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The Louisville Accident Lawyer Journal

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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

Lawyers and Mental Health

I try not to be a downer in writing this newsletter, so I apologize in advance for addressing this particular topic this month.

Since Christmas day, 2020, 4 lawyers in Kentucky have committed suicide. Of those, 2 names have been reported: Corey Fannin in Lexington, 40, who left a wife and two sons; and Robert Miller in Paintsville, 53, who also left a wife and two sons. The other two, whose names have not been reported, were also from Lexington, a man and a woman.

This is not the first rash of lawyer suicides I have seen in my legal career. Seven years ago, in January 2014, CNN reported that 15 Kentucky lawyers had committed suicide since 2010. I knew a few of them, including one who was a classmate of my wife's. The CNN story reported that lawyers ranked fourth in proportion of suicides compared to other professions, behind dentists, pharmacists and physicians. Lawyers are 3.6 times more likely than non-lawyers to suffer from depression, which is the most likely trigger for suicide.

Please understand that I'm not going into this topic because I'm looking for any sympathy. I am in my 36th year of practicing law, and I feel very blessed to have been able to practice law for all of these years. For me, the biggest benefit of being a lawyer is that you are trained to think like a lawyer, which means you take a very disciplined approach to problem-solving that has served me well in many phases of my life, as long as you

don't include personal relationships!

But still, there's no getting around that this is a tough business. The typical profile of lawyers who have committed suicide is a male litigator between the ages of 30 to 50, so the news that now a woman has also committed suicide is as disturbing as it is surprising.

The response of the Kentucky Bar Association to these tragedies has been to encourage lawyers in distress to contact its Kentucky Lawyers Assistance Program (KYLAP). According to the Ky. Supreme Court Rules, KYLAP is "a broad-brush program involving assistance for impairment that may result from addiction to intoxication or drugs, chemical dependency, substance abuse, mental disease, mental disorder or defect, psychological or emotional illness that impairs, or may foreseeably impair, a person's ability to practice law or serve on the bench." That language alone should tell you that the program is there to try to keep lawyers out of disciplinary trouble. The KBA president has also issued a recent statement encouraging lawyers thinking about suicide to contact the National Suicide Hotline or KYLAP.

To me, though, these responses miss the mark. The concern shouldn't be about competency, as the departed lawyers I knew seemed quite capable. The major problem I see is in the litigation



culture itself and in how lawyers treat each other, the winning-at-all-costs attitude and treating your adversary like he or she is the enemy. It is an extremely competitive and at times hostile environment.

This goes on all the time. Not to pick on defense lawyers, since I have been one myself, but not a month goes by when I don't get a motion or letter over some trivial issue for the sake of generating billable hours. From the plaintiffs' standpoint, I can say that I love all of my clients, but some of them have a difficult time understanding that I can't always take inbound calls because that takes time away from work I am doing on another case. Every case will have my full time and attention in due course. It's a juggling act, and not an easy one. But I wouldn't have a successful practice if I only had a few cases to work on each day.

The most disheartening thing I have noticed in response to the suicide news stories has been the reaction of the haters among the general public, one of whom commented "a good start" to one of the stories several years ago. That is just sad. We are all fellow travelers in this world and we are all called upon to treat each other with respect and human dignity, no matter what our occupation. When we dishonor that calling, we are guilty of contributing to this toxic environment that can lead successful professionals to take their own lives. • BDH

KENTUCKY'S ONLY AFRICAN-AMERICAN MEDAL OF HONOR WINNER

Recently, while searching for articles about Black History Month, I came across the fascinating story of Andrew Jackson Smith, Ky.'s only African-American winner of the Congressional Medal of Honor, which was awarded to his descendants in 2001 by President Bill Clinton. Two informative articles about Smith appear on the websites for the [Kentucky National Guard](#) and the [Abraham Lincoln Presidential Library and Museum](#).

Smith was born into slavery in 1843 at Grand Rivers, Ky., which nowadays sits on the shores of Lake Barkley. Smith's master, Elijah Smith, was also his father, having forced himself on Smith's slave mother, Susan.

When the Civil War broke out, Smith's father joined the Confederate army and planned to take his slave son with him. However, Smith escaped a few miles north to Smithland, Ky., where the Cumberland River flows into the Ohio. There, he was taken in by the 41st Illinois Regiment of the Union Army, which was not yet enlisting African American soldiers. Instead, he became a servant to Maj. John Warner at the regiment's post downriver in Paducah.

On March 10, 1862, the regiment moved out to Pittsburg Landing, Tn., where it took part in the Battle of Shiloh. During the fighting, Smith supplied Warner with fresh horses after the officer had two mounts shot out from under him. Smith was then struck by a minie ball that entered his left temple, rolled just under the skin, and stopped in the middle of his forehead. The bullet was removed by the regimental surgeon, leaving Smith with only a scar.

On September 22, 1862, President Lincoln announced the preliminary Emancipation Proclamation. Eager to begin fighting against slavery, Smith traveled from Illinois to Boston to enlist in the new 54th Massachusetts Regiment, the first African American unit mustered in the North. He did not arrive in time to join the 54th, but found a place in its successor, the 55th Massachusetts. It took some time before Union Army commanders became comfortable sending members of the 55th into combat. Racism also affected the unit's pay, as members of the regiment continued to receive a lower salary than white soldiers, even after numerous appeals from their officers and other supporters. Nevertheless, the unit fought well once placed in harm's way - seeing its first engagement on July 2, 1864, in an assault on Fort Lamar in South Carolina.



Andrew Jackson Smith

By November 30, 1864, Smith was serving as a corporal in the 55th Massachusetts Volunteer Infantry. On that day, both the 55th and the 54th Massachusetts regiments participated in the Battle of Honey Hill in South Carolina. Charged with severing the railroad line between Savannah and Charleston, the two regiments advanced a few miles before encountering strongly entrenched Confederate resistance. They came under heavy fire while crossing a swamp in front of an elevated Confederate position. When the 55th's color bearer was killed, Smith took up the Regimental Colors and carried them through the remainder of the fight. It was a great dishonor to lose the regiment's flags, which would have been captured as the regiment withdrew, but Smith rescued them and continued to carry them under heavy, close-range artillery and rifle fire that eventually claimed about 1/3 of the Union soldiers engaged. It was for this action that Smith was later awarded the Medal of Honor.

Smith was promoted to color sergeant before leaving the Army. After the war, he returned to Kentucky, where he bought and sold land. He died at age 88, on March 4, 1932, and is buried in Mount Pleasant Cemetery, Grand Rivers, Ky.

Smith's regimental commander recommended him for the Medal of Honor shortly after the battle, but it never came to fruition. It was only after family members brought it to the attention of state officials a few years ago that the process was completed. After the medal was awarded, Smith's grandson, Andrew S. Bowman, donated his Medal to the Abraham Lincoln Presidential Library and Museum, where it will be on display once the museum reopens in the summer of 2021.



A historical marker honoring Corporal Andrew Jackson Smith. Smith died in 1932 and was buried in the Mount Pleasant African American Cemetery in Lyon County, Kentucky. The cemetery is located in the Land Between the Lakes National Park that straddles both Kentucky and Tennessee.

Current Trends in Personal Injury Law

On January 6, 2021, the Kentucky Supreme Court issued its latest Amended Order regarding the status of court proceedings in response to COVID 19. Basically, this Order declared that all civil and criminal jury trials shall be postponed until after April 1, 2021, with in-custody criminal trials taking priority over all other matters. However, that most recent Order was issued nearly a month ago, and the scuttlebutt is that another Order will probably come out in another month or two which will push back jury trials again until at least June.

The long and short of it is that the court system, like everything else, is at the mercy of the current timetable to vaccinate the general population. As anyone following the news well knows, there remain numerous logistical and distribution issues before that will happen anytime soon. I have yet to read a news story that has provided a straight answer as to when this is expected to occur. My sons, both schoolteachers, are only now just receiving their first vaccination shots, and hopefully they will receive the second booster shot within the next 3 weeks. I fall into category 1c - those of us aged 60 or older, along with other "essential

personnel," which is over a million people. So there's no good reason to hope that jury trials will actually resume on April 1. Right now I have 3 jury trials scheduled in April through June, and I fully expect all 3 to fall through. It is amazing to think our civil justice system has now gone over a year without any jury trials. Either you settle your case, or you must wait .. and wait .. and wait. Without an impending trial date, there's simply no way to put added pressure on an insurance company that refuses to make a fair settlement offer.

Stupid-Easy Recipe of the Month

A hearty steak deserves a hearty potato!

Twice-baked Potatoes

Twice-baked potatoes are the perfect side dish to a juicy grilled steak on a cold night. Here's how to do them right:

Take a nice-sized russet baking potato, wash and pat dry. Poke a few holes with a fork, rub with butter and sprinkle with sea salt. Bake at 375° for an hour or so until potato softens. Remove from oven and cool.

Once potato cools, take a large spoon and scoop out the meat of the potato into a mixing bowl. Add in about a tablespoon of sour cream and butter and sprinkle with season salt and pepper. Mash mixture

until well-blended and scoop back into potato skin. Top with sharp cheddar cheese, bacon bits and fried onion toppings. Bake at 375° for another 15-20 minutes until potato starts to brown. Enjoy!



Favorite Pet of the Month

This sweetie is all dressed up for Valentine's Day and ready for adoption!

Spirit is a 2-year-old German Shepherd/Husky mix. She is smart and enjoys the back and forth of training, recently working on the "sit" command. Spirit is good around other dogs, but probably should avoid homes with cats.

Visit www.barktownrescue.org to fill out an application!

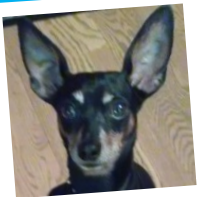
Dana serves on the Board of Directors at Barktown Rescue. Brad and his family love pets, too!

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 year and month did the Ohio River freeze over so you could walk across it?

- A. January, 1994
- B. January, 1977
- C. January, 1963
- D. February, 1951

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!



Spirit



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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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