

Harville Law Offices, PLLC  
2527 Nelson Miller Pkwy, Suite 102  
Louisville, KY 40223  
**(502) 245-2333**  
[harvillelaw.com](http://harvillelaw.com)



## The Louisville Accident Lawyer Journal

NOVEMBER 2016 • VOLUME 11 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

### INSIDE THIS ISSUE:

Current Trends	2
Advice Column	2
Favorite Pet	2
What is Subrogation, Anyway?	3
Stupid-Easy Recipe	3
Churchill Downs Thanksgiving	3
Veterans Day	4

# The Scariest Election Ever?

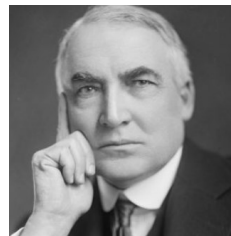
It's wiser to stay away from politics in a newsletter like this, but I'm willing to make an exception this time. I'm 56 years old, and only the most delusional people cannot see that the two presidential candidates, Hillary Clinton and Donald Trump, seem more deeply flawed than in any other presidential election in recent memory.

Even Michael Moore, the liberal movie-maker who loves to skewer Republicans at every opportunity, has expressed reservations in [USA Today](#) about Hillary Clinton, and he has called Donald Trump "the most honest candidate we've ever had. There's complete transparency about his misogyny, his racism, his narcissism."

Does this mean that whichever candidate gets elected president could be the worst president ever? You can Google the "worst president ever" and get lots of different opinions. But among them is my personal favorite, Warren G. Harding, our 29th president from 1921

-1923.

Harding was totally unsuited to be President of the United States. He



Warren G. Harding

was just a henpecked regular dude from Ohio who only wanted to play poker, drink bourbon, play golf, and engage in extramarital affairs behind his wife's back. Not that I admire such behavior, but the fact that he was such an amiable, backsliding, overaged party-boy has a certain appeal. Sort of like "Animal House" goes to the "White House."

Seriously, when Harding was in office, the 18th amendment had been passed. Prohibition was the law of the land, and alcohol had been outlawed. But Harding, the President of the United States, is remembered for carrying a bottle of whiskey in his golf bag and staying up all night playing poker and drinking bourbon with his cronies.

## 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

But that's not the best story about Harding. He also had a mistress while he was president, Nan Britton, with whom he fathered a "love child" before he died in office in 1923. After his death, Britton created a sensation in 1928 by publishing *The President's Daughter*, in which she laid out the details of her love affair with Harding.

In 2015, DNA testing confirmed that Harding fathered Britton's daughter. He also wrote love letters to a second mistress, Carrie Phillips, that were kept under seal in a 1964 lawsuit, but were finally released to the public in 2014. His letters read like a cheesy romance novel.

So take heart, America! No matter who gets elected on November 8, they would have to be really bad to be the worst president ever. Or would they? I guess you could make a libertarian argument that a president who just wants to hang out and party, like Harding, might cause less harm than one who pushes his or her own agenda! Hopefully, though, we can do better than that.

Go vote!

• 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

Last month my page 1 column talked about “bad faith” cases against insurance companies and what a legally gray area they are in a lot of respects.

Well, just a few days later, on October 12, the Ky. Supreme Court came out with a new case that at least clarifies one of the issues that often gets litigated in these cases: Whether the insurance company is guilty of an “evil motive.”

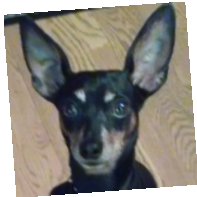
That’s because the standard to prove a bad faith case under Kentucky law up to now has been “whether the dispute is merely

contractual or whether there are tortious elements justifying an award of punitive damages,” depending “first on whether there is proof of bad faith and next whether the proof is sufficient for the jury to conclude that there was ‘conduct that is outrageous, because of the defendant’s evil motive or his reckless indifference to the rights of others.’” *Wittmer v. Jones*, 864 S.W.2d 885, 890 (Ky. 1993).

Well, in *Holloway v. Direct General Insurance*, the Kentucky Supreme Court has now done away with the “evil motive” requirement. In

a footnote, the Ky. S.Ct. wrote: “Use of the word ‘evil’ invokes overly sinister connotations that, in the mind of the casual speaker, are not necessarily synonymous with ‘outrageous’ or ‘recklessly indifferent.’ Because of the confusion we fear continued reliance on the ‘evil motive’ standard will cause future litigants, we no longer consider that part of this analysis.”

Thus, insurance companies defending bad faith cases can no longer argue that they cannot be held liable in the absence of any evidence of “evil motive.”



Casey's Kentucky Trivia Question:  
Who was the only US President born in Kentucky?

- A. Zachary Taylor
- B. Henry Clay
- C. Abraham Lincoln
- D. Andrew Jackson

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!

## Advice Column - Thanksgiving Food Safety

From [foodsafetynews.com](http://foodsafetynews.com), here are some Food Safety tips for your Thanksgiving feast:

**Clean:** Wash hands with warm water and soap for 20 seconds throughout the cooking process, especially before handling food and after handling raw meat and poultry. Wash cutting boards, dishes, utensils, and countertops with hot, soapy water after preparing each food item and before you go on to the next item. Wash vegetables and fruits, but not the turkey. Washing raw meat and poultry can actually help bac-

teria spread because their juices (and any bacteria those juices might contain) could splash onto your sink and countertops.

**Separate:** Separate raw turkey from ready-to-eat foods. Use separate cutting boards, plates, and utensils when preparing and serving food to avoid cross-contamination.

**Cook:** Cooked food is safe only after it's been cooked to a high enough temperature to kill harmful bacteria. Use a meat thermometer on the turkey at the innermost part of the thigh and

wing and thickest part of the breast to make sure it reaches a minimum temperature of 165 degrees F.

**Chill:** Refrigerate any leftovers within two hours to slow the growth of bacteria. Store leftovers in shallow containers and cut turkey into smaller pieces to decrease cooling time.

Leftovers in the fridge are safe to eat for three or four days (that's Monday!) and can be frozen during that time for longer storage. *Bon appétit!*

## Favorite Pet of the Month

This is Oakley. He is a 1 year old hound mix. Although not a puppy anymore, he still loves to run and play fetch!

Oakley was found in a vacant house. He is one of Barktown's longest residents (~ 9 mos.) and needs a forever home! He has a

very well-tempered disposition. For more information, check out [www.barktownrescue.org](http://www.barktownrescue.org).

If you want to add a pet to your family, may we suggest [Barktown Rescue?](http://BarktownRescue.org)

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!



Oakley

## What is Subrogation, Anyway?

I'm not sure any concept is as poorly understood by nonlawyers as "subrogation." So I'm going to try to explain it in simple terms.



Subrogation basically requires 3 things:

- 1) You are covered under some kind of insurance policy. It can be any kind of policy - car, homeowners, health insurance, whatever.
- 2) Your policy pays benefits to you or on your behalf due to some sort of accident or mishap. You're in a car wreck, the neighbor's tree falls onto your house, etc. And,
- 3) Someone else is to blame for what happened.

In other words, if you would have the right to sue somebody for property damage or medical bills or anything else, but these things are paid by your own insurance, then your insurance company has the right to recover for what it paid instead of you. Your insurance company gets to "stand in your shoes."

An insurance company's right of subrogation has always been around in American law. Just about every insurance policy also contains a right of subrogation, which says that the insured (you) have to cooperate with them to recover anything they might have to pay due to someone else's fault.

In many cases, once the insurance company has paid for a loss, the insured (you) is not

out-of-pocket for anything other than the deductible. For example, if my drunk uncle crashes his car into my garage, the insurance company pays for the damage to my garage less my \$1,000 deductible. The insurance company will then make a claim against my drunk uncle and will also try to recover my \$1,000 deductible, less my proportionate share of any attorney fees or costs.

In personal injury cases, it gets much more complicated. There can be no-fault subrogation, health insurance subrogation, workers' comp subrogation, and Medicare subrogation. Handling and negotiating these claims is at the top of the list as to why people with personal injury claims should consider hiring a lawyer.

## Stupid-Easy Recipe of the Month

*Our own family recipe!*

### Mary's 1997 Stuffing

Here is a traditional Thanksgiving favorite that is my wife's own recipe:

#### Ingredients:

- 1 14 oz. pkg Pepperidge Farm Country Style Stuffing mix
- 1/2 pkg (8 oz.) Italian sausage
- 3/4 tsp. poultry seasoning
- 1 cup finely chopped celery
- 1 cup finely chopped onion
- 2 cans chicken broth
- 1 tbsp. butter

#### Directions:

1. Brown sausage and set aside.
  2. Saute onion & celery in butter until tender.
  3. Mix poultry seasoning with stuffing mix.
  4. Heat broth to boiling.
  5. Mix broth, celery, onion & sausage with stuffing mix (enough moisture so stuffing is not crunchy).
  6. Bake at 325° F for 30-40 minutes until browned.
- Serve with turkey, gravy & cranberry sauce!  
Happy Thanksgiving!!!



## Thanksgiving at Churchill Downs

Since I was born and raised in Lexington, not Louisville, I find a lot of things about Louisville's local culture curious. Like the fact that the local schools are closed on Oaks Day. That just shows you how much people in this area love Churchill Downs.

It's not just Derby time, either. Years ago I was surprised when I first learned that many people go to Churchill Downs to celebrate Thanksgiving. This is a tradition that has been going on since 1969.



According to [WAVE3](#), more than 10,000 people went out to the track last year for a Thanksgiving dinner complete with horse racing. Food-wise, it is the Downs' third-busiest day of the year (behind the Derby and Oaks). A staff of about 80 people served up 3,500 pounds of turkey, 2,000 and 3,000 pounds of mashed potatoes. I hope the ones who didn't cash any winning tickets were still thankful by the end of the day!  
Happy Thanksgiving!



Anchorage Office Plaza  
 2527 Nelson Miller Parkway  
 Suite 102  
 Louisville, KY 40223

Phone: 502-245-2333  
 Fax: 502-245-2399

**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.**



E-mail: [bdh@harvillelaw.com](mailto:bdh@harvillelaw.com)

[dts@harvillelaw.com](mailto:dts@harvillelaw.com)

visit us at [harvillelaw.com](http://harvillelaw.com)

## How Veterans Day is Different from Memorial Day

Friday, November 11 is Veterans Day which is a state and federal holiday. Recently I came across an article in the [Washington Post](#) that contains the following quote from the Department of Veterans Affairs:

“Many people confuse Memorial Day and Veterans Day. Memorial Day is a day for remembering and honoring military personnel who died in the service of their country, particularly those who died in battle or as a result of wounds sustained in battle. While those who died are also remembered, Veterans Day is the day set aside to thank and honor ALL those who served honorably in the military - in wartime or peacetime. In fact, Veterans Day is largely intended to thank LIVING veterans for their service,

to acknowledge that their contributions to our national security are appreciated, and to underscore the fact that all those who served - not only those who died - have sacrificed and done their duty.”

This article also contained the graphic below, which gives a good visual comparison of the number of military deaths in America’s major conflicts over the course of history.

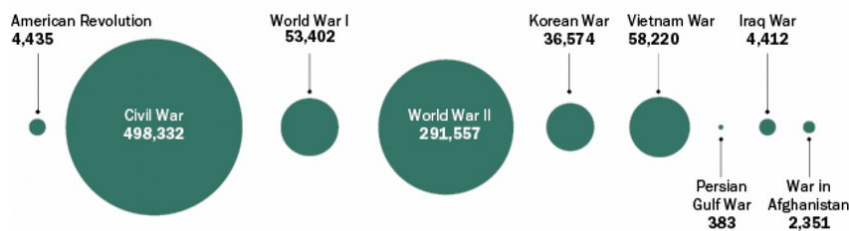
A few comments about this graphic:

Although the number of deaths in the American Revolution may seem small, that is a huge number considering the population of that time. The bloodiness of the Civil War is unimaginable. And it omits the War of 1812, a.k.a. “America’s Second Revolution,” which was of enormous importance in freeing this country once and for all from European intermeddling - and was largely fought by Kentuckians! An estimated 2,260 military deaths resulted from that conflict.

If you have ever been to Washington, DC and walked the various memorials - The World War II memorial, the Korean War memorial, and the Vietnam memorial - they are a truly moving experience. A World War I national memorial is also under construction.

### Military Deaths in America's Major Wars

Number of American soldiers who died while fighting in major conflicts...



Note: Figures do not include deaths outside theaters of conflict. Civil War deaths are based on incomplete returns due to estimates of Confederate deaths. Figures as of May 2015.

Source: Congressional Research Service, U.S. Department of Veterans Affairs; U.S. Department of Defense.

PEW RESEARCH CENTER

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.