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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

Lawyer Stories From My Early Days

One thing the pandemic has really changed is that lawyers don't travel nearly as much as before. Until COVID, lawyers were expected to show up in court. Remote hearings via Zoom or by telephone conference were unheard of.

I am in my 36th year of practicing law. In that time I have been all over the state, from Pikeville to Paducah. Kentucky has 120 counties, and I would guess I've had cases in about 80 of them, give or take a few.

It got me to thinking, out of all those courthouse experiences, which ones stand out in my mind? Here are three from my early years I still remember vividly:

Jackson County. In 1987, my first boss and I went to Jackson County to try a wrongful death case. I was in my second year of practicing law, so my main duties were to drive, carry the briefcases, and provide backup with any information my boss might need while trying the case. The Jackson County courthouse is located in the county seat, McKee. I doubt most Kentuckians even know where it is. It lies east of Berea. Suddenly you find yourself in the Appalachian foothills, and McKee is this tiny town in a valley with a population of only around 750.

The Judge who tried the case was the late Clay Bishop. It seemed like he was around 80 years old at the time. During breaks, he talked about how violent it was during his years in Eastern Kentucky. One time he said his son found a stick of dynamite in his yard that was planted by someone who was unhappy with him. He

also loved to tell stories about a notorious Eastern Ky. lawyer named Lester Burns. Burns' business associates had a habit of meeting with untimely endings. Burns himself was eventually disbarred and went to prison. He died in 2015.

The highlight of our trial came during a recess, when Judge Bishop conducted a criminal arraignment. The defendants were Benny Hodge and Roger Epperson, who went on a murder spree in 1985, and are still in prison to this day. Among their victims were Bessie and Edwin Morris, the parents of the court clerk who was sitting in the courtroom when the shackled killers were brought in for the hearing. Lining the walls were about two dozen Kentucky State Troopers who would have been more than happy to dispense an abbreviated form of justice if either of the killers made a move. I remember telling my boss, "it won't matter to them if a couple of Lexington lawyers get in the way."

Ohio County. Ohio County is another one of those counties that unless you have a reason to go there, there is no reason to go there. It is south of Daviess County (Owensboro), where the Western Ky. Parkway and the Natcher Parkway intersect. Hartford is the county seat, population around 2,600. I went there around 1990, give or take a year.

There was nothing dramatic about

my trip to Hartford. I just remember it had a truly old-style courthouse. Since that time, most of the old courthouses across the state have been replaced. It was the only courthouse I have ever seen that had - honest to God - brass spittoons at the end of every bench. For those of you who don't know what a spittoon is, Google it. There is also a sign when you drive into Hartford that is still there. It says: "Welcome to Hartford, Ky. Home of 2000 Happy People & A Few Soreheads."

Meade County. I remember this one because it was my one, and thankfully, only encounter with the meanest judge I ever saw in a courtroom: Judge Kenneth Goff. Meade County, of course, is just down the Ohio River west of Louisville. I appeared in front of Judge Goff around 1990 for what I thought was a routine pre-trial conference. He asked if we filed our pre-trial compliance, witness lists and so forth. Fortunately, we had. He seemed disappointed, remarking, "Well, I guess I can't fine anybody today." Whew! He was also legendary for throwing one lawyer in jail for not paying a court reporter for a transcript. He was not one to mess with. Judge Goff, who is no longer with us, also had two sons who practiced law in Leitchfield. They were the nicest guys in the world. They just laughed when I asked them if their Dad was really that mean. I don't think he was to them, just to everybody else.

• BDH



WHAT THE HECK IS GOING ON?

My son, Clay, who still lives at home with us, recently told us he was going out to eat on a Friday night with friends. But not long after I got home from work, he walks in the door with a take-out burger. "What gives?," I asked. Well, he and his friends were going to meet at B-dubs (i.e., Buffalo Wild Wings), but it closed at 7, so they all decided to bail.



Huh? B-dubs closing at 7 on a Friday night? The website says it stays open till 10!?

Not long after, he tells me he's going to get takeout from Fazoli's, his favorite restaurant, but he ended up going to Olive Garden because Fazoli's closed at 8. It used to stay open till 10 or 11 on weekends.

Meanwhile, I've been needing a new set of tires on my car. There's a Walmart very close to my house with a tire and auto store. You can't beat Walmart for prices on tires! But sometimes you pay a price for being cheap. The website said they had a nice set of Goodyears in stock, so I drove over there, except ... they didn't have the tires I wanted after all. No worries, the manager said I could order them online and come back a week later. Which is what I did.

A week later, my tires were there. Hooray! Except ... no one was there to install them. The store manager told me that all of their employees were on quarantine because of COVID. So I ended up at another tire store that day, which actually had employees, but it took up most of the day because only 3 of their 6 employees came into work. Oh well. I paid a lot more, but at least I got it done.

I tend to be the last person to notice anything, but I think I am starting to see a pattern here.

I've seen some articles about how restaurants and other businesses have been having a hard time finding employees, but I really haven't paid much attention until now. The manager at the tire store was quick to let me know what he thought was the problem: Unemployment benefits. "Don't get me started," he said.

That seems to be a popular response among employers, and I think there's probably a lot of truth to it. Why work if you're already getting paid without having to work? Makes sense to me. Where do I sign up?

But I'm a little hesitant to say that's all there is to it. Like everything else about the pandemic and its effects, I am sure political lines have been drawn over the reasons for the labor shortage, and

I don't have an agenda one way or the other. I just want to try to understand what the heck is going on.

So I did some internet trolling for some answers. The first thing that stood out to me was that it's not just going on here, it's going on everywhere across the country. And it's been going on for months. I came across a particularly good article on [Reuters](#) from last May which posed the question, "With 8 million Americans out of work, why are more companies not filling jobs?"

This article suggested 6 possible answers:

- Parents - particularly mothers - can't work because of closures or shortened hours at schools and daycare.
- Would-be workers remain concerned about health risks.
- Stock-market gains have given some older workers the cushion to retire.
- Some younger workers are finding jobs in new fields, shrinking the labor pool for the industries they left behind.
- Many employers need to fill jobs requiring skills that sidelined workers may not have.
- Employers complain that enhanced unemployment benefits and other government aid are keeping workers on the sidelines.

I think there is probably some truth to all of these reasons among various industries, although I don't see that any of these would apply to my tire store manager friend other than the last one. I think that's largely true for the restaurant industry as well.

I'm not advocating for any solution here, but based upon the law of supply and demand, it would seem the demand for labor has gone up while the supply has gone down. That would seem to dictate that the cost of labor should go up, along with real estate and used cars and everything else we're seeing these days. I was a little surprised to learn that the federal minimum wage is still only \$7.25/hour, and hasn't been raised in 12 years. Democrats in Congress tried to push through a \$15/hour minimum wage earlier this year, but it fizzled out.

They may not need to. Much of the private sector seems to be realizing that they are going to have to outbid any unemployment incentives to staff their workforce. In recent weeks, a number of private companies have announced a \$15/hour minimum wage, including CVS, Walgreens, Chipotle, Southwest Airlines, Under Armour, and Wayfair. Costco has announced a \$16/hour minimum wage, and even Walmart has gone to \$13/hour.

Those are all pretty profitable companies. I'm not sure the restaurant industry is as well-equipped to raise wages that dramatically, but they may not have any choice.

I just want B-dubs to stay open late again!

Current Trends in Personal Injury Law

Maybe this time, the Ky. Supreme Court (“KSC”) has figured it out. On August 26, the KSC issued two decisions, *Cates v. Kroger* and *Dowell v. Matthews Contracting*, which found that the 2018 amendment to KRS 342.730(4), terminating workers’ comp (“WC”) income benefits at either age 70 or 4 years after the injury, whichever is longer, was constitutional.

Why is that news? Well, it’s because this cut-off date for WC income benefits has been the subject of some upheaval in recent years.

It used to be there was no such “old age” cutoff. Then, in 1996, the state legislature changed the law to cut off benefits on the date that the

recipient reached Social Security retirement age or for 2 years, whichever was longer. The constitutionality of that law was also challenged. Twice it came before the KSC, and twice the KSC said it was constitutional. Lawyers figured that since the KSC had ruled twice that the statute was constitutional, the matter was settled.

Turns out, though, that one especially persistent lawyer challenged the statute a third time before the KSC, and the third time turned out to be the charm. In *Parker v. Webster County Coal*, decided in 2017, the KSC changed its mind and decided that the 1996 amendment was unconstitutional after all. Too bad for older workers who settled their claims for less

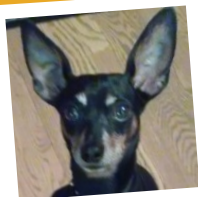
than everyone else based on the KSC’s previous decisions.

That brought about the 2018 amendment providing the new old-age cutoff of WC benefits at either age 70 or 4 years. Plaintiff’s lawyers were hoping this would be struck down, too, but it was not to be. The idea behind the old-age cutoff is that older workers who are drawing retirement benefits or are close to it shouldn’t receive as much for their injury claims as younger workers, which seems very unfair as their injuries are no less serious than those of younger workers, and often affect them worse due to their age. But the KSC has spoken, and unfortunately, we are stuck with it.

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:
In what year did UK’s football staff contain 5 future NFL head coaches?

- A. 1950
- B. 1959
- C. 1976
- D. 1984

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

A delicious homemade treat!

Glazed Honey Cinnamon Bars

Ingredients:

- 1 1/4 cup honey
- 1 cup sugar
- 2 cups all purpose flour
- 3/4 cup veg oil
- 1 large egg (room temp)
- 1 TSP baking soda
- 1 TSP cinnamon
- 1/4 TSP salt
- 1 cup chopped walnuts (toasted)

Glaze:

- 1 cup powdered sugar
- 1 TSP vanilla
- 2 TBSP mayo
- 1-2 TBSP water
- Additional walnuts (toasted) if desired

Directions:

Preheat oven to 350. Toast walnuts in shallow pan for 5-10 min. In a large bowl, beat sugar, oil, honey and egg until well blended. In another bowl, whisk flour, baking soda, cinnamon and salt; gradually beat into sugar mixture. Spread into greased 15x10x1 pan and bake for 10-12 minutes (edges will puff up). Cool completely. Mix glaze in small bowl, spread over bars and sprinkle with walnuts.



Favorite Pet of the Month

Meet Sunflower! She is an adorable 3-month-old shepherd mix who loves other dogs and water!

Sunflower is smart! She is already obeying basic commands, and is ready to be adopted at Barktown Rescue by her forever home!

Visit www.barktownrescue.org to take Sunflower home with you!

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!



Sunflower



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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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