

Harville Law Offices, PLLC
 2527 Nelson Miller Pkwy, Suite 102
 Louisville, KY 40223
(502) 245-2333
harvillelaw.com



Harville
 LAW OFFICES, PLLC

The Louisville Accident Lawyer Journal

NOVEMBER 2019 • 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**

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

'Tis the Settlement Season

It has long been an article of faith among personal injury lawyers that the best time to settle your case is during the last quarter of the year.

There are reasons for this belief on both sides.

First of all, clients generally want money in time for Christmas. With Black Friday looming, they are more motivated to settle their cases.

Insurance companies know this. They recognize that the approaching holidays may present an opportunity to settle cases involving significant exposure for an amount that the plaintiff is more willing to consider than at other times of the year.

Insurance companies have their own reasons for wanting to settle cases by the end of the year, too. Most operate on a calendar year, which provides some motivation to close as many cases as they can by the end of the year in order to write off the payments on their corporate taxes.

That sort of corporate tax planning may not concern a lowly adjuster, but more than once in my career as a defense lawyer, I have received a call toward the end of the year from a claims rep increasing my settlement authority to get a case settled in order to reduce his or her open files. This has happened to me after months have gone by when the same



claims rep would not consider any additional authority.

So, it's really no surprise that cases seem to be easier to settle during the last three months of the year. We certainly try very hard to identify all of the cases we have in our office that we think we might be able to get settled by the end of the year, because we know that this time of year presents perhaps the best opportunity to get the insurance company's absolute top dollar to get a case settled without having to go to court. In some cases, they might be willing to pay even more than they would normally pay. That's why we make every effort to put together a settlement demand in every case in which our clients have recently completed treatment going into the last quarter of the year, so we can begin the negotiation process.

Of course, it's not as simple as just sending in the settlement demand and waiting for the insurance adjuster to call you and tell you how much he or she is willing to pay. I've never had an insurance adjuster tell me his or her top dollar right off the bat. If that

ever happens I think I would faint dead away. But it does seem like the year winding down helps to speed up the negotiation process and get to the insurance company's maximum offer quicker.

The same dynamics also come into play in litigation, although the run-up works a little differently.

Instead of scrambling to put together a settlement demand, you want to push to make sure initial discovery has been completed so that the case is ripe for mediation before you have to commence final trial preparation and start spending money on medical depositions. Mediators get very booked up this time of year. It also helps if you have a trial date scheduled at the end of the year, or early next year, to compel the other side to agree to mediation, which courts nowadays commonly require.

It's always better if the adjuster for the other side attends the mediation in person, and this is an absolute must in serious cases. In smaller-value cases, this is not always possible. Still, besides the end-of-the-year pressure, the opposing adjuster knows that they are looking at a paying a bunch of legal expense to defend the case through trial if the case isn't settled

That's why this issue of this newsletter is late this month - I've been working hard at getting cases settled! So far, so good! • BDH

THE ABA JOURNAL'S TOP 25 LEGAL MOVIES

Colder weather means nights at home watching movies in front of the fire, right? Which got me to thinking, what are the best lawyer movies?

Well, the American Bar Association publishes its own magazine, the *ABA Journal*. In 2008, the magazine asked 12 prominent lawyers who taught film or were connected to the film industry about which movies they thought were the best ever made about lawyers and the law. From this survey, this [article](#) came up with the "25 Greatest Legal Movies." Of these, I counted that I had seen maybe 15 of them. Here is the list, with my comments:

1. "To Kill A Mockingbird" (1962). Can't argue with this one at #1. Gregory Peck is legendary. My favorite scene is where he shoots the rabid dog, because his kids can't believe he's good at anything, when it turns out he's the best marksman in town. I can relate.
2. "12 Angry Men" (1957). I've only seen this movie once. Don't know that I would put it at #2, but it is a very good movie. Henry Fonda plays the lone holdout on a jury that wants to convict and go home. Lucky for him it wasn't a civil case, or it would have been a very short movie.
3. "My Cousin Vinny" (1992). Great movie. One of those you watch every time it's on TV. Marisa Tomei steals the show when she takes the witness stand as an automotive expert.
4. "Anatomy of a Murder" (1959). It's a long one, but it's one of my favorites. Jimmy Stewart plays a freewheeling private criminal defense attorney, and he is great. The prosecutor is another all-time great actor, George C. Scott. My favorite scene is where Scott keeps standing in between Stewart and the witness on the witness stand, so Stewart can't see the witness. Classic courtroom gamesmanship.
5. "Inherit the Wind" (1960). I saw this one for the first time just a few months ago. It's a dramatization of the Scopes monkey trial in 1925 (go Google that if you don't know what I'm talking about). It seemed like more of an actor's movie than a legal drama, with these great, dramatic courtroom speeches by Frederic March and Spencer Tracy. Not something you'd ever see in a real courtroom.
6. "Witness for the Prosecution" (1957). Haven't seen it.
7. "Breaker Morant" (1980). Haven't seen it.
8. "Philadelphia" (1983). Haven't seen it, although Tom Hanks won an Oscar for it. I'm afraid this movie might be preachy, which I don't find entertaining.
9. "Erin Brockovich" (2000). Haven't seen it, although I've heard it's pretty good.
10. "The Verdict" (1980). LOVE this movie. Paul Newman as the underdog lawyer, struggling against his own incompetence, who finally manages to hit one out of the park against a very Darth Vader-like James Mason. But it's Mason who gift-wraps it for him by committing the deadly lawyer sin of asking a key witness one question too many without knowing the answer.
11. "Presumed Innocent" (1990). I thought the book was better.
12. "Judgment at Nuremberg" (1961). It's good if you're heavily into World War II history. Spencer Tracy is always great.
13. "A Man for All Seasons" (1966). Haven't seen it.
14. "A Few Good Men" (1992). "YOU CAN'T HANDLE THE TRUTH!!!" Enough said!
15. "Chicago" (2002). Good movie, especially if you like singing and dancing mixed in with your legal drama.
16. "Kramer v. Kramer" (1979). Haven't seen it. Always seemed like it would be depressing. Not my thing.
17. "The Paper Chase" (1973). A must-see for aspiring law school students. Don't give a dumb answer when the professor calls on you, or you will be "shrouded."
18. "Reversal of Fortune" (1990). Highly underrated move. My favorite line: "You're weird, Claus," to which he replies, "You have no idea." If that line sounds familiar, Jeremy Irons reprised it in his role as Scar in the animated *Lion King*.
19. "Compulsion" (1959). Haven't seen it.
20. "And Justice for All" (1979). Haven't seen it, which is a little strange for me because I like Al Pacino movies.
21. "In the Name of the Father" (1993). Haven't seen it. Looks a little tedious for my taste.
22. "A Civil Action" (1998). Haven't seen it, although with John Travolta and Robert Duvall in the lead roles, it seems like it might be pretty good.
23. "Young Mr. Lincoln" (1939). The oldest movie on the list, but Henry Fonda makes a very entertaining young Abe.
24. "Amistad" (1997). Haven't seen it. Maybe it's because I can't picture Matthew McConaughey saying anything besides "All right, all right, all right!"
25. "Miracle on 34th Street" (1947). Classic Christmas flick. The direct examination of Santa Claus is very entertaining.

There you go! Hope this helps you pick out something to watch on a cold winter night!



Current Trends in Personal Injury Law

In June of this year, a Cincinnati jury returned a \$3 million verdict against the Jack Cincinnati Casino in Ohio in favor of a woman who tripped over a “Wet Floor” sign that was lying flat on the casino floor. Surveillance video showed a casino employee walking past the sign 11 seconds before the patron tripped over it. As a result, the woman suffered a broken kneecap which required a metal plate in her leg and she may need further surgery.

During this trial, the plaintiff’s attorneys did not ask the jury to award past medical expenses. This is a nontraditional tactic that seems at odds with the longstanding principle that a plaintiff’s medical expenses

are evidence of pain and suffering. However, this strategy represents a growing trend among plaintiffs’ attorneys nationwide. The theory behind this strategy is to avoid a jury using a nominal amount of medical expenses as an “anchor” to lower the value of the case. This leaves plaintiffs’ attorneys with the freedom to suggest pain and suffering amounts that are not tied to the plaintiff’s actual treatment expenses.

Will this work in Kentucky? In personal injury cases involving motor vehicles, probably not. Kentucky’s “no-fault” statute requires a minimum threshold of \$1,000 in medical expenses before a plaintiff can sue for personal injury, although other

thresholds may apply to get around this requirement. But in other personal injury cases, such as slip-and-falls, nursing home neglect, medical malpractice, products liability, dog bites, etc., this tactic is certainly available.

If employed, however, this tactic raises additional issues. Health insurers typically assert liens against any recovery, but if medical expenses are not requested or awarded, are those liens defeated? This tactic also shifts the burden onto the defense to decide whether to introduce plaintiff’s medical expenses in hopes of diminishing the jury’s pain and suffering award, which is something they are not used to doing.

Stupid-Easy Recipe of the Month

Easy Cranberry Applesauce

Here’s a great Thanksgiving side dish:

Ingredients:

- 2.5 cups of fresh cranberries, rinsed
- 4 Red Delicious apples peeled, cored, and sliced
- 1/4 cup Sugar
- 1/4 cup Brown Sugar
- 2 tbsp Fresh lemon juice
- 1 cup Water
- 1/2 tsp Cinnamon
- 1/4 tsp Cloves



1/2 tsp Nutmeg

Directions:

Add water, lemon juice, and sugars to a large sauce pan on medium heat until sugar is dissolved. Add cinnamon, cloves, and nutmeg then apples and cranberries. Bring to a boil, then reduce heat and simmer for about 30 minutes.

Let cool slightly and serve as is or, for a smoother side, use a potato masher or hand blender to desired smoothness.

Happy Thanksgiving!!!

A tasty, tart addition to your Thanksgiving feast!

Favorite Pet of the Month

Bunny is a beautiful 9-month old lab mix. She loves to play, go on walks, and cuddle. She would be a great addition to your family!

How can you resist that face?!

Visit www.barktownrescue.org to fill out an application and make Bunny your BFF!

Dana serves on the Board of Directors at Barktown Rescue.

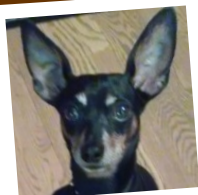
Brad and his family love pets, too!

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 is the estimated population of wild turkeys in Kentucky?

- A. 60,000-100,000
- B. 150,000-225,000
- C. 330,000-430,000
- D. 480,000-580,000

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!





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

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

To be removed from our mailing list,
 please call (502) 245-2333

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 dts@harvillelaw.com

visit us at harvillelaw.com

INSIDE THIS ISSUE:

'Tis the Settlement Season	1
The ABA Journal's Top 25 Legal Movies	2
Current Trends	3
Casey's Ky. Trivia Question	3
Stupid Easy Recipe	3
Favorite Pet	3