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The Louisville Accident Lawyer Journal

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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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## Why Hire An Insurance Lawyer?

I have a confession to make. I have done a lot of work for insurance companies over the years. A lot.

What do I mean by that? That means, if someone was hurt in a car wreck, and they hired a lawyer to file a personal injury lawsuit in court, and the defendant was insured by an insurance company that hired me to defend cases, I would be the lawyer on the other side of that case.

And you know what? I still defend a few cases. If you listen to the TV lawyers, I'm one of the "bad guys."

I don't see it that way. For one thing, my practice has changed a lot in recent years. For many years my practice was roughly 80% defending cases and 20% representing plaintiffs. Now it's the other way around.

I've always believed that you are a better lawyer if you've practiced on both sides of cases.

## 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.

After all, don't you want to know what the other side is thinking? Don't you want to know their playbook?



*(You won't see this on almost any other personal injury lawyer's website)*

I've learned a lot from working both sides of the fence. I know how the best plaintiff's lawyers practice their cases. I know how the best defense lawyers practice their cases. I've tried lots of cases in court against plaintiffs' and defense lawyers. And that has made me a better lawyer.

I've also gotten many calls from my plaintiff lawyer friends for advice in dealing with insurance companies and coverages. And they've referred me cases, too.

I'll admit, as I enter my fourth decade practicing law, I've grown

a little weary of working for insurance companies. Many have gotten difficult to work for. Their online billing software beats you up on fees, and they won't pay for things they require like budget forms.

But working for insurance companies has given me great insight in representing my injured clients. The one thing that most of them hate worse than paying settlements is having to go hire defense counsel if you file a lawsuit. They b\*\*\*h about legal fees more than anything else. In recent years I had a serious injury case in which the insurance company made me a lowball offer of only \$15,000. As the case progressed I realized they didn't want to pay their defense lawyer to defend the case at trial. To make a long story short, the week before trial, when it became put-up-or-shut-up time, the case settled for \$500,000. The moral of the story is, it pays to know what the other side is thinking. And the only way you know that is when you've walked in their shoes. • BDH

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.

## Current Trends in Personal Injury Law

What does it take to prove a claim for emotional distress damages in Kentucky courts? According to a recent Kentucky Supreme Court opinion, *Banker v. Univ. of Louisville Athletic Assoc., Inc.*, the plaintiff's testimony standing alone is sufficient.

*Banker* was an employment discrimination/wrongful termination case against the University of Louisville. The plaintiff was an assistant track and field coach who claimed she was subjected to a sexually hostile work environment, and was terminated in retaliation for her complaints of

discrimination and harassment. She did not seek any medical or mental health treatment for her alleged emotional distress. Therefore no medical evidence or expert medical testimony was presented at trial. The only evidence at trial in support of her claim was her own testimony and that of her mother. On the basis of this testimony alone, the jury awarded her \$300,000 in emotional distress damages.

On appeal, the Supreme Court

upheld the jury's verdict, finding that the testimony of the plaintiff and her mother standing alone was sufficient to support the award.

The *Banker* case has some broad implications in personal injury cases. Trial lawyers tend to focus upon the physical effects of an injury, but they should not shortchange the mental and emotional stress of coping with an injury in presenting their client's damages. This is also a significant decision in bad faith cases, in which damages for emotional distress are recoverable regardless of any physical injury.

### Typical Simple Wills (married couple):

- ✓ Each spouse leaves everything to the other.
- ✓ Surviving spouse is executor or executrix
- ✓ Residual beneficiaries are named
- ✓ For minor children, name a custodian and trustee
- ✓ Specific bequests precede residual beneficiaries
- ✓ Will must be signed in front of 2 witnesses and be notarized

## Advice Column - Do I Need A Will?

If you're married and don't have a will, or your will needs updating, here is some basic will advice:

- 1) Most married couples should have simple reciprocal wills. Typically one will leave everything to the other, naming the surviving spouse as the executor/executrix.
- 2) Usually the will also names one or more residual beneficiaries, if one spouse predeceases the other or both die in a common disaster.
- 3) Children are commonly named as residual beneficiaries. If there are minor children, the will should name someone to take custody of the children and set up a simple trust until they reach 18 or older. Usually the same person is named to fill both roles. Just make sure that person is willing and is up to the task if it should ever come to pass.
- 4) If there are specific bequests, these precede the residual

beneficiaries.

- 5) In order for the will to be properly executed ("self-proving" in probate court, it must be signed by 2 witnesses and notarized.

Married or single, if you don't have a will, then the laws of the State of Kentucky (or whatever state you live in) will decide how all of your earthly goods are divided up. If you don't want that to happen, and would like some assistance drafting your will, give us a call! We're glad to help!

## Favorite Pet of the Month

Jack Skaggs



Name: Jack a.k.a. "Jack Spratt"

Owners: Skaggs family

Age: Around 13 (rescue dog),

Breed: Unknown

Favorite treat: Chicken jerky

Favorite activity: Riding in the car

Personality: Very loyal and reserved lap dog, Terrified of storms and fireworks.!

If you want to add a pet to your family, may we suggest [Barkstown Rescue?](#)

Dana Skaggs serves on the Board of Directors.

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!

# Uninsured (UM) and Underinsured (UIM) Motorist Coverage



*(Do you have enough coverage if you are in a wreck with this car?)*

They are out there. The “minimum limits” driver. Or, even worse, the uninsured driver.

Think about it. High risk drivers are only able to purchase high risk, minimum limits liability insurance. Uninsured drivers can’t or won’t even buy insurance and are driving illegally. These drivers are more likely to have wrecks. And they are more likely to be involved in hit-and-run accidents. And make no mistake, many hit-and-run drivers are never identified.

What can you do to protect yourself? Buy as much uninsured (UM) and underinsured (UIM) motorist insurance as you can. UM coverage compensates you if you are injured in an accident with an uninsured at-fault driver (including hit-and-run accidents). UIM coverage (in Kentucky) compensates you to the extent that your damages exceed the at-fault driver’s insurance.

These coverages are typically offered at the same level as your liability limits. As I have preached in this space before, you should buy as much as you can afford. At a minimum, buy a policy that provides liability, UM and UIM coverage of \$100,000 per person/\$300,000 per acci-

dent. Higher limits don’t cost that much more than minimum limits. And UM/UIM coverages are relatively dirt cheap. I was looking at my own auto policy, which has liability, UM and UIM limits of \$300,000/\$500,000. The 6-month premium for my UM and UIM coverages was only \$16.50 and \$60.50, respectively. For 4 drivers and 4 cars!

Although you have the right to reject these coverages, it is foolhardy to do so. You will regret it if you are ever the victim of an accident with an uninsured or underinsured driver.

They are out there. Protect yourself. Make sure you have high UM and UIM limits.

## Stupid-Easy Recipe of the Month

### Broccoli Salad

March is National Nutrition Month. Time to eat your veggies! This recipe is my own version that borrows from Kroger and Ruby Tuesday’s:

#### Ingredients:

- 6 cups broccoli cut into bite-sized crowns
- 1/4 cup chopped purple onion
- 1/4 cup bacon bits
- 1/4 cup golden raisins

- 1/4 cup grated cheddar cheese (optional)
- 1 cup mayo (I prefer olive oil mayo)
- 1 pack artificial sweetener (e.g. Truvia, more or less to taste)
- 1 oz. (2 tablespoons) red wine vinegar (more or less to taste)

#### Directions:

- Rinse broccoli under hot tap water to blanch for about 20 seconds; drain and dry with paper towels
- Combine mayo, artificial sweetener and

- red wine vinegar in small mixing bowl, whisk to create dressing
  - Combine broccoli and remaining ingredients in larger bowl with dressing, toss until well-mixed
  - Store in refrigerator for 1-2 hours before serving
- Serves 4-6 people, recipe can be adjusted to make larger quantities and will store in refrigerator for 3-4 days. Enjoy!

*March is National Nutrition Month! Eat Your Broccoli!*

## KFC Yum Center Security Measures

Are you going to fill out a bracket this year? The KFC Yum Center is hosting the NCAA Men’s Basketball South Regional on March 24 and 26.

If you are lucky enough to get to go to these games, keep in mind the KFC Center’s new security policies which went into effect in January, 2016:

- Fans must now pass through metal detectors before entering the arena.

- Before walking through the metal detectors, they must first remove all metal items from their pockets and place them into containers on tables lined up alongside the detector, in addition to removing their coats and hats.
- Weapons, large umbrellas, outside food and drink, back-

packs and briefcases are prohibited.

- Purses cannot be larger than 14-by-14-by-6 inches for entry into the arena.

If you’ve never been to the KFC Yum Center, it is a beautiful facility. Have fun and root for your team!





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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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## Spring Break Report - Panama City Beach

Spring Break is coming up soon! Most area universities have their Spring Breaks in March (UK, U of L and ECU are out March 14-18; WKU is a week earlier, March 7-11). Spring Break for JCS and Jefferson Co. Catholic schools is April 4-8. It seems like half of Louisville drives down to Destin, Florida during that week.

For years, the main destination of Spring Breakers has been Panama City Beach, Florida. But do you know what went on there last year?

I recently came across a couple of internet articles with videos by CNN and FoxNews. They were shocking!

The CNN article, dated April 16, 2015 can be found at <http://www.cnn.com/2015/04/15/us/florida-panama-city-beach-spring-break/>. The focus of this article, entitled *Panama City gang rape: 'Spring break as we know it is over'*, is a video of an alleged gang rape that went viral. This incident occurred in broad daylight in front of hundreds of people, Worse yet, this was not an isolated incident.

The FoxNews article, entitled *What really happens during spring break 2015*, is a segment from the "Hannity" show that aired on March 27, 2015, and can be found at: <http://www.foxnews.com/transcript/2015/03/30/what-really-happens-during-spring-break-2015/>. This article features a 12:32 minute video of a reporter interviewing young people among the crowd that really has to be seen to be believed. Binge drinking, public sex, open drug use, you name it.

Both articles report that the situation became dramatically worse in 2015 in compari-

son to 2014. CNN reported 1,091 arrests in 2015 for various crimes, about triple the number of arrests made in the same period in 2014. 202 drug arrests were made in 2015, compared with 43 in 2014. 49 firearms were confiscated in 2015, versus 9 in 2014. The FoxNews report says that although drinking on the beach is not allowed without an ID, the police do not go on the beach because it is too dangerous.

Local officials have vowed that 2015 will not be repeated. According to the CNN report, they have passed an ordinance to prohibit alcohol consumption on the beaches between March 1 and April 18. People of my generation may remember that Fort Lauderdale, once the main destination of Spring Breakers, went through the same thing back in the mid-1980s when it banned open alcohol containers, sleeping in cars and parking overnight at the beach. It remains to be seen whether Panama City Beach is as serious about cracking down in 2016, but we're about to find out.

