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**Harville**  
LAW OFFICES, PLLC

The Louisville Accident Lawyer Journal

FEBRUARY 2018 • VOLUME 2 OVER 30 YEARS EXPERIENCE

We gladly accept  
and appreciate  
your referrals

- We are counselors, not just attorneys
- We meet with our clients personally - not caseworkers
- We want you to understand how the legal system works as it applies to your case
- We will keep you informed and guide you every step of the way

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## How is “Settlement Value” Determined?

“Settlement value” in most personal injury cases, where fault is not in question, is based upon the “damages” that an injured person is entitled to claim against the negligent party. There are three main categories of damages: 1) Medical expenses; 2) Lost wages; and 3) Pain and suffering. In more serious cases involving permanent injuries, a person may be entitled to claim future damages in each of these three categories as well.

Primarily, a person is entitled to claim medical or other health care expenses that are reasonable and necessary for the treatment of his or her injuries as a result of an accident. Medical expenses tend to be the “tail that wags the dog” in determining settlement value. They are typically the most important item of information that an insurance company will consider in determining settlement value. However, an insurance company may make value judgments con-

cerning the reasonableness and necessity of the medical expenses claimed. It will also

scrutinize medical expenses and records to determine whether the treatment is related to the accident in question, or may be due to a pre-existing medical condition or another accident.

A person is also entitled to claim lost wages if he can't work because of his injuries, for whatever amount of money he would have made if he had been able to work. Wage or income loss is usually pretty clear for your hourly wage-earner. It can get a little fuzzier for salaried employees who have to use vacation time or sick days but don't suffer any actual loss of income. Self-employed individuals may need to show some sort of



reduction in gross revenue to establish loss of income.

“Medical expenses” and “lost wages” are sometimes called “special damages,” or “liquidated damages,” meaning you can put an actual dollar figure on them.

Pain and suffering, on the other hand, is sometimes referred to as “unliquidated damages,” because it is a subjective determination. No one can jump into someone else's skin and measure the value of what their pain and suffering is worth.

Still, that's what juries are asked to do if a personal injury case goes to trial. Jury verdicts are in turn reported in publications that are available to lawyers and insurance companies, so they can see what juries have awarded in similar cases. Jury verdicts vary widely, so there is certainly room to question the statistical validity of this information. But it is one more ingredient that goes into negotiating the settlement value of any given case. • BDH

## Why a Newsletter?

We hope you will find this newsletter to be entertaining and informative. We thought it would be a great way to stay in touch with people who have had a relationship with our firm. We care about the people we have helped and we want you to know that our relationship with you is very valuable to us, even if your case is over.

The reason you are receiving this newsletter is because you are an existing or past client of our firm, or you have contacted us about prospective representation. For this reason, this newsletter is not considered to be an “advertisement” under Kentucky Supreme Court Rule 3.130-7.02 (1)(h). (But this doesn't mean you can't give it to someone you

know!)

We hope to share a little more about who we are and what we do, and not just in our law practice. We would love to hear from you if you like our newsletter!

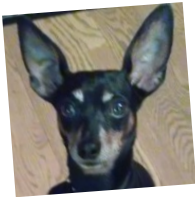
Our best to all of you!

Brad Harville Dana Skaggs

BRADLEY D. HARVILLE LAW OFFICES PLLC

# 20 Questions about Kentucky No-Fault

The key to understanding how the legal and medical system works in personal injury cases resulting from motor vehicle accidents in Kentucky.



Casey's Kentucky Trivia Question:  
What was the original name of Maysville, Kentucky?

- A. Riverbend
- B. Limestone
- C. Clooney
- D. Iroquois

Be the first person to answer correctly by sending an e-mail to [bdh@harvillelaw.com](mailto:bdh@harvillelaw.com) and we'll mail you a \$5 Starbucks gift card!

**BARKTOWN RESCUE  
PUPPY BOWL PARTY**  
Hosted by Mamma's Kitchen



## Current Trends in Personal Injury Law

The terrible events in Marshall County recall the case of *Janes v. Wilson*, 95 S.W.3d 875 (Ky.App. 2002). In *Janes*, the victims and victims' families from the 1997 Heath High School shootings in Paducah filed a lawsuit against 53 defendants, consisting of the owner of the firearm involved, the shooter's parents, his fellow students, and school personnel. The suit claimed that the owner of the gun was negligent in storing it, such that the shooter, Michael Carneal, was able to gain access to it; that Carneal's parents were

negligent for failing to control and prevent Carneal from carrying out the shootings; that some of his fellow students knew he had brought a gun to school before; and that the school faculty was negligent in failing to protect the student body from the attack. Essentially, the Ky. Court of Appeals found that there was insufficient evidence to support any of the claims by the victims and their families, and dismissed the case in its entirety. Thus, the victims and their families

were denied any recovery. The gun owner had his pistol stored in a locked cabinet in his office, which was broken into by Carneal and stolen. Carneal's parents were not to blame because he had never exhibited violent tendencies before the shootings. Nor was there any evidence that the students and faculty had reason to suspect what Carneal was about to do.

I expect a similar lawsuit will emerge from the Marshall County shootings. It remains to be seen if the evidence will be any different.

## Advice Column - Seasonal Affective Disorder

It's February. Winter dragging you down? From [dailyburn.com](http://dailyburn.com), here are some tips for coping with Seasonal Affective Disorder (SAD):

1. Soak up morning sunshine.

Open curtains as much as possible to get exposure to natural light right when the body is waking up.  
2. Maintain your routine. Don't neglect your favorite hobbies. You'll feel better knowing you're still making it to your weekly book club, basketball game or brunch with friends.

3. Work it out. A killer gym ses-

sion will naturally release endorphins, which will lift your mood.

4. Flip a switch. Light boxes can help up to 50 percent of people who suffer from SAD.

5. Ditch the sugar. Research suggests that too much sugar can lead to higher rates of depression, stress and anxiety.

6. Get outside. Brave the cold for at least five minutes to lift your spirits.

7. Develop wintertime interests. Having fun is central to having a

good mood.

8. Practice relaxation. Yoga and meditation can alleviate symptoms of depression, anxiety and stress.

9. Book a trip. Quality vacation time will certainly boost your mood. Those that head south will benefit from additional sunshine, but just taking a break from work is important for anyone's mental health. It will also give you something to look forward to while finding ways to enjoy the winter wonderland in your own backyard!

## Favorite Pet of the Month

Barktown Rescue has 2 dogs playing in Animal Planet's Puppy Bowl on February 4, 2018 - Harley and Rowdy. Both dogs made the trip to NYC for the big game!

Mamma's Kitchen in Bardstown, KY is hosting a special Puppy Bowl viewing party from 2-5. Come join the fun!

Be sure and tune in to Animal Planet's Puppy Bowl on Super Bowl Sunday to cheer Harley and Rowdy to victory! It airs on February 4 @ 3pm ET/ 2pm CT on Animal Planet network.

Are you a pet lover? We are!

Dana Skaggs serves on the Board of Directors of [Barktown Rescue](http://BarktownRescue.com). Brad and his family love pets, too!

If you want to tell us about your pet(s), send an e-mail to [bdh@harvillelaw.com](mailto:bdh@harvillelaw.com) with a photo and we'll try to put this in a future issue!

# Kentucky vs. Indiana Auto Insurance

You may not know it, but the insurance available under your auto insurance policy is governed by state law. If you live in Kentucky, you have a Kentucky auto policy, and if you live in Indiana, you have an Indiana auto policy.



What's the difference? There are some big differences. First of all, your Kentucky auto policy requires you to carry Kentucky "no-fault" insurance, which means you have coverage for your medical bills and lost wages up to \$10,000.

Indiana, on the other hand, is not a "no-fault" state, so your Indiana policy will not provide this coverage. However, Indiana policies usually provide "med pay" coverage, which is also payable for medical bills regardless of fault, although the coverage limits are often smaller (e.g., \$5,000). But if an Indiana driver is in an accident in Kentucky, and the Indiana insurer is licensed to do business in Kentucky, then Kentucky law requires the insurer to provide \$10,000 in no-fault coverage in addition to med pay.

Another big difference between the 2 states is with underinsured motorist (UIM) coverage. If you are seriously injured by another driver's fault, UIM coverage is

supposed to pay for your damages above the other driver's liability coverage. But Indiana provides that UIM coverage is "offset" by the other driver's coverage, which is not allowed in Kentucky. For example, assume you have \$50,000 in damages, the other driver has \$25,000 in liability coverage, and you have \$25,000 in UIM coverage. In Indiana, your \$25,000 in UIM coverage is "offset" by the other driver's liability coverage, leaving you with no UIM coverage; whereas in Kentucky, you would collect the additional \$25,000.

"Stacking" of uninsured motorist (UM) and UIM coverages is another area where the 2 states differ. More on this in the next issue.

## Stupid-Easy Recipe of the Month

### Bison Chili

This is my copycat recipe of Village Anchor's elk chili. It's pretty close!

Ingredients (all available at Kroger):

- 3 lbs. ground bison meat
- 1 small to medium sweet onion
- 1 bulb garlic
- 2 16 oz. cans chili-ready diced tomatoes
- 1 28 oz. can Muir Glen organic fire-roasted crushed tomatoes
- chili powder, black & cayenne pepper and salt
- 1/2 cup your favorite salsa

1/3 cup tomato paste

### Directions:

Brown meat in large pot/Dutch oven with chopped onion, chopping meat into fine texture with metal spatula. Add chopped garlic as it begins to brown, drain. Add tomatoes, salsa and tomato paste. Add chili powder, black & cayenne pepper and salt to taste. Simmer for 1-2 hours before serving, or store overnight. (You can also add chili beans if desired)

If you like meaty chili, this is it! Great on hot dogs, too!



*A hearty chili to get you through the winter!*

## Mary Todd Lincoln House

History has unfairly given Mary Todd Lincoln a bad rap. Wife of our 16th president, Abraham Lincoln, it's fair to say that Lincoln probably would have never made it to the White House, and kept the country together during the Civil War, if he had not married her. Born into a prominent family, she was a big upgrade for Old Abe from his backwoodsman upbringing. In many ways, her family connections made his presidency possible.



Mary Todd Lincoln's house still stands on West Main Street in Lexington, near Rupp Arena. It is a national treasure. There was talk of tearing it down back in the 1970s, but sensible heads prevailed. It is open to the public, and information about tours is available on its website at [mtl-house.org](http://mtl-house.org).

If you go, ask for my sister. She's one of the tour guides!



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**We want to help you secure the best possible outcome out of a difficult situation that you wish had never happened. If you have been injured, our goal is to obtain maximum recovery in the shortest amount of time it takes to get your case resolved.**



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## Thurgood Marshall Remembered

Thurgood Marshall is one of the towering legal figures in American history.

The website [biography.com](http://biography.com) offers this perspective on his legacy:

"Thurgood Marshall stands alongside Martin Luther King Jr. and Malcolm X as one of the greatest and most important figures of the American civil rights movement. Although he may be the least popularly celebrated of the three, Marshall was arguably the most instrumental in the movement's achievements toward racial equality.

Marshall's strategy of attacking racial inequality through the courts represented a third way of pursuing racial equality, more pragmatic than King's soaring rhetoric and less polemical than Malcolm X's strident separatism. In the aftermath of Marshall's death, an obituary read:

"We make movies about Malcolm X, we get a holiday to honor Dr. Martin Luther King, but every day we live with the legacy of Justice Thurgood Marshall." Well said.

People may know that Marshall was the first African American Justice on the U.S. Supreme

Court, and they may know he argued the 1954 case of *Brown v. Board of Education in Topeka*, which held that

racial segregation of public schools violated the equal protection clause of the 14th Amendment. But Marshall had a long and distinguished career of arguing for civil rights before then. In fact, he argued before the U.S. Supreme Court a total of 32 times, more than any other lawyer in history.

Some of his other noteworthy cases from [biography.com](http://biography.com):

*Murray v. Pearson*: Marshall, along with his mentor, Charles Houston, defended Donald Murray, a well-qualified undergraduate, who



Thurgood Marshall

like Marshall himself had been denied entrance to the University of Maryland Law School. Marshall and Houston won this case in 1936, the first in a long string of cases designed to undermine the legal basis for racial segregation in the United States.

*Chambers v. Florida*: Marshall's first victory before the U.S. Supreme Court came in this 1940 case, in which he successfully defended four black men who had been convicted of murder on the basis of confessions coerced from them by police.

*Smith v. Allwright*: Another crucial Supreme Court victory for Marshall came in this 1944 case, in which the Court struck down the Democratic Party's use of whites-only primary elections in various Southern states. Marshall was fighting and winning in the courts years before the Civil Rights movement came about in the 1950s and 1960s. He was the pioneer who laid the groundwork for that movement and the anti-discrimination laws that exist in our society today.