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Harville
LAW OFFICES, PLLC



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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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Differences Between State Courts

Every one of the 50 states has its own court system and its own state law. They have their own courts, their own courthouses, their own judges, their own statutes, their own case law, and their own rules.

To practice in front of a state court, you must be licensed to practice law in that state. I am licensed to practice in Kentucky and Indiana so I can appear in any state court in these two states, but I can't practice law in Ohio because I'm not licensed there.

Not surprisingly, each state court system has its own way of doing things. For example, there are distinct differences in the way that Kentucky courts and Indiana courts are set up. In Kentucky, you have two divisions of state courts: 1) District Courts, which are courts of limited jurisdiction; and 2) Circuit Courts, which are courts of general jurisdiction. This means that District Courts can only hear certain cases, e.g., traffic court, misdemeanors, probate, civil cases involving \$4,000



or less; whereas Circuit Courts basically hear everything else, mainly felony cases and civil cases involving over \$4,000. Many counties have also carved out "Family Courts" from the Circuit Court system to hear domestic cases (e.g. divorce, adoption, etc.). Counties with larger populations, like Jefferson County, typically have several divisions of District Courts and Circuit Courts.

In Indiana, on the other hand, each county has only one Circuit Court. However, depending on the population, a county may also have a number of "Superior Courts" which are essentially the equivalent of the Circuit Court. The Circuit and Superior Courts in Indiana are all counties of general jurisdiction, meaning they

hear every type of case, although some counties have established divisions for small claims cases, etc.

Kentucky and Indiana each have their own Court of Appeals and Supreme Court as well. I have argued many cases before the Kentucky Court of Appeals and the Kentucky Supreme Court, and I have also had a case before the Indiana Court of Appeals.

In both states, the judges are usually appointed to the bench by the governor, but then they must run for office in the next election. In Kentucky the judicial races are non-partisan. However, in Indiana, the judges run according to party affiliation as either a Democrat or Republican, and must also compete in a primary election.

Kentucky and Indiana are but one example of how much two state court systems can vary. Multiply that by 50 times and you get some idea of how different the state court systems can be across the USA.

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.

Current Trends - Worker's Compensation

Under cover of sex scandals, budget woes and teacher turmoil, the Ky. state legislature managed to pass a bill that made some significant changes to Ky.'s workers' compensation law in the last session. Here are the most significant highlights/lowlights:

Termination of Income Benefits – KRS 342.730(4) now terminates income benefits when the employee reaches the age of 70 or four years after the injury or last exposure.

Voluntary Intoxication: Presumption of Causation – KRS 342.610 (4) now states that if an employee

prescribed substance "that could cause a disturbance of mental or physical capacities," then it will be presumed that the illegal or non-prescribed substance caused the injury, occupational disease, or death, and the employer will not be held liable, although this presumption is rebuttable. This is a direct reaction to Kentucky's battle against the opioid epidemic.

Duration of Obligation to Pay Medical Benefits – KRS 342.020 (3)(a)-(d). In most claims with an award of Permanent Partial Disability, the employer's obligation to pay medical benefits will continue for 780 weeks (15 years) from the

date of injury or date of last exposure. However, the injured worker may file an application for the continuation of benefits before the deadline expires.

Overall, I don't see these changes having any effect on most of the workers' compensation cases we handle. The 70-year-old limit on benefits is actually an improvement on the old law. We rarely see substance abuse cases. And the 15-year limit on duration of medical benefits almost never comes into play. These days, insurance companies usually start fighting payment of medical benefits long before that happens.

Advice Column - Derby Betting

From 365horses.com, here are some Ky. Derby betting angles:

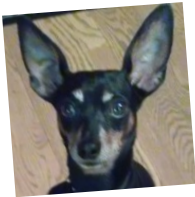
- Only bet on horses that have a 1st or 2nd place finish in a Grade 1 or Grade 2 Stakes race.
- Pay attention to a horse that has been ridden by the same jockey in all of its career starts.
- Look for Jockey/Trainer combos that win at least 20% of the time and return a positive ROI.
- Look for a Beyer speed figure of 98+ on the year. Giacomo (2005) was the only horse since

Sea Hero(1993) to win the Derby without running a Beyer of 100+ prior to the Derby.

- A good race at a distance of 1 1/8 miles prior to the Derby is important, a win or within 2 lengths of winning. Only Charismatic(1999) came out of a 1 1/16 miles race prior to winning the Derby.
- Look for a horse that improved their position throughout the race in their last start prior to the Derby.

- Throw out horses that were being passed by others in their final prep, this indicates they were having trouble going long and won't perform well in the Derby.
- In the case of a tie, or if you are stuck between horses, always bet the one at higher odds.
- The last 9 Derbys(2000-2008) have been won by horses born in February or April.

Good luck! Pick a winner!



Casey's Kentucky Trivia Question:
What was the biggest longshot to win the Kentucky Derby?

- A. Mine That Bird
- B. Donerail
- C. Giacomo
- D. Canonero II

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

Favorite Pet of the Month

Looking to add a dog to your family? Meet Jake, the St. Bernard mix! Jake is only 5 months old and not fully grown. He is very affectionate and enjoys play time in the yard. He would be perfect for an active family who prefers a large dog breed to join in family fun.

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 with a photo and we'll try to put this in a future issue!



Jake

ERISA - The Most Evil Word in PI Cases

The Employee Retirement Income Security Act of 1974 (ERISA) is a federal law that sets minimum standards for most voluntarily established pension and health plans in private industry to provide protection for individuals in these plans. Nearly all health insurance through an employer is governed by ERISA, except for government and church employees.

The nasty thing about an ERISA plan is that they almost always have strict rights of subrogation. These plans commonly contain language that if they pay for your medical



expenses in a personal injury case, then they have the right to be paid back in full before you recover a dime.

Fighting these liens is next to impossible. Because these plans are based on federal law, they are generally exempt from state law. So even if a state law says that the injured person must be made whole before the plan is reimbursed, or that the plan must intervene in a lawsuit before it can recover anything, that doesn't apply to an ERISA plan. All they have to do is wait for the settlement and then swoop in to take their cut.

Generally speaking, these plans realize that if they took all of the settlement money, no one is going to bother trying to recov-

er a settlement and lawyers are not going to work for the plan instead of their clients. For this reason, the plans will usually agree to cut their recovery by an attorney's fee, or take a proportionate cut of the recovery. But it makes for a very difficult situation where you have a very serious injury case with limited coverage, and the plan wants to take its cut even though there is not nearly enough money to adequately compensate the injured victim.

There is no law I would rather see go down than the ERISA right of subrogation. Unfortunately, due to the political might of the health care lobby, I doubt I will ever see that day.

Stupid-Easy Recipe of the Month

Breakfast Casserole

Ingredients:

- 1 pound mild ground pork sausage
- 1 pound hot ground pork sausage
- 1 (30-ounce) package frozen hash browns
- 1 1/2 teaspoons salt, divided
- 1/2 teaspoon pepper
- 1 cup shredded Cheddar cheese
- 6 large eggs

Directions:

- Cook sausage in large skillet over medium high heat until sausage is brown and crumbles
- Cook hash browns according to package directions, add 1/2 tsp salt and pepper
- Stir together hash browns, sausage and cheese, pour into 13x9 baking dish
- Whisk eggs, milk and 1 tsp salt, pour

over mixture

- Bake at 350 for 35-40 minutes
- Enjoy!



*Whip this up
for your
Derby
Brunch!*

Derby Day Golf

Not a huge horse race fan? How about a round of golf on a beautiful Saturday afternoon in May? Worried about the course being too crowded? Not on Derby Day!

It is amazing how deserted every place in Louisville becomes on Derby Day - except at Churchill Downs, of course. No waiting at any restaurants (until the race is over). No lines at any stores. No traffic anywhere you want to go.



Long Run Clubhouse

That's why I enjoy playing golf on Derby Day afternoon. You can choose any course in town and have it all to yourself. You won't even need to yell, "Fore!" The green fees at the Louisville Metro golf courses are dirt cheap, too. I will probably be teeing it up at the Long Run course, which is the one closest to my house. (And hey, if you really want to watch the Derby, just take a break and watch it on your phone!) Happy Derby!



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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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visit us at harvillelaw.com

The Founder of Mother's Day

From abcnews.com, here is a fascinating look at the life of Anna Jarvis, the woman who founded Mother's Day:

Ironically, the founder of Mother's Day was not a mother herself. Anna Jarvis created the holiday to honor her late mother, Ann.

Ann Jarvis was a dedicated community organizer and philanthropist. According to the Woodrow Wilson Presidential Library, she "founded Mothers' Day Work Clubs in five cities in West Virginia to improve sanitary and health conditions." The clubs hired women to help families with sick mothers and created programs that tested the quality of milk (the FDA did not exist back then). During the Civil War, Ann's clubs provided aid to injured soldiers.

According to Katharine Lane Antolini's book, "Memorializing motherhood: Anna Jarvis and the struggle for control of Mother's Day," Anna once said, "[I] hope and pray that someone, sometime, will found a memorial

mother's day [sic] commemorating her for the matchless service she renders to humanity in every field of life. She is entitled to it."



Anna Jarvis

Two years after Ann's death on May 12, 1907, Anna handed out 500 white carnations to all the mothers at Anna's church, St. Andrew's Church in Grafton, West Virginia. The white carnation became the official flower of Mother's Day, according to an article in The Atlantic Constitution from May 7, 1912. After years of lobbying, President Woodrow Wilson declared Mother's Day a national holiday that would be celebrated on the second Sunday of every May.

However, by the 1920s, florists and confectioners had capitalized on the holiday much to its founder's dismay. Anna spent the rest of her life fighting the commercialization of Mother's Day. In 1925, she was arrested for disturbing the peace at a confectioner's convention in Philadelphia, according to the Baltimore Sun.

Anna died at age 84, blind and penniless, according to the Daily Boston Globe. Her birthplace in Grafton, West Virginia, has been turned into a museum.

This publication is intended to educate and entertain but it is not intended to be legal advice. Every case is different. The information in this newsletter may be freely copied and distributed as long as this newsletter is copied in its entirety.