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The Louisville Accident Lawyer Journal

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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

Minor Settlements in Civil Cases

It is generally known that the age of 18 is considered the "age of majority" in most states, including Kentucky (KRS 2:015). Only 3 states have a different "age of majority," Alabama (19), Nebraska (19), and Mississippi (21).

So what exactly does the "age of majority" mean? It means the law recognizes you as an adult for all intents and purposes. Once you turn 18, you have to sign your own legal documents, like opening a bank account. Your parents can't sign that stuff for you anymore. You can get married without anyone's consent. If you commit a crime, you are treated like an adult. And so on.

When it comes to civil cases, you have to be at least 18 years old to file in your own name. If you are under 18, then you are considered a "minor" and you have to have what is called a "next friend" to bring the case for you. Usually this is one of your parents. There is also a statute, KRS 387.300, that says the "next friend" is also supposed to file an affidavit showing that he or she has the right to sue on behalf of the minor. However, this statute is rarely invoked unless the capacity of the "next friend" is at issue.

Another thing about "minors" is that the statute of limitations for any personal injury claim they may have does not begin to run until they turn 18. Let's say a 5-year-old child breaks his arm on a play-



ground and has a negligent supervision claim. The 1-year statute won't begin to run until he turns 18, so he could have up to 14 years to file a lawsuit before the statute expires. But it doesn't make any sense to wait that long when you can pursue the claim through the child's mother or father as next friend.

So what happens when you settle a case for a minor child? Generally, the parent/next friend must file a petition to be appointed as guardian to administer the settlement funds until the child turns 18. The settlement must also be approved by the Court. In Kentucky, the guardianship action is filed in probate court, and an annual inventory must be filed until the child turns 18, at which time the guardianship is dissolved.

There are two reasons why our courts require the guardianship action: 1) The Court wants to make sure the funds are being handled appropriately by being deposited in a "blocked" account,

meaning the guardian can't touch the funds until the child turns 18 without court approval; and 2) The guardianship action legally empowers the guardian to release the minor's claims against the party on whose behalf the settlement is paid.

Kentucky law provides an exception for settlements of \$10,000 or less (KRS 387.280), which requires only that the Court approve the settlement without requiring a guardianship action. However, there is a reported case that says this procedure is legally insufficient to bind the minor, so the minor could theoretically sue for more when he/she turns 18, but this is an extremely remote possibility in most cases.

We at Harville Law Offices have handled many personal injury cases for minors through their parents. We do not charge any extra fee for setting up the guardianship action once the case is settled, unless the guardian requests we file a Motion for the court to approve a distribution for a specific purpose, such as school tuition. The nice thing about doing this is we get to stay in touch with our clients and their children as they grow up until they turn 18. It is fun and gratifying to see these young people grow up and see the positive impact these settlements have on their lives. • BDH

Come ONE, Come all

Bark Bash



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Current Trends in Personal Injury Law

Are cars safer than they used to be? The available statistics seem to say that they are. A 2018 study by the U.S. Department of Transportation of fatal crash data found that older model year vehicles had a higher proportion of occupants suffering a fatal injury than more recent models.

I'm not aware of any similar studies involving severity of personal injuries in non-fatal crashes, but it stands to reason that there is a lower percentage of severe injuries than there used to be. Thirty (30) years ago, there were no airbags or other modern safety systems in vehicles. Seatbelt use was encouraged but not legally

enforced like today. Many cars still had only lap belts but not shoulder belts. 18-wheelers had fewer regulations about length of time drivers could be on the road, and drug testing was rare. Motorcycle riders were encouraged to wear helmets, but few states had laws requiring them. DUI arrests and enforcement were more limited and usually only after an accident. In some states you could legally drink at age 18, and the "legal limit" was 0.10%.

On the flip side, however, car accidents are on the increase, which shouldn't surprise anybody with the advent of cell phones. A "2018

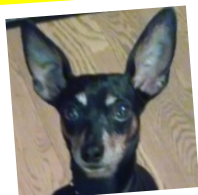
Distracted Driving Report" by MOTUS, a company that works with fleet vehicles, found that as smartphone ownership skyrocketed from 55 percent in 2013 to 77 percent in 2017, the number of accidents in the US escalated from 5.7 million to 6.4 million, an increase of 12.3 percent. The same report found that U.S. roadway deaths increased by 13.5% from 2010 to 2016.

So are cars safer? The data says yes. But is driving safer? I don't think so. While cars may be safer, the odds of being injured in an accident are continuing to rise.

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 was the first car manufactured in Kentucky?

- A. Toyota Camry
- B. Chevrolet Corvette
- C. Ford Explorer
- D. Ford Model T

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!

Stupid-Easy Recipe of the Month

Quick and easy for St. Paddy's Day!

Fabulous Fried Cabbage

Here's a St. Patrick's day traditional dish for all of you Irish out there:

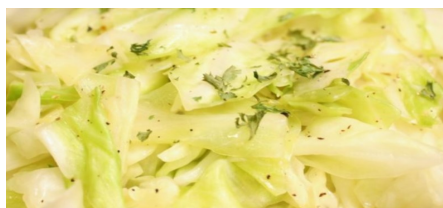
Ingredients:

- 2 tsps. butter
- 1 15 oz can chicken broth
- 1 head cabbage
- Salt and pepper to taste

Directions:

Bring the butter and chicken broth to a boil in a large skillet. Reduce heat to low and

add the cabbage. Cover and cook over low heat to steam the cabbage for about 45 minutes, stirring frequently, or until cabbage is tender and sweet. Season with salt and pepper and serve.



Abraham Lincoln's Grandfather

Illinois claims to be the "Land of Lincoln," since that is where Honest Abe spent most of his adulthood, but the history of Lincoln's childhood and his immediate ancestors can be found all over Central Kentucky.

One such event that played a major role in shaping Lincoln's life occurred in May, 1786. Lincoln's grandfather and namesake, Abraham Lincoln, owned a farm on the present-day site of Long Run Baptist Church in Eastwood, Kentucky, in eastern Jefferson County. On that fateful day, he was working in the fields with his three sons, Mordecai, Josiah, and Thomas, the future father of our 16th president. Suddenly, he was attacked by Indi-

ans and was shot and killed. The oldest son, Mordecai, ran to the cabin and retrieved a loaded rifle, while Josiah, the middle son, ran for help. One of the Indians went to grab Thomas, the youngest son, when Mordecai fired the rifle and shot the Indian in the chest, killing him.

As the eldest son, Mordecai inherited the bulk of his father's estate, and the home he built still stands in Washington County. Thomas, as the youngest son, was relegated to a life of relative poverty but became a skilled cabinetmaker. And the rest, as they say, is history.



The grave marker of Lincoln's grandfather in Eastwood, Kentucky



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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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