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**Harville**  
 LAW OFFICES, PLLC

The Louisville Accident Lawyer Journal

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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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# Nuts and Bolts of the Discovery Process

Every now and then I will have a case where the insurance company is so clearly unreasonable that the only alternative is to file a lawsuit. In past newsletters I've talked a little bit about what happens once you file a personal injury lawsuit, but this month I'm going to go a little deeper.

First of all, a lawsuit is initiated by the filing of a "Complaint," a formal legal document which is supposed to provide enough information to put the Defendant on notice of the particular claims being made. You pay a filing fee and the clerk issues a summons to be served on the Defendant, usually by certified mail or sheriff. The Defendant then has 20 days after service to file an "Answer." If the Defendant fails to do so, then a default judgment may be taken (although it is common for lawyers to allow extensions).

Often, when filing a Complaint or serving an Answer, a party may

serve "written discovery" on the other side.

These are written questions, or "Interrogatories," which the other side is supposed to answer unless there is reason for objection. Usually written discovery also includes a "Request for Production of Documents," which asks the other side to produce written or electronic material pertaining to the case. In personal injury cases, this usually means medical records, wage records, and any other documentation to support the claims being made.

Sometimes a party might also serve a "Request for Admissions," which asks the other party to admit to certain alleged facts in the case. These must be answered in 30 days, or they will be deemed admitted. I don't normally serve "Request for Admissions" unless there are cir-



cumstances that make it advantageous to do so.

Following written discovery, the parties normally move to the deposition phase. The Plaintiff's deposition is nearly always taken to examine the Plaintiff about every conceivable aspect of the case, as well as other background information. Normally this is the defense lawyer's only opportunity to ask the Plaintiff questions directly, unless there is a trial. Therefore, the defense lawyer is allowed to ask about almost anything short of something ridiculous. The Defendant's deposition may also be taken, as well as any important eyewitnesses.

Add in the weeks and months that it takes to get through this process and you can see why lawsuits can drag on for so long. But the good news is that once the discovery process is complete and all of this information has been exchanged, most cases will settle. • 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

# Current Trends in Personal Injury Law

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.

By now, I think most of us are aware of the development of “self-driving” cars. What does this mean for the future of car accidents and personal injury law?

Well, in a February 27, 2017 article on [CNBC.com](http://CNBC.com), no less an authority than Warren Buffet himself - the “Oracle of Omaha” - has weighed in on this issue.

According to Buffet, if “self-driving” cars prove to be safer than regular cars, that could pose a huge threat to the automobile insurance industry.

To quote from the article: “If

they’re safer, there’s less in the way of insurance costs, [and] that brings down premium buy significantly,” according to the investment guru.

However, Buffet also noted that “disrupting an entire industry takes time, and the market will embrace self-driving cars slowly despite the immense amount of capital that tech companies are spending on their development.”

Looking into his crystal ball, Buffet offered this projection: “If I had to take the over and under [bet] 10 years from now on

whether 10 percent of the cars on the road would be self-driving, I would take the under, but I could very easily be wrong..”

He added: “It’s something that billions and billions and billions are spent on, and brains are being involved in it, so it could easily come sooner than I think. And it will be negative for auto insurers,”

In 2017, it is hard to imagine a world with self-driving cars and reducing if not eliminating automobile insurance (and car accident lawyers!). But that may be where we’re headed.

## Advice Column - March Madness Bracket Tips

From [NCAA.com](http://NCAA.com), here are 5 March Madness bracket tips from a Davidson University Math professor:

1. Want to pick a team with a seed of 10 or higher? Keep these stats in mind: Of teams with a 10 or higher seed, only 3 teams have won 4 games in the tournament and only 5 teams have ever won 3 games. Of these teams, no team was higher than a 12 seed.

2. For teams in weaker conferences, it is more difficult to tell how well they will play against

stronger teams. To get a better sense of their strength as a team, look at the out-of-conference games that they play at the beginning of the season.

Even if they lose, if it’s a close game or they limit the number of points scored by the other teams, that may indicate that they are a potential Cinderella team.

3. Seed Stats: 76 percent of upsets are by 10, 11, or 12 seeds (27 percent by 12 seeds alone).

4. 1/3 of lower-ranked teams who win in the first round are ranked within the top 30 offensively -- 55 percent were ranked within the top 50.

5. Stats of winning teams - in the past 14 years, every national champion except one was a 1, 2, or 3 seed. The exception was Connecticut, a 7 seed. Every winner has been within the top 8 best-or-strongest conferences. Every winner has been ranked within the top 25.

Good luck with your bracket!



Casey's Kentucky Trivia Question:  
Which Kentucky county covers the most square miles?

- A. Pike
- B. Floyd
- C. Jefferson
- D. Warren

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!



Take me home!

## Favorite Pets of the Month

March is Puppy Palooza! Barktown Rescue has been busy saving puppies over the last few weeks. One litter is being bottle fed by volunteers after their Mom was struck and killed by a car. This litter was found abandoned and cuddled together under a shed. These are beagle/pit bull mixes that are about 8 weeks old!

If you think spring would be a great time to add a puppy to your family, go to [www.barktownrescue.org](http://www.barktownrescue.org) and fill out an application!

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!

# Travel Insurance - Is It Worth It?

March means that spring break is upon us, and summer vacation is around the corner.



If you are planning a vacation with your family or other loved ones, particularly if you are booking an airline flight somewhere, you've probably wondered whether you should buy trip cancellation insurance. I typically don't, because in most instances I don't think it's worth it. If I'm that unsure about whether or not I will be able to make the trip, then I just won't book it.

An article at [viewfromthewing.boardingarea.com](http://viewfromthewing.boardingarea.com) lists a number of reasons as to why trip cancellation insurance isn't worth it. First of all, if you

are booking through a travel agent, most likely the agent will encourage you to buy coverage for 3 reasons: 1) They make money from selling the insurance; 2) It protects them from any blame if something goes wrong (as we say in the legal profession, it's a CYA move); and 3) They honestly think it's a good idea.

The other thing is that these policies typically have a ton of exclusions. Trip cancellation insurance won't pay anything if you just change your mind or something else comes up. Something bad has to happen, such as a natural disaster, serious illness or a death in the family. And even then, you would have to go through the

claims process and provide proof of the reason you had to cancel your trip, such as medical records or a death certificate.

Also consider that certain credit cards, such as American Express, may offer some form of trip cancellation insurance, although payment may be limited to the same reasons as with any other trip cancellation policy. And even if you don't have trip cancellation insurance, you can still rebook your flights so you don't lose out completely, although you will probably have to pay a steep re-booking fee.

My motto is: Book that trip and hope for the best! Safe travels!

## Stupid-Easy Recipe of the Month

### Swanton Chicken Marinade

This is a recipe that was published years ago in the Louisville C-J. It is unlike any other marinade I've ever tried and is surprisingly delicious:

#### Ingredients:

- 2 T butter
- 2 T olive oil
- 1/4 cup fresh lemon juice
- 2 tsp Louisiana hot sauce
- 1 tsp garlic salt

- 1 tsp Worcestershire sauce
- 1 tsp paprika
- 1 tsp fresh ground black pepper
- 1 tsp Mexican hot sauce
- 8 bone-in chicken thighs (or boneless breasts)

#### Directions:

- Melt butter in microwave and whisk with remaining ingredients (except chicken)
- Marinate chicken in marinade for 1-2 hours

- Spray grill with grill cooking spray
- Grill chicken over medium heat ~ 15 min. each side until done

Give this one a try. It's really good!

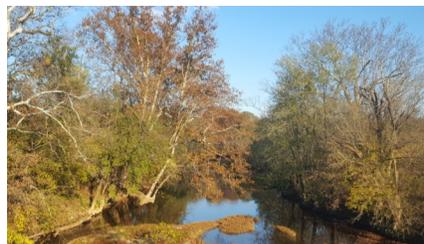


*You've never tasted chicken quite like this before!*

## The Parklands of Floyds Fork

It seems like spring came a month early this year. The February weather was crazy! As a lifelong Kentuckian, this has been one of the mildest winters I've ever seen. Not that I'm complaining.

Anytime there's a nice day, and especially as the days get longer, it's not hard to find me. Most weekday evenings and weekend afternoons my wife and I are walking Casey at the Parklands at Floyds Fork, which is just minutes from our home.



This park is an absolute gem. It has miles of sidewalks and trails and you can go as far as you want. Beyond the Parklands is the trail to

Pope Lick Park, which passes underneath the infamous Pope Lick railroad bridge where the Goatman supposedly lurks to lure people to their doom. It is a little creepy!

There's also the Barklands, which is a fenced in play area for dogs, one for large dogs and one for small dogs. You can pick up an application at any Feeders' Supply. Check out the Parklands website at <http://www.theparklands.org>.



**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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## The Kentucky Consumer Protection Act

There are numerous consumer protection laws at the federal level and across the nation.

The focus of this article is on Kentucky's own version of these laws, the Kentucky Consumer Protection Act (KCPA), which is found in Chapter 367 of the Kentucky Revised Statutes (KRS).

There are 3 key statutes in the KCPA. These are [KRS 367.170](#), [367.110](#), and [367.220](#).

KRS 367.170(1) declares that "Unfair, false, misleading, or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful." Section 2 adds that "For the purposes of this section, unfair shall be construed to mean unconscionable."

KRS 367.110(1) contains a definition of "Person," as far as who can make a claim under the KCPA. "Person" is defined as "natural



persons, corporations, trusts partnerships, incorporated or unincorporated associations, and any other legal entity." In other words, any legal entity can bring a claim for unlawful acts or practices under the Act.

What kind of claim? That question is answered in KRS 367.220(1), which says: "Any person who purchases or leases goods primarily for personal, family or household purposes, and thereby suffers any ascertainable loss of money or property, real or personal, as a result of the use or employment by another person of a method, act or practice declared unlawful by KRS 367.170 ...."

Thus, in a nutshell, any legal entity can bring a claim against any other legal entity for "unfair, false, misleading or deceptive acts or practices in the conduct of any trade or practice," as long as it involves some sort of consumer transaction for "personal, family or household purposes."

A few years ago I defended a case that illus-

trates all of these points. I represented a company that provided temporary homes for victims of storm damage after the Henryville tornados. They hired a Louisville contractor to repair a washing machine in one of the homes. The repairman spent 2 days hanging out at the home without repairing the washing machine, until the occupant finally kicked him out. Another contractor was called who fixed the machine for about \$150.

The first contractor then sued my client for over \$1,500 for the two days its repairman spent not repairing the machine. I countersued under the KCPA. The contractor argued that my company could not make this claim because it was a corporation and this was a commercial and not a consumer transaction. However, the Court correctly determined that a washing machine repair was primarily for "personal, family or household purposes" and allowed the claim to stand. That forced the contractor to drop the case.