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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

#### Why a Newsletter?

You are receiving this newsletter because you are an existing or past client of our firm, or have contacted us about representation. For this reason, this newsletter is not an "advertisement" under Ky. Supreme Court Rule 3.130-7.02(1)(h). It is our way of staying in touch with people who have had a relationship with our firm. We care about the people we have helped and want you to know your relationship is valuable to us, even after your case is over. We hope you find it entertaining and informative, and would love to hear from you if you enjoy it!

Our best,  
Brad Harville  
Dana Skaggs

## Springtime and Rebirth

Most people might assume that December is the most important month in the Christian calendar, but in truth that title belongs to March or April, whenever Easter falls during any particular year. Whether you consider yourself to be a Christian, some other religion, or a non-believer, the fact is that Christianity is the world's largest faith, numbering over 2.4 billion followers. Number 2 is Islam (1.8 billion) and number 3 is Hinduism (1.15 billion). Anyone who would question that Christianity has been the dominant influence in Western culture since the time of Christ simply doesn't know their history.

Case in point: The calendar used by most of the world is actually called the "Gregorian" calendar. It has been in existence since 1582, when it was introduced by Pope Gregory XIII. Until then, Europe used the Julian calendar, first implemented by Julius Caesar in 46 B.C. Since the Julian calendar miscalculated the length of the solar year by 11 minutes, it had fallen out of sync with the seasons. This concerned Pope

Gregory because it meant that Easter, traditionally observed on March 21, fell further away from the spring equinox with each passing year. The Gregorian calendar introduced the "leap year" to correct this discrepancy, and it reestablished the pronouncement by Council of Nicaea in 325 C.E. that Easter would be observed on the first Sunday after the first Full Moon occurring on or after the vernal equinox.

Another important religious holiday in the Jewish tradition is Passover, a week-long festival which celebrates Moses's liberation of the Israelites from Egypt, found in the Old Testament book of Exodus. The rules for when Passover begins are even more complicated than Easter. Passover, unlike Easter, is based on the Jewish calendar and begins at sunset on the 14th day of the Jewish month Nisan, which also falls during springtime and typically begins on the night of a full moon after the northern vernal equinox. According to the Gospels, Jesus Christ was crucified during the Passover festival, which

is why Easter and Passover come around at about the same time. Now you know why the ABC network always broadcasts "The Ten Commandments" movie around Eastertime, which it has done every year since 1973.

Both Easter and Passover celebrate new beginnings, Easter with the resurrection of Christ and Passover with the liberation of the Jewish people. It's no accident that these religious observances occur in the spring, when nature itself undergoes a rebirth from the cold winter months. The days get longer, people get outside more, and life just seems to get better.

What does this have to do with our personal injury practice? Maybe this: We are also in the business of helping people re-emerge from a difficult situation in their lives. There is always a sense of rebirth when you can put a difficult problem behind you. Our goal when we represent our clients is to help them get to a better place than they were in when they first came to us.

• BDH



## DENNIS RODMAN AND CONFIDENTIALITY AGREEMENTS IN PERSONAL INJURY SETTLEMENTS



Some of you under the age of 30 may not have heard of Dennis Rodman, but he is one of the more intriguing figures in American sports. Nicknamed “The Worm,” he was one of the greatest rebounders in NBA history and is in the Basketball Hall of Fame. During his career, he played on five championship teams, two with the Detroit Pistons “Bad Boys” and three with the Michael Jordan-led Chicago Bulls.

Rodman gained even more publicity for his outrageous personality. Midway during his professional basketball career, which spanned from 1987 to 1998, he began dyeing his hair various colors and accumulated numerous tattoos and body piercings, wore a wedding dress and makeup at a New York bookstore to promote his autobiography, and dated Madonna. More recently, he has been in the news for being a personal friend of North Korea dictator Kim Jong-un and President Trump, and appeared in Singapore during their 2018 Summit wearing a MAGA cap and a “Potcoin” T-shirt to promote a marijuana bitcoin company.

Rodman has even gained some measure of fame in legal circles. On January 15, 1997, during an away game between the Bulls and the Timberwolves, Rodman was going up for a rebound and fell out of bounds, landing alongside a line of cameramen seated on the floor.

One of them, Eugene Amos, Jr., was filming Rodman as he started to get back on his feet, when a visibly angry Rodman delivered a swift kick to Amos’s groin, causing Amos to double over in pain (you can watch the video at <https://www.youtube.com/watch?v=l-NDZGtU7So>).

Amos was then taken by ambulance to the Hennepin County Medical Center. He reported that he had been kicked in the groin but the pain was subsiding. While there, he also contacted a lawyer who agreed to represent him. He then left the hospital and filed a police report with the Minneapolis Police Department, asserting that Rodman had assaulted him. Rodman’s attorney subsequently contacted Amos’s attorney, and, six days later, on January 21, 1997, they reached a settlement agreement in which Rodman agreed to pay Amos the tidy sum of \$200,000. The settlement agreement included a confidentiality clause, which required Amos not to disclose terms of the agreement.

It didn’t stay very confidential, did it? What happened?

Well, Amos did not report the settlement on his tax return in reliance upon Section 104(a)(2) of the Internal Revenue Code, which provides that personal injury settlements are not taxable as income. Citing the fact that Amos’s injury and treatment were minimal, the IRS contended that most of the consideration paid for the settlement was for the confidentiality provision, not Amos’s personal injuries, and therefore most of it was taxable. The case was litigated before the United States Tax Court, which agreed with the IRS and determined that \$80,000 of the settlement was for Amos’s personal injuries and the remaining \$120,000 was for the confidentiality provision, for which Amos had to pay income tax. Ouch!

This is an important consideration anytime you settle a personal injury case and the other side wants a confidentiality agreement. Nursing homes and hospitals will always insist on a confidentiality agreement as a condition to any settlement. Although there are strong public policy concerns about confidentiality agreements - mainly the fact that they nullify any incentive for wrongdoers to alter their harmful conduct - the fact remains that if a substantial settlement offer is on the table, clients don’t want this issue to stand in the way of getting their cases resolved.

So what are you supposed to do? Well, you must review the confidentiality provision very carefully to make sure it steers clear of any interpretation that confidentiality is part of the settlement consideration. If it doesn’t, you must insist on language that neither party has requested or agreed that confidentiality is a part of the consideration paid in settlement, but that the parties voluntarily agree not to disseminate information about the settlement unless required by law, even though this voluntary agreement is not a condition of the settlement and is not legally enforceable.

## Current Trends in Personal Injury Law

The latest wave of “toxic tort” cases involve the popular weed killer Roundup, manufactured by the Monsanto corporation. I’ve got a spray bottle of Roundup in my garage right now and I’ll bet you do, too.

The nature of these claims is that the active ingredient in Roundup, glyphosate, causes cancer. There are thousands of these claims currently pending against Bayer corporation, which acquired Monsanto last year. So far, two of them have gone to trial. Both of these cases were tried in San Francisco, California, where outsized jury verdicts seem to be the norm rather than the exception.

The first trial, which took place in August 2018, involved a school dis-

trict groundskeeper who testified that he applied Roundup 20 to 30 times per year. He also testified that he had two accidents in which he was doused with the product. Two years after his first accident, he was diagnosed with non-Hodgkin's lymphoma. A state court jury awarded him \$39 million in compensatory damages and \$250 million in punitive damages. The judge reduced the verdict to \$78.6 million, which is currently on appeal.

This past month, a second jury verdict was handed down in federal court. This time, the plaintiff was a homeowner who testified he used Roundup to control weeds on his property for 26 years, and was diag-

nosed with non-Hodgkin's lymphoma. The trial of this case took place in two phases. The result of the first phase was that the jury found that the product was a “substantial factor” in causing his cancer, and in the second phase the jury awarded him \$5.27 million in compensatory damages and \$75 million in punitive damages. That case, too, is bound for an appeal. There is still a great deal of controversy over these cases amid a considerable amount of scientific evidence that glyphosate does not pose a cancer risk. The final outcome remains to be seen, but in the short term Bayer's stock price has taken a big hit.

## Stupid-Easy Recipe of the Month

*A can't-miss crowd pleaser!*

### Cherry Dump Cake

If you are looking for a tasty Easter dessert, this one is too easy to pass up!

#### Ingredients:

- 1 (20 oz) can crushed pineapple with juice, undrained
- 1 can (21 ounces) cherry pie filling
- 1 pkg of yellow cake mix
- 1 cup chopped pecans or walnuts
- 1/2 cup (1 stick) butter or margarine

#### Directions:

Heat oven to 350. Spray a 13x9 baking pan with cooking spray. Pour can of pineapple with juice in sprayed baking pan. Spread evenly. Mix in cherry pie filling with pineapple. Next, place the dry cake mix evenly over top and sprinkle nuts on top. Dot with butter/margarine. Bake 50 minutes or until light golden brown. Serve warm with ice cream or whipped cream.



## Favorite Pet of the Month

This is Mr. Binx! A 7-month-old kitten that arrived at our rescue in recent weeks. Mr. Binx is certainly a lap kitty. He is affectionate and loves attention.

Mr. Binx would like to find his forever home. Is that you? Fill out your application at [www.barktownrescue.org](http://www.barktownrescue.org)!

Dana serves on the Board of Directors at Barktown Rescue.

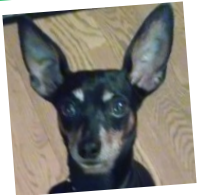
Brad and his family love pets, too!

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!

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 Ky. Trivia Question: Who scored the most points ever (81) in a Kentucky girls high school basketball game?

- A. Jaime Walz
- B. Geri Grigsby
- C. Whitney Creech
- D. Kim Mays

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!



Mr. Binx



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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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