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The Louisville Accident Lawyer Journal

JUNE 2019 • VOLUME 5

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

How Do You Get to be a Judge in Ky.?

It's funny how everyone respects judges, but lawyers not so much. After all, judges are lawyers, otherwise they wouldn't get to become judges.

But did you ever wonder how lawyers actually get to become judges? It depends on whether you are talking about the state court system or the federal court system.

In the Kentucky state court system, a lawyer can become a judge in one of two ways.

First of all, if there is a judicial vacancy, a lawyer can apply to be nominated for the job by the Kentucky Supreme Court's Judicial Nominating Commission (JNC). The JNC then selects 3 nominees and forwards those names to the governor, and the governor must appoint one of the three.

However, even if a lawyer is appointed to fill a judicial vacancy, he/she must still run for the office in the next general election, which is the second way to become a judge. Any number of judges have been appointed to the bench, only to lose to another candidate in the general election. Once elected, Supreme Court Justices, Court of Appeals judges, and Circuit Court judges in Kentucky serve 8-year terms. District Court judges serve 4-year terms.

What are the qualifications required to be a state court judge in Kentucky? You must be a U.S.



Ky. Chief Justice John D. Minton, Jr.

Citizen, licensed to practice law in Kentucky, and a Kentucky resident for at least 2 years in the district where the election is held. Supreme Court Justices, Court of Appeals judges and Circuit court judges (including family court judges) must have been licensed to practice law for at least 8 years. District Court judges (who handle misdemeanors, traffic court, probate, etc.) must have been licensed to practice law for only 4 years.

Getting to be a federal court judge, however, is an entirely different kettle of fish. The process is way more political, as anyone who watched last year's confirmation hearings of Justice Kavanaugh can attest. Of course, that level of political theatre is generally reserved for U.S. Supreme Court nominees.

As stated in the U.S. Constitution, Supreme Court justices, Court of Appeals judges, and District Court judges are nominated by the President and confirmed by the United

States Senate. The Constitution does not require any specific qualifications. Names of potential nominees are often recommended by senators or by members of the House who are of the President's political party. The Senate Judiciary Committee typically conducts confirmation hearings for each nominee.

The great thing about being a federal judge? Article III of the U.S. Constitution states that once you're appointed, you are appointed *for life!* Think about that! The current salary for U.S. District Court judges is \$208,000/year, plus all of the benefits the federal government has to offer, until your dying breath! I can remember when I started practicing law in Lexington, there was a federal judge known to have dementia, but his clerks would still pick him up at his home, drive him to work everyday, and write his opinions for him!

That's why being a federal judge is considered to be the "holy grail" of jobs in the legal field. Not long ago, one of my law school classmates was appointed as a federal judge. He is a super nice gentleman and very sharp. I had an opportunity to congratulate him, and he agreed that being a federal judge was a pretty great thing. It is a job that comes with a lot of responsibility, but he will be a top notch judge for many years to come. • BDH

KENTUCKY FRIED CHICKEN V. COL. SANDERS

I for one am not crazy about all of the KFC TV commercials featuring different actors playing Colonel Sanders.

I grew up in the 1960s and 1970s, so I remember the real-life Colonel Sanders from his TV commercials and print advertisements back in the day. He led a very interesting life, and these modern-day caricatures seem a little disrespectful to me.



1968 ad featuring the Colonel

The Colonel was born in Henryville, Indiana in 1890. He grew up on a farm and learned how to cook at an early age. He dropped out of school after the 7th grade, did a stint in the Army, and spent his earlier adult years in various odd jobs such as working with steam engines, selling insurance, selling tires, making lighting systems, and operating a ferry boat.

In 1930, he bought a service station in Corbin, Kentucky, and began serving Southern-style food to travelers. The food gained popularity, and he eventually converted his business into a full-time restaurant. In 1935, he was commissioned by Governor Ruby Laffoon as a Kentucky Colonel. But his big breakthrough came in 1939 when he discovered how to fry chicken in a pressure cooker. His restaurant continued to grow in popularity, but unfortunately, the 1950s brought his run to an end. The highway junction near his restaurant was relocated, and then I-75 was built, bypassing his restaurant by 7 miles. He auctioned off his restaurant in 1956, taking a loss, and was left to live on his life savings and Social Security check.

But the Colonel wasn't done. Wearing his signature white suit and black tie, he began traveling across the country in search of potential franchisee restaurants, making handshake deals for his chicken recipe in exchange for 4 cents for every chicken sold. By 1964, over 600 restaurants were selling his chicken, although they were not Kentucky Fried Chicken restaurants as we know them today.

Enter a 29-year old lawyer from Lexington, John Y. Brown, III. In January 1964 Brown and a business partner persuaded the 73-year-old Colonel to sell the company for \$2 million. Incredibly, Sanders, who didn't believe in the stock market, turned down stock owner-

ship in the company. The stock soared during the 1960s, making millionaires of over 125 stockholders, franchisees, and company employees.

Another term of the sale was that the Colonel was to be paid an annual salary of \$40,000 to serve as the company's ambassador. Brown made him the symbol of the company in TV commercials and magazine ads, and he also appeared on network programs such as *The Tonight Show* and *The Merv Griffin Show*.

However, the Colonel was nothing if not irascible. He truly cared more about the food than the money. He would drop in on various restaurants, and if the food wasn't up to his standards, he would pronounce it as "God-damned slop" or push it to the floor.

It was this sort of personality that led to litigation between the Colonel and the company he created. In 1968, he opened what is now known as "Claudia Sanders Dinner House" in Shelbyville, named after his second wife. The owner of KFC at the time, Hueblein, Inc., sued to stop him from opening the restaurant. A settlement was reached in which the Colonel was allowed to open the restaurant and was paid \$1 million to stop criticizing KFC.

Which did not happen. In 1975, the Colonel was interviewed by the *Courier-Journal*. During the interview, he offered some choice comments about the quality of KFC's food. About the mashed potato gravy, he said: "My God, that gravy is horrible. They buy tap water for 15 to 20 cents a thousand gallons and then they mix it with flour and starch and end up with pure wallpaper paste. And I know wallpaper paste, by God, because I've seen my mother make it. To the 'wallpaper paste' they add some sludge and sell it for 65 or 75 cents a pint. There's no nutrition in it and they ought not to be allowed to sell it." About the new "Extra Crispy" recipe, he added this remark: "That new 'crispy' recipe is nothing in the world but a damn fried doughball stuck on some chicken."

In response to this interview, the Colonel was sued by a KFC restaurant in Bowling Green, seeking damages for liable and defamation. The case was dismissed by the trial court, and was appealed to the Kentucky Supreme Court, which rendered its decision in [*Kentucky Fried Chicken of Bowling Green v. Harland Sanders, et al.*](#) The Court held that in order to defame a class, the statement must be applicable to every member of the class, whereas the Colonel was only discussing KFC generally and did not have any particular restaurant in mind. Therefore, the trial court's dismissal was affirmed.

The Colonel, who passed away in 1980 at the age of 90, was truly one of a kind. He was certainly not the clownish character portrayed in today's TV commercials.

Current Trends in Personal Injury Law

On March 18, 2018 a fatal accident occurred in Tempe, Arizona, when a self-driving Uber car ran over a homeless woman who was crossing the street with her bike. It is believed that this case is the first fatal accident to a pedestrian involving a self-driving car. Although there was a so-called “backup driver” sitting in the driver seat, she was watching “The Voice” on her phone when the car struck the victim. Following the accident, Uber suspended its self-driving car testing on public roads.

An article on [Streetsblog](#) highlighted some interesting features of self driving technology that played a role in this tragedy. According to this article, a preliminary report by the

NTSB found that “Uber had deactivated the car’s emergency braking system. And that decision comes down to money. Self-driving cars can be programmed to brake whenever there is an object that the computer system can’t identify, which in tech jargon is called an ‘edge case.’ But programming the car that way can make the journey jerky and nauseating. Uber was in a rush to start its self-driving taxi service that summer, so it had programmed the car to take chances.”

“Indeed, the car’s detection system had noticed Herzberg six seconds before the collision. But it did not brake because it read her shape - she was pushing a bicycle with bags -

as benign.”

Just 11 days after the accident, newspapers reported that Uber had reached a settlement with the family of the deceased victim. Details were not disclosed.

However, that was not the end of the case. In February, 2019, the victim’s family filed suit against the City of Tempe, claiming it created a dangerous situation in the roadway where the victim was killed. In March, 2019, local prosecutors announced that they had not found evidence to charge anyone at Uber with a crime. Any potential criminal liability on the part of the “safety driver” was still under investigation.

Stupid-Easy Recipe of the Month

A delicious summertime salsa!

Fresh Salsa:

Nothing like Fresh Salsa to enjoy a refreshing snack or appetizer on a warm summer night!

Ingredients:

- 4 cups chopped peeled fresh tomatoes
- ¼ cup finely chopped onion
- 1 to 4 jalapeno peppers, seeded and finely chopped
- 1 tbsp. olive oil
- 1 tbsp. white balsamic vinegar
- 1 tsp. ground cumin
- 1 garlic clove, minced

Directions:

Step 1- In a bowl, combine all ingredients; mix well. Let stand for about 1 hour. Serve at room temperature. Store in a covered container in the refrigerator. Yield: 3-1/2 cups.



Favorite Pets of the Month

Kids off for summer? Looking for a new addition to the family while you have some help?

This is Meagan and Henry. They are Boxer mix puppies that are about 8 weeks old. They are young and are going to need lots of love and patience!

If you would like to make one of these pups - or both of them! - a part of your family, visit www.barktownrescue.org and fill out an application.

Dana serves on the Board of Directors at Barktown Rescue.

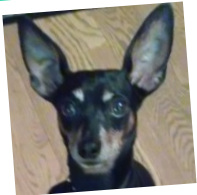
Brad and his family love pets, too!

If you want to tell us about your pet(s), send an e-mail to bdh@harvillelaw.com 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:
What Ky. county is known as the "American Saddlebred Capital of the World?"

- A. Shelby
- B. Woodford
- C. Scott
- D. Fayette

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!



Meagan and Henry



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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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