gold watch, the Apple watch. Sources tell us that not only is she wearing it, she bought a new iPhone in order to use it more effectively.



Natalie, her husband George and family



## Barbara M. Rosenbaum - Retirement after a long and distinguished legal career



Barbara M. Rosenbaum, Esq. is a pioneer for women practicing law in the Commonwealth of Kentucky. She is one of the first women to practice law in Fayette County, Kentucky.

Born Barbara Moore in Frankfort, Kentucky, December 2, 1921, she graduated High School from Bridgeport High School in 1938. Attended college

for two years and then entered law school in 1940 at the University of Kentucky. At the time, a law student could take the bar exam before graduating law school. As soon as she became eligible she took and passed the bar exam before graduating law school. However at the time she was too young to obtain a license to practice law and had to wait until she was twenty one years old before she received her license. She obtained her license to practice as an attorney on September 21, 1942. She was admitted to the Kentucky Court of Appeals (then the highest court in Kentucky) on December 18, 1942. She received a law degree from the University of Kentucky Law School in March of 1943.

After becoming an attorney, Ms. Rosenbaum worked for the Kentucky Department of Revenue and then the Veterans Administration in Lexington, Kentucky. She married attorney Elwood Rosenbaum in 1945. Later she joined his law practice in 1946. They had two sons, Leslie Rosenbaum and Joseph L. Rosenbaum who are both attorneys.

Ms. Rosenbaum has been admitted to the bar and worked as an attorney in Fayette County, Kentucky for more than seventy years. She is admitted to all Kentucky Courts and the U.S. District Court for Eastern District of Kentucky.

Throughout her career, Ms. Rosenbaum has involved herself in the community. She was active in the PTA as a member and president for the James Lane Allen elementary school. She was a member of the Altrusa Club for over fifty years and at one time also served as its president. She is a member and past elder of the Beaumont Presbyterian Church. She is currently a resting elder. She has served on committees of the Transylvania Presbytery and on the board of the Transylvania Presbytery Foundation. She has also served on the board of the Hospital Hospitality House. She has volunteered her services to the Gardenside Little League and God's Pantry.

After over seventy years as an attorney, on December 31, 2015, Ms. Rosenbaum retired from the active practice of law with Rosenbaum & Rosenbaum, P.S.C. Her eldest son, Leslie Rosenbaum also retired from law practice on December 31, 2015. On January 1, 2016, after over 30 years of law practice with Rosenbaum & Rosenbaum, P.S.C., her youngest son, Joseph L. Rosenbaum has opened a new law firm with Jason D. Thompson. The new law firm is Rosenbaum & Thompson, PLLC, 201 West Short Street, Suite 300B, Lexington, Kentucky 40507.

## First Lady of the Fayette County Bar: Sophonisba Preston Breckinridge

By: Julius Rather (Edited from the 1994 Bar News)



One might have expected that the first woman admitted to practice in the Fayette Bar (and in Kentucky) would be a Breckinridge. And so it was!

Miss Breckinridge, known as "Nisba", was admitted to practice before the Court of Appeals in Frankfort on Friday, January 22, 1897,<sup>1</sup> and introduced before the Fayette Circuit Court the following Monday. Born April 1, 1866, she was the

daughter of W.C.P. Breckinridge, a lawyer himself, a Colonel of the Confederate 9th Kentucky Calvary, a Congressman, and an editor of the Lexington Herald newspaper. He was also a staunch support of women's education. Her great-grandfather was a US Senator and US Attorney General under President Thomas Jefferson.

Nisba spent four years as one of the first women students at State College in Lexington and graduated from Wellesley College in 1888. She taught high school math in Washington,

D.C for a time. For two years she read law in her father's law office, the prestigious firm of Breckinridge and Shelby. There she was introduced not to Blackstone, but, pointedly, Adams on Equity by her father. Nisba believed this awoke her lifelong work in women's and minority causes.

Before admission to practice, she had to be examined, and she was, by the Chief Justice of Kentucky, Joseph H. Lewis, of Glasgow, formerly Colonel of the 6th Kentucky Confederate Calvary, and two other judges of the Court of Appeals. Ms. Breckinridge's first legal case was brought to her by Stephen Sharp, a homestead case. Sharp, at age 18, had joined the 2nd Tennessee Calvary and later rode with John Hunt Morgan. She began her law practice with worthy cases, including divorce cases where custody was in issue.

But after a very short time, she received an offer of a fellowship in political science from the University of Chicago, which she eagerly accepted. It seems her heart was in education, civic affairs and progressive reforms. Her thesis

# Horses aren't the only thing in Kentucky that move fast.



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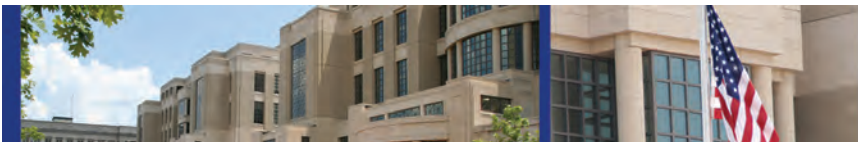
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## Names In the News

### **Bingham Greenbaum Doll LLP**

Bingham Greenbaum Doll LLP is pleased to announce that attorney **Timothy W. Dunn** has been elected to the Partnership within the firm. Tim rejoined the firm's Lexington office as a member of the Estate Planning practice group earlier this year.

### **Billings Law Firm**

Billings Law Firm, PLLC (BLF), is pleased to announce that **Stephen F. Wilson** has joined the firm as an associate attorney. Stephen received his B.A. in Religion from Centre College and his J.D., magna cum laude, from the University Of Kentucky College Of Law. Stephen received several CALI Awards in law school and was inducted into the Order of the Coif. Stephen passed the Kentucky bar examination in July 2015 and was sworn in on October 17, 2015. Stephen previously clerked for Bunch & Brock. Mr. Wilson's practice at BLF will focus on business and commercial litigation.

### **Dinsmore & Shohl**

**Charles Krebs** joins the Lexington office and will practice out of the Corporate Department, focusing his practice on transactions and general corporate matters. Prior to joining Dinsmore, he served as a communications intern with Kentucky Employers' Mutual Insurance.

**Sarah Mattingly** joins the Lexington office and will practice out of the Corporate Department. She focuses her practice in the areas of commercial litigation and banking and finance law, including bankruptcy, foreclosure, workouts and secured transactions.

**Felix Sharpe** joins the Lexington office and will practice out of the Litigation Department where he focuses his practice on commercial litigation. Prior to and while attending law school, Felix was an investigator with the State of Michigan Department of Insurance and Financial Services.

**Adrienne Strong** received the Difference Maker Award in Memory of Alice J. Neeley for her dedication to the firm and its clients, her uncompromising ethics and professionalism and her positive attitude. The award was established in 2004 to honor Alice Neeley, a former associate who inspired others with her dedication and positive attitude through her battle with cancer. Strong is an associate in the Lexington office and is a member of the Litigation Department.

Dinsmore and Shohl LLP's **Kerry Irwin** was elected to the Board of Directors of the Kentucky Horse Council for a three year term. As a member of the Board of Directors, Irwin will be taking an active role in guiding the Horse Council with respect to programs that fulfill the organization's mission.

Dinsmore & Shohl LLP elects **Barbara B. Edelman** to the firm's Board of Directors.

Barbara Edelman is a Partner in the Lexington office. She maintains extensive complex litigation experience focusing on commercial litigation and many types of business disputes. Edelman has also litigated many wrongful discharge, non-competition and employment-related cases. She previously served as an Assistant United States Attorney and as an Assistant Attorney General for the State of Kentucky

18 attorneys make up the Board of Directors. Lexington Office Managing Partner **Chauncey S.R. Curtz** returns to his seat on the Board. In addition to Edelman, three other partners were also newly elected to the Board of Directors in 2016.

Dinsmore & Shohl LLP names **Carolyn M. Brown** chair of the firm's Environmental Group in the Litigation Department.

Carolyn Brown's understanding of environmental law makes her an invaluable resource to her clients. Her practice focuses on all areas of environmental law and includes counseling on regulatory requirements, permitting and transactional issues as well as environmental litigation. She spends a significant amount of time dealing with air permitting and compliance issues, water discharge permitting and compliance issues, as well as waste management and site remediation matters. She is a partner in the firm's Lexington office.

### **Gilbert Law Group**

**Theresa Gilbert, Derrick R. Staton** and **Amanda M. Perkins** announce the opening of Gilbert Law Group, PLLC. The firm is located at 177 North Limestone, Lexington, KY> Gilbert received her J.D. from the University of Kentucky in 1990. STaton received his J.D. from the University of Kentucky in 2009. Perkins received her degree from the Chase Law School in 2012. Julius Rather is of counsel. The firm will concentrate its practice in the areas of workers' compensation, social security disability, persona injury, family law, employment law and bankruptcy. They may be reached at (859) 252-0824 or on their website at [www.gilbertlawgroupky.com](http://www.gilbertlawgroupky.com).

### **McBrayer McGinnis Leslie & Kirkland**

McBrayer attorneys named 2016 Best Lawyers in America®: **James Frazier, Terry McBrayer, Brent Rice, Cecil Dunn, Steve Amato, Jaron Blandford, Rob Maclin, Jon Woodall, Mary Haggin, Lisa Hinkle, Rob Watson, David Guarnieri, Terri Stallard, Chris Westover, Luke Morgan, Doug Logsdon, Chris Shaughnessy, Cindy Effinger, Bill Kirkland** and **Kembra Sexton Taylor**.

McBrayer is pleased to announce that **Angela Evans**, attorney in the firm's Lexington office and LFUCG Council

*continued on page 18*

# Names in the News, continued

*continued from page 17*

Member for the Sixth District, has been awarded the Emerge America's Emerging Leader Award. Emerge America's mission is to increase the number of Democratic women leaders from diverse backgrounds in public office through recruitment, training, and providing a powerful network. Angela is a graduate of the 2013 Emerge Kentucky class and is the winner for Emerging Leader. Angela was one of six nominees in this category.

## **Rosenbaum & Thompson**

After over seventy years as an attorney, on December 31, 2015, **Barbara Rosenbaum** retired from the active practice of law with Rosenbaum & Rosenbaum, P.S.C. Her eldest son, Leslie Rosenbaum also retired from law practice on December 31, 2015. On January 1, 2016, after over 30 years of law practice with Rosenbaum & Rosenbaum, P.S.C., her youngest son, Joseph L. Rosenbaum has opened a new law firm with Jason D. Thompson. The new law firm is Rosenbaum & Thompson, PLLC, 201 West Short Street, Suite 300B, Lexington, Kentucky 40507.

## **Stites & Harbison**

Stites & Harbison, PLLC proudly welcomes former **Governor Steven L. Beshear** as he rejoins the firm after serving two terms as Governor of the Commonwealth of Kentucky from 2007 to 2015. Beshear first joined Stites & Harbison in 1987 and supervised the Lexington office until beginning his first term as Governor in 2007.

## **Sturgill, Turner, Barker & Moloney, PLLC**

Sturgill, Turner, Barker & Moloney, PLLC is pleased to announce that **J. Stan Lee** and **Timothy C. Wills** will be joining the firm effective January 1, 2016.

Stan is a litigator with experience in the areas of school law, civil rights, insurance defense, bad faith, construction law, commercial litigation and personal injury. He has successfully tried dozens of jury trials to defense verdicts in a wide variety of cases, in both federal and state courts throughout the Commonwealth. Stan also practices in the area of corporate law.

Stan has served as the 45th District Representative in the Kentucky General Assembly since 2001. He currently holds the leadership position of House Minority Caucus Chairman, and was previously elected House Minority Whip from 2006 to 2008.

Tim's defense-oriented litigation practice spans the areas of employment law, products liability, construction law, insurance coverage and business disputes. He counsels employers on litigation avoidance measures and handles numerous corporate and business transactions. Tim also assists clients with estate planning, probate, and trust and estate administration.

Tim was named the Best Lawyers in America 2014 Lexington Construction Litigation "Lawyer of the Year." He is a Kentucky Super Lawyer and has been Martindale-Hubbell AV rated for more than 20 years. Tim serves as the president of the Fayette County Bar Foundation board of directors.

# Nisba Breckinridge, continued

*continued from page 15*

for the Ph.M. degree in 1897 was on "The Administration of Justice in Kentucky," and her Ph.D. in Political Science came in 1903 with her dissertation, "Legal Tender; A Study in English and American Monetary History." Meanwhile, she was appointed in 1902 as assistant dean of women of the university, and the next year she was hired as an instructor.

She was in 1904 the first woman to graduate from the law school of the University of Chicago and the first woman to be admitted to Order of the Coif, an honorary legal scholastic society. A news writer in Paris, Kentucky, announced her achievement and gushed that Breckinridge "is considered one of the most brilliant women in the South." Ms. Breckinridge worked hard for civil rights and compulsory education laws, the minimum wage, the abolition of child labor, the eight-hour day and the state's right to remove children from abusive parents. She was an early leader of the Urban League and of the NAACP. Her passion and concern were with the marginalized of society; African-Americans, women, children and the poor. She worked with Jane Addams at the famous Hull house in Chicago, the nation's most influential settlement house, providing social and educational opportunities for working class people, many of them

recent European immigrants. Ms. Breckinridge was also a prolific author and revered professor of national renown.

Her teaching, research, and publications helped to define social work as a profession and mold it into an academic discipline. She was made a full professor in 1925, and was named Samuel Deutsch

Professor of Public Welfare Administration in 1929, remaining active until a few months before her death in July of 1948.

What an important and meaningful legacy this woman left us. She will always be remembered as the First Lady of the Fayette County Bar.

<sup>1</sup>The year of admission to the bar is uncertain. Although Julius states it was 1897, other sources give the date variously as 1892, 1894 and 1895. The KBA checked its archives and has membership records only beginning in the 1900's.





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*(Plaintiff & Defense)*
- **Employment Litigation**  
*(Plaintiff & Defense)*
- **Partnership Disputes**  
*(Plaintiff & Defense)*
- **Estate/Will Litigation**  
*(Plaintiff & Defense)*
- **Plaintiff Products Liability**
- **Defamation**

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**Fayette County Bar Association**  
**219 N. Upper Street**  
**Lexington, KY 40507**



## Calendar of Events

### **February 2016**

- 17 Domestic Relations meeting
- 29 Nominations for Law Day Awards Due

### **March 2016**

- 10 GAP Conference
- 17 Domestic Relations Practice Section Meeting
- 23 e-Filing Trainings 10am session and 2pm session;  
*Fayette Circuit Courthouse Multi-Purpose Room*

### **May 2016**

- 2 Annual Law Day Luncheon; *Hilton Downtown*

### **June 2016**

- 21-22 Annual Bench & Bar CLE

### **July 2016**

- 20 e-Filing Trainings 10am session and 2pm session;  
*Fayette Circuit Courthouse Multi-Purpose Room*

### **August 2016**

- 29 Annual Fred Saunders Memorial Golf Tournament