



Tracing passive market growth on a pre-marital account balance can be an arduous task. Learn more on page 6.



President's Remarks Shannon O'Connell Egan

As the old Irish saying goes, "however long the day, the evening will come." After being unexpectedly called to step in as the President of the NKBA in June 2020, my term is coming to a close. How fortunate I am to have worked with such an exceptional team in making the NKBA the best it can be! And wow - what a difference a year, and a global pandemic, can make!

I will not sugar coat it – the NKBA's leadership at times feared for our future in light of the financial harm inflicted by the viral pandemic. Indeed, a study has shown that more than one-third of nonprofits in this country are in jeopardy of closing within two years as a result of the coronavirus's financial impact. (Sato, Grace, et al. "Philanthropy and COVID-19" Candid. And Center for Disaster Philanthropy (2021). Web.)

Now? I am thrilled to report that we are in great shape and excited to bring our members and our community top-notch services in 2022 and beyond! In getting there, we have been very strategic in creating income streams and opportunities to gather – including for our newer members of the Bar. We also have incredible volunteers and contributors who gave their time and money to keep the NKBA strong. Many thanks to them for recognizing and supporting the importance of the NKBA in our local legal community and beyond. Of course, the work is not done, and the NKBA will continue working hard to ensure its quality and longevity.

Bring it on 2022! The NKBA is here to support our members and their practices through our many benefits and services. We hope that you will take full advantage of your 2022 membership by renewing today, connecting with us, and staying involved in the NKBA!

Finally, thank you for allowing me to serve the NKBA! I hope you all have a truly special holiday season and go into the new year with courtesy, civility, and respect for one another. Leaving you with a traditional Irish toast, "in the New Year, may your right hand always be stretched out in friendship, but never in want."

Publication of Any Article



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Protecting Children's Rights: New Leadership for a Longstanding Mission

by Sasha Naiman



When Governor Andy Beshear appointed Acena Beck as a Kenton County Family Court Judge, there were big shoes to fill at the Children's Law Center (CLC), where she had been the Executive Director. A national search followed. Meanwhile, the work at CLC did not stop – because it filled one of the biggest needs in our community.

Each day, millions of children go through the child welfare, juvenile justice, and education systems in Kentucky and Ohio. Many face challenges because of disabilities, homelessness, abuse, neglect, and unmet physical, emotional, and mental health needs. In Northern Kentucky, for example, about 1 in 3 children live below the federal poverty level. While children have rights under federal and state law, they need attorneys who will be zealous, knowledgeable, and compassionate advocates for those rights.

Fortunately, the Children's Law Center (CLC), based in Covington, KY, is working hard to meet this need. For over 30 years, CLC has protected children's rights, so that children can transition into adulthood in safe, healthy ways and successfully contribute to society. Through direct legal representation, policy reform, and community education, CLC provides vital advocacy for youth in Kentucky and Ohio.

This is why we personally support CLC, and as the President and Vice President of its Board, we are excited to welcome a new Executive Director, Sasha Naiman. The CLC Board unanimously approved Ms. Naiman's appointment and she began her new role on October 11, 2021. Ms. Naiman, a highly-respected attorney, has demonstrated success at strengthening organizational operations, building partnerships, engaging stakeholders, and improving the legal systems that should protect youth and families. We are confident that Ms. Naiman is creating a refined vision and strategic direction for CLC. She builds on CLC's longstanding mission and a history of success.

In all senses, Ms. Naiman's background and values makes her the right fit. She was previously the Deputy Director of the Ohio Justice & Policy Center (OJPC), where she worked for over 10 years to promote fair, redemptive criminal justice systems. She led OJPC's organizational strategies and operations, while representing vulnerable youth and adults with criminal records. Ms. Naiman helped families remove barriers to employment, housing, education, and civic engagement, and she launched OJPC's initiative to serve survivors of human trafficking.

Ms. Naiman immigrated to this region as a child, from a country that systemically discriminated against her ethnic group and lacked enforceable legal rights. With gratitude for the people, organizations, and legal systems that embraced her family, she also recognized the disparities and obstacles that existed for children around her, many of whom were America-born. This sparked Ms. Naiman's commitment to serving vulnerable youth, and by the time she was in high school, she worked for organizations that supported youth health and positive development. One of the Board's primary search criteria was finding a leader with a strong alignment with CLC's mission, and for Ms. Naiman, it was unmistakable.

Our community can and must rally around protecting youth—by supporting and deepening partnerships with organizations like CLC. Indeed, fostering that connection is a core part of Ms. Naiman's vision.

"I am honored to join the outstanding team at CLC and to support its mission. I am excited to partner with the legal and professional community, because our goals align here. Helping kids, investing in their development, and protecting their rights are some of the most important ways we can build a better future for this country," said Naiman. "I look forward to CLC's next chapter, which I know will be strong and bright."

J. David Bender, Esq., is the CLC Board Vice President, runs his own law practice, and is the former the President of NKBA. David Nienaber, CPA, CFP®, is the CLC Board President and a partner at Foster & Motley. Learn more about CLC, its programs, and its impact by visiting <https://www.childrenslawky.org>.

Additional contact: Sasha Naiman, Executive Director, CLC, snaiman@childrenslawky.org



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Show Me the Money: Tracing Pre-Marital Retirement Accounts in Kentucky

by J. Eileen Zell



What better way to say goodbye to 2021 than to reflect on a little domestic relations law, revel in some forensic accounting, and relish the comfort of a trusty Excel spreadsheet. So, grab your champagne flute and settle in.

This article analyzes the evidentiary burden of proving a non-marital separate property interest in a commingled defined contribution retirement account under state domestic relations law in Kentucky.

Since the Kentucky Supreme Court visited the issue in *Ford v Perkins*, No. 2011-SC-000330-DG (Ky. S.Ct., Oct. 25, 2012), countless Kentucky Court of Appeals cases have followed suit. In fact, my blog is chock full of these case summaries. In this article, I focus on one of those cases: *Smith v. Smith*, No. 2011-CA-002306-MR (Ky. App. 2014). Although a 2014 case, *Smith* is worthy of analysis while ringing in 2022, as it has since been cited in nearly every Court of Appeals case dealing with pre-marital interest in retirement.

In *Smith*, Wife claimed a separate property interest in an IRA account opened after the marriage, but purportedly with her own pre-marital funds. Her claim included the opening account deposit, and passive market appreciation thereon. The Court, in affirming the trial court's denial of Wife's claim, bluntly capsulized the rule in the Commonwealth for claiming a separate, pre-marital interest that has been commingled in marriage: the evidentiary burden is on the party claiming the separate property interest to prove the non-marital amount. Period. The *Smith* Court opined (at page 15):

[Wife does not] address whether any increase in value was based on the parties' joint efforts. Indisputably, any contributions and interest earned after the marriage are marital. Thus, [Wife] did not meet her evidentiary burden to prove the amount of the nonmarital portion or to trace it to the Fidelity IRA.

Whenever there is a 401(k)-type plan (including an IRA) with a pre-marital account balance, any post-marital contributions and passive market appreciation thereon are marital, which the *Smith* Court aptly recognized. However, the marital portion is integrally commingled with the employee-spouse's pre-marital contributions to the account, and any passive appreciation on those prior contributions that has accrued during the marriage.

So how does the employee-spouse meet the evidentiary burden of proving that pre-marital contributions and passive growth thereon are separate property to be excluded from equitable division?

What is Passive Appreciation?

Kentucky courts make a distinction between "active" and "passive" appreciation within the context of divorce. Passive appreciation – as the term is used here – describes the market growth experienced on the account balance of a 401(k)-type plan during the period of marriage. This appreciation is termed as "passive" because the growth in the account is not a direct result of the efforts of the parties during the marriage, but is instead the result of market fluctuations and positive investment experience.

How Does State Domestic Relations Law View Passive Appreciation?

Determining the marital portion of a 401(k)-type plan for equitable distribution in divorce can be complicated when a balance already exists at the time of marriage. Many states have statutory or code sections that treat any increase in value of property acquired before the marriage as the non-marital separate property of the employee-spouse, to the extent the increase did not result from marital efforts. See KRS §403.190(2)(e).

However, most state courts, including Kentucky's, also interpret controlling law as creating a presumption that any increase in value during the marriage is marital property. Therefore, a party asserting that he or she should receive appreciation upon a pre-marital contribution as his or her separate property carries the evidentiary burden of proving the portion of the increase in value attributable to the pre-marital contribution. Failure to do so will result in any increase being characterized as marital property. See *Smith* at page 7.

How Does One Determine the Value of Passive Appreciation in Kentucky?

In jurisdictions like Kentucky, tracing is utilized as an evidentiary vehicle to value and prove the passive increase in value of pre-marital contributions in a 401(k)-type plan during the period of marriage. Tracing allows one to make an accurate determination of the growth (or loss) on both the marital and non-marital contributions in the account by calculating the rate of return experienced on the account during the marriage. There are several methods of tracing passive growth of pre-marital account balances for 401(k)-type plans, though depending on the historical account records available, accuracy will vary.

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The Northern Kentucky Bar Association honors attorneys and family members of attorneys from our legal community who have recently passed away.

Elmer Stanton Bihl

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MOTHER OF ATTORNEY N. JEFFREY BLANKENSHIP
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continued from page 7

For instance, if the marriage was long-term, the plan may not have records dating back to the date of marriage. It is further possible that the plan may have switched recordkeepers once or multiple times during the marriage, and records from the previous recordkeeper are no longer accessible. However, when adequate records exist, the results of tracing for the employee-spouse can be profound.

Take the following example from one of my own cases, wherein I traced the passive growth of a pre-marital account balance over the span of a ten-year marriage:

The balance in Sue's 401(k) on her date of marriage was \$173,364. At the time of her divorce, the account had grown by \$251,266 to \$424,630. However, of this \$251,266 increase, it was determined that only \$144,290 was divisible due to contributions made during the marriage, including market growth. Therefore, Sue retained \$280,339, in addition to half of the divisible \$144,290. The \$280,339 represented Sue's pre-marital balance of \$173,364, plus \$106,976 in passive market growth.

Without any account records, or other competent evidence, a court may have found the full \$424,630 divisible – netting \$212,315 to each spouse. However, because Sue maintained good records, she ended up with \$352,485, and her spouse with \$72,145. See? Rewarding results, indeed. But more importantly, an equitable division of marital property was accomplished.

What is the Preferred Method of Determining Passive Appreciation?

Tracing passive market growth on a pre-marital account balance can be an arduous task, but it doesn't take a rocket scientist to see its worth. When tracing is not possible due to lack of plan records, the court cases I cite in my blog show the value of having 'something else' at trial to meet the burden. The same is true in negotiating an agreement between parties. In fact, when consistent account records spanning the marriage are not available, there are many 'tracing alternatives' to otherwise establish (or settle on) at least some portion of the pre-marital account balance, and in most cases, even ascertain a portion of associated passive growth. All have varying degrees of accuracy, of course.

Depending on the circumstances in your case, an expert can help you determine if adequate records exist to trace the pre-marital growth in a 401(k)-type plan (generally at least annual statements are necessary), or otherwise determine the best alternative evidentiary method to establish the value of any non-marital property interest. Some options include:

- Using an agreed upon rate of return, perhaps based on an average annual return of an aggregate bond index over the period of marriage
- Compounding the pre-marital balance by investment returns over the period of marriage (that is, when the account balance as of the date of marriage is determinable via account records or interpolated by wage history)
- Using software to track the rate of return of agreed upon mutual funds (or other like investments reflected in the current portfolio) over the period of marriage, particularly when at least sporadic account records are available
- Appealing to the plan to provide yearly rates of return for various non-mutual fund investments in addition to a detailed record of the money movement

A final note of caution, your expert should be knowledgeable in state domestic relations law as it applies to the division of retirement assets. State courts have shown a tendency toward 'actual information' versus guesstimates. Therefore, one must take heed when considering an alternative means of estimating non-marital property interest in lieu of tracing. In Kentucky, courts rely heavily on the "Chenault Rule," which requires a party seeking to trace non-marital property into a present marital asset to show that "he or she has spent his or her nonmarital assets in a **traceable manner** during the marriage" (emphasis added; the *Smith* Court succinctly explains the "Chenault Rule" at pages 5-6 of the Opinion). Your expert should be well-versed on what evidence state and local domestic relations courts favor to prove 'traceability.'

When tracing doesn't appear to be a viable option, family law practitioners should be prepared to get creative and aggressive, perhaps even by issuing subpoenas to employers or plan administrators.

The amounts at stake can be significant. Therefore, when your client tells you that there is a pre-marital component to his or her defined contribution retirement account, a thorough exploration of all viable options to establish a separate property interest is a must.

The EZ QDRO LAW Blog serves as a reference for Kentucky and Ohio domestic relations attorneys. Posts cover current QDRO-related events, best practices, recent case law developments and legislative updates. Type "tracing," into the Search Bar, and you'll see three additional "Show Me the Money," series-installments. There are also countless other posts related to case law developments with retirement accounts and tracing separate property, and issues related to passive growth with defined contribution plans.

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Feed the Frenzy, Crush Hunger!



Did you know there are 700,000 Kentuckians, including more than 200,000 children, who struggle with hunger every day? That means about one out of every six adults and one out of every five children in Kentucky lack enough food for a healthy, active lifestyle. Although Feeding Kentucky¹

exists to provide food and quality services to those in need, its most recent data suggests that almost 40% of Kentucky's food banks do not have enough food to meet client needs. Additionally, those needs have increased dramatically due to the unemployment and underemployment caused by the ongoing COVID-19 pandemic. Our neighbors who rely on our local food banks need our help now more than ever before.

Because of this need, the KBA Young Lawyers Division (YLD) has again decided to partner with Feeding Kentucky and Attorney General Daniel Cameron in Kentucky's annual statewide hunger relief effort by the legal community: the Legal Food Frenzy!² The Food Frenzy is a food drive with a competitive twist. From February 7 through March 11, 2022, law firms, legal offices, and law schools across the state will engage in a friendly competition to raise food and funds for Kentucky's regional food banks. The YLD's goal this year is to have at least 90 organizations compete to raise \$75,000.00 and 5,000 pounds of food donations to support Feeding Kentucky's food banks.

Food donations and monetary donations will both count toward the goal. Financial donations are particularly appreciated, as they allow our local food bank affiliate, Freestore Foodbank, to use its buying power to purchase healthy, nutritious food at *deeply* discounted rates. For purposes of the competition, every dollar contributed will count as eight pounds of food. In other words, every donation of ten bucks will purchase a pound of food for eighty different people. Even small donations are able to make a big difference. Are you able to contribute something – anything – to ensure that a child or elderly person in the Northern Kentucky community doesn't have to go hungry during these trying times?

The law firm or legal organization that collects the most total pounds of food will be awarded the prestigious Attorney General's Cup at the 2022 KBA Annual Convention. Also, again this year, the law firm that collects the most total pounds per attorney will win the Bar President's Award.

References: 1. Formerly known as the Kentucky Association of Food Banks. 2. This is not to be confused with an Illegal Food Frenzy. That would be just silly

Awards will also be given based on the leaders in the following categories:

- Solo law firm
- Mid-sized law firm
- Corporate legal department
- KBA Supreme Court District
- Small law firm
- Large law firm
- Government entity
- Law School

Also new this year, any individual donating over \$100.00 will be listed as a VIP on the website, in social media and in print at the award ceremony.

Any individual donating over \$100.00 will be listed as a VIP on the website, in social media, and in print at the award ceremony.

All winners will receive their awards during a special luncheon and reception at the Convention, as well as recognition for their achievement in the *Bench & Bar*. The support of attorneys across our community and Commonwealth has helped ensure that the food banks like Freestore Foodbank are fully stocked in time for the summer months. Those firms and offices that compete in 2022 will help our food banks, and our neighbors, during an unprecedented time when every donation counts more than ever before.

Law firms, legal offices, and law schools can sign up now to compete at www.KyFoodFrenzy.com. Every law firm, legal office, and law school that competes in the Food Frenzy will designate a "Team Lead" at signup, who will be responsible for promoting the competition internally and challenging colleagues to raise as much food – and funds – as possible.

The YLD is hopeful that every member of the KBA will take part in this initiative. It is a nonpartisan effort that anyone can get behind, regardless of one's politics. And it reinforces the idea that lawyers, despite all the bad jokes about us and the negative press that we get, really are here to help our communities.

Key Deadlines:

- **Now through February 6, 2022:** Sign-up Phase. Firms will sign up to compete at **KyFoodFrenzy.com** and get connected to their regional food bank.
- **February 7– March 11, 2022: LEGAL FOOD FRENZY!**

For more information and to sign up for the Legal Food Frenzy, visit www.kyfoodfrenzy.com. With your help, together this year we will #FeedTheFrenzy!

Young Lawyers News— Leadership in the Making

by LeAnna Homandberg



It has been such a successful year for the Young Lawyers Section of the Northern Kentucky Bar Association. We want to thank all of those who participated in our events this year and are excited to start planning for 2022. If any member would like to make suggestions or be involved in the planning process, please email Ken Foisy. The final YLS event of the season is a happy hour prior to the NKBA Holiday Gala on December 3rd. We hope you are able to join us as we celebrate the holiday season.

If you have any questions or would like to get involved in the YLS, please email the 2022 Chair, Ken Foisy, at kfoisy@taftlaw.com for more information. Thank you all again for a successful, less pandemic filled, year. Happy Holidays!



Congratulations to the 2022 NKBA Board of Directors

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2021 Distinguished Lawyer of the Year—Judge Susanne M. Cetrulo



Judge Susanne Mowery Cetrulo was appointed to the Kentucky Court of Appeals on Sept 15, 2021 by Governor Andy Beshear. Prior to her appointment, Susanne was a founding member of Cetrulo, Mowery and Hicks, PSC, in Edgewood.

Susanne is a graduate of Morehead State University and a 1984 graduate of Salmon P. Chase College of Law. She was admitted to practice before all Ohio and Kentucky state and federal courts as well as the United States Supreme Court. Before going into practice, Susanne had served as a staff attorney for the Kentucky Court of Appeals for seven years, serving under Judge Charles Lester and Judge Judy M. West. After Judge West's death in 1991, Susanne was an associate with the law firm of Kohlen, Patton, and Hunt, in Cincinnati, focusing on medical malpractice defense. She then joined as a partner with Ware, Bryson, West and Kummer in Edgewood where she practiced in general civil litigation. In 2000, Susanne and her husband, Robert B. Cetrulo, formed their own law firm, Cetrulo and Mowery, which expanded in 2012 when long term friend and former law school classmate, Larry Hicks, joined. Lindsay Rump and Lee Metzger became partners in 2015 and 2019 respectively.

Prior to her appointment, Susanne had been named among the most prolific trial attorneys by the Kentucky Jury Verdict Reporter. She has taught appellate advocacy and mediation skills, authored several articles, and presented at seminars for

both the Kentucky and Ohio Bar Associations and practice groups. She is a certified mediator and had tried over 50 cases to a jury throughout her career, experience that is invaluable in her new role as Judge on the Appellate Court. In addition to her civil practice, Susanne had been an adoption attorney for over 30 years. At last count, Susanne had finalized the placements of over 350 children by adoption.

Judge Cetrulo has been involved in the Northern Kentucky Bar Association and the Women Lawyers Section and MATCH programs throughout her career. She has been a volunteer with numerous local charities and non-profit organizations throughout Northern Kentucky, including the Diocesan Children's Home, IMPACT 100, Women's Crisis Center, Dixie Heights Band Boosters, and Cameron's Cause.

She and Bob have three adult children, Nikki Carver(Thomas) from Louisville; Rob Cetrulo(Natalie) in Bellevue, and Jacob Cetrulo, in Guam with the U.S. Navy. They are also the proud grandparents of Everett and Lena Carver.

Susanne is honored and deeply humbled to receive the NKBA's Distinguished Lawyer award.

THE COURTHOUSE PLAQUES READ

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| 2011 Charles H. Deters | 2002 Paul J. Schachter | |

THANK YOU FOR YOUR SERVICE



Gerald (Gerry) Dusing

On behalf of the Chief Justice and my colleagues on the Court, I take this opportunity to acknowledge and thank Northern Kentucky attorney, Gerry Dusing, for his service as a Kentucky Bar Examiner. Gerry has served as an Examiner for over two decades, and as Chair of the Board of Bar Examiners for nearly five years. Under his leadership, the Supreme Court and the Kentucky Office of Bar Admissions have confronted the challenges of COVID-19, as well as the recent transition to the Uniform Bar Exam. All Kentucky attorneys owe Gerry a debt of gratitude.

**Justice Michelle M. Keller
Supreme Court of Kentucky**



2021 Outstanding Volunteer of the Year—Michael S. Brown



Mike Brown's philosophy in his personal and professional life is defined by humor, his family, friends and adhering to the simple principle of giving back more than you take. Mike was born and raised in Mt. Lookout, just outside of downtown Cincinnati. He hails from a big family, seven siblings to be exact. Mike is a twin and

has fond memories of his busy household. All seven of his siblings were born in an eight-year time span. Mike met his wife Carol at Flannigan's landing in 1987. 34 years and 3 children later, the Browns still call Mt. Lookout home.

Cultivating and maintaining relationships have been central to both his professional and personal life.

A University of Cincinnati graduate, Mike started his career with his dad's wholesale jewelry & watch business, Brown & Co, calling on jewelry stores across the state of KY for thirteen years. In 2000 Mike joined BNA, a legal information company, working with law firms on their information needs and helping them make the switch from paper and CD to the internet. In 2008 Mike joined FindLaw, assisting law firms build their online presence.

He has worked in the legal profession for the past twenty-one years. Mike currently serves as a Legal Marketing Consultant at Thomson Reuters FindLaw, for the Cincinnati/NKY area. In his own words, "I am in awe of lawyers and all they do to help protect, and guide clients through the legal process. The NKBA is a special group of lawyers who are not only gifted, but regularly demonstrate compassion for clients, each other, and the community. You are all heroes in my opinion. You are paid to take clients problems and make them your own, and then fight each other or the government on your client's behalf"

Throughout his career, Mike has drawn from a deep reserve of humor and laughter, emceeding events and fundraisers of all kinds in one of his sparkly, sequined "Master of Ceremonies" jacket. He believes strongly in the importance of giving back in whatever way he can. Mike's dedication to service is remarkable and it is only fitting that he be the NKBA's first "non-lawyer" recipient for outstanding volunteer of the year. Please congratulate Mike the next time you see him.

Outstanding Volunteer Lawyer Award Past Recipients

2019 Edward L. "Lee" Metzger

2018 Sheryl Egli Heeter

2017 Robert C. Ziegler

2016 Thomas L. Rouse

2015 Acena Beck

2014 Theresa Mohan

2013 Stacy Tapke

2012 Christine Vissman

2011 Shane C. Sidebottom

DEADLINE JANUARY 31, 2022

2022 MEMBERSHIP APPLICATION

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___ Young Lawyers 6 -10 years practicing - *dues required*

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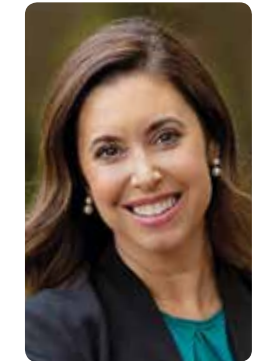
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First District Court of Appeals Launches Mediation Program

Collaborative program empowers parties to design their own outcome to a dispute

by Sarah Foster



The First District Court of Appeals for Hamilton County is pleased to announce the launch of its new appellate mediation program, part of a series of innovations undertaken to expand access to the Court and better serve Hamilton County citizens.

The Court has hired Sarah M. Foster to serve as its appellate mediator and coordinate the mediation program. She is a graduate of Chase College of Law and the University of Kentucky. She comes to the Court of Appeals from the Warren County Common Pleas Court, General Division, where she served as a magistrate, staff attorney, and mediator for nine years and developed its court-sponsored mediation program. Her trial court experience gives her a unique perspective of the judicial system that she will use to assist parties at the appellate level. As the Court's mediator, she will guide participants through thoughtful discussions designed to help them explore creative options for case resolution.

Judge Pierre Bergeron, the Court's Administrative Judge, shared the Court's enthusiasm about this new program: "Our new mediation program represents part of our efforts to innovate and serve the community better, as it can help parties avoid the delay and expense of continued litigation. Sarah will be a tremendous resource for the parties appearing before our Court, and we are excited as she gets to work."

Appellate mediation has numerous benefits for litigants. Often, by the time a case reaches the Court of Appeals, those involved may feel battle-weary from months or even years of litigation. If an appeal is successful, this often just

means another trip to the trial court for more of the same. If the appeal is unsuccessful, the case may be destined for yet another appeal to the Supreme Court. Mediation offers an alternative avenue, by providing participants with the opportunity to work together to design their own outcome to the dispute, rather than the court deciding who wins and loses. Even if a case does not settle in its entirety, appellate mediation often streamlines the appeal by clarifying issues, addressing procedural problems, and reducing assignments of error, thereby saving time and money.

Court Administrator Julie Kahrs Nessler added: "We are thrilled to offer the mediation program to those appearing before our court. Not only will it allow potential early resolution to cases, but mediation provides the unique opportunity for the parties to control the outcome. The timing of the program is especially important as courts throughout the State brace for an increase of filings as a result from the pandemic. We are excited to join the other appellate courts in Ohio in providing this alternative dispute resolution option."

Many appellate courts across the state and country have successful mediation programs, and the First District has studied those experiences as a guide to developing its own process. With certain exceptions, all civil cases, domestic relations cases, and original actions are eligible to be selected for the Court's mediation program. Foster will screen cases for eligibility upon the filing of the notice of appeal and will schedule cases for a mediation screening conference. Alternatively, parties may file a request for mediation or the Court may order a case to mediation. Cases referred to the mediation program are eligible to be placed on a stay for up to 60 days while the parties pursue resolution.

Contact Sarah Foster (513) 946-3457 SFoster@cms.hamilton-co.org

making the news

WHO

WHY

WHEN

HOW

WHERE



Covington Catholic Board of Directors has elected DBL Law attorney **Nick Birkenhauer** to chair its Board of Directors. Covington Catholic is the only all-male high school in Northern Kentucky and has a current student population of 503.

Nick is a DBL Law partner whose practice is focused on assisting employers with all aspects of Human Resources and Employment Law. Nick has extensive experience working with employers of all sizes and across a wide array of industries, including healthcare and manufacturing.

Nick has considerable employment litigation experience, and practices at all levels of Kentucky and Ohio state and federal courts. Nick also regularly represents his clients before state and federal administrative agencies such as the EEOC, DOL, OSHA, Kentucky Labor Cabinet, Kentucky Human Rights Commission, and Kentucky Unemployment Commission. In addition to his employment work, Nick has broad business and commercial litigation experience.

In addition to his service on the Covington Catholic Board, Nick is also a member of the Northern Kentucky Workforce Investment Board and is active with the Alliance for Catholic Urban Education. He also serves as co-chair on the Congregation of Divine Providence Development Advisory Board.



Busald Funk Zevely is proud to announce that **E. Andre' (Andy) Busald**, one of its founding partners, has once again been named to the 2021 Editions of Best Lawyers and Kentucky Super Lawyers. These 2 publications (Best Lawyers since 1987 and Super Lawyers

since 2008) have a stringent selection process based on rigorous peer review surveys by top attorneys based on the principal that the best lawyers know who the best lawyers are. Additionally, no fee or payment to participate is allowed. Busald has been named for 34 consecutive years in Best Lawyers (since its inception in 1987) and 13 consecutive years in Super Lawyers (since its inception in Kentucky in 2008).

Additionally, Busald was name 2021 Attorney of the Year on 10/01/21 by TOP 100 LAWYERS, a National Publication signifying the highest level of competence and dedication in the field of law.

He is also past President of the Kentucky Academy of Trial Attorneys (now known as the Kentucky Justice Association) and the Northern Kentucky Bar Association.



Aronoff, Rosen & Hunt, LPA is proud to announce **Tina M. Donnelly** will serve as the firm's next Managing Partner, starting January 1, 2022. She will advance the firm's core areas of strength while seizing growth opportunities across practice groups and industry sectors.

Born in Cincinnati, Ohio, Tina graduated from Walnut Hills High School (Class of 1989) and the University of Cincinnati (Class of 1993) with a Bachelor of Arts in Political Science. She began her career working for the Hamilton County Recorder's Office, then as a closing agent at one of the largest title agencies, before pivoting to law. She is still a licensed title agent. She earned her J.D. from Northern Kentucky University Salmon P. Chase College of Law. She is licensed to practice in the State of Ohio and the Commonwealth of Kentucky.

Tina's dedication and passion were evident from the moment she joined AR&H in 2000. She's brought expertise in real estate to the firm and regularly represents homebuilders and developers in the Greater Cincinnati area. She was designated as an Ohio Super Lawyer Rising Star in 2010, has been recognized every year since 2019 by Best Lawyers for Real Estate Law and gained additional recognition in Community Association Law for 2022.



DBL Law attorney **Mike Enzweiler** has been selected to the **Northern Kentucky Chamber of Commerce's 2022 Leadership Northern Kentucky 2 Class**.

Mike Enzweiler is an associate attorney practicing Medical Malpractice and Civil Litigation at DBL Law. Mike obtained his

law degree from the Salmon P. Chase College of Law at Northern Kentucky University, where he graduated summa cum laude and finished second in his class. While at Chase, Mike served as a Senior Managing Editor for the Northern Kentucky Law Review and competed on both the Arbitration and Trial Competition Teams. He also worked as an extern for the Honorable William O. Bertelsman in the United States District Court for the Eastern District of Kentucky.

Prior to attending Chase, Mike obtained a bachelor's degree in Finance at the University of Louisville, where he graduated with Highest Honors and was named the 2012 College of Business Finance Student of the Year. He was a member of the University's Honors Program and served as President of the Sigma Chi Fraternity.

Mike first joined DBL Law as a summer associate in May of 2014, and began his professional practice at the firm's Northern Kentucky office in the fall of 2015. Mike has since been admitted to practice law in the Commonwealth of Kentucky, the State of Ohio, the United States Court of Appeals for the Sixth Circuit, and various federal district courts.

Mike serves as Vice-Chair of the Board of Directors for Care Net Pregnancy Services of Northern Kentucky. Mike also volunteers as a solicitor for the Diocese of Covington's Alliance for Catholic Urban Education (ACUE) appeal. Mike is a member of the Salmon P. Chase American Inn of Court, as well as various bar associations and leadership organizations. A Northern Kentucky native and graduate of Newport Central Catholic, Mike currently resides in Wilder, KY with his family.



Taft is proud to announce that **Amanda Johnson** was recently appointed to the Criminal Justice Panel in the Eastern District of Kentucky. Ms. Johnson practices in Taft's Northern Kentucky office, where she focuses on defending business organizations and individuals

subject to government investigations and white-collar criminal defense. Ms. Johnson is an experience trial attorney, who will bring her knowledge of and experience in the federal criminal justice system to her representation of indigent defendants.



Girl Scouts of Kentucky's Wilderness Road has added DBL Law attorney **Rebecca McDonough** to its board.

Rebecca is an associate attorney in DBL Law's Commercial Banking, Real Estate, and Construction practice groups. Rebecca joined DBL Law as a summer associate in May of 2019 and is based in the firm's Cincinnati office.

Rebecca received her J.D. from Northern Kentucky University Chase College of Law in 2020, where she graduated summa cum laude. While at Chase, Rebecca served as the Executive Editor of the Northern Kentucky Law Review. Prior to attending law school, Rebecca received a B.A. in History from Sewanee: The University of the South, where she graduated cum laude. She was a member of the Phi Alpha Theta National History Honor Society, the Order of the Gown, and the University's crew team.

Rebecca is a Cincinnati native and a graduate of The Seven Hills School.



Emily E. Walters, Esq. is proud to announce the opening of **Walters Law, PLLC**. Emily began her legal career over 15 years ago with Kentucky Pretrial Services. Graduating in 2009 from University of Cincinnati College of Law, Emily worked as the Staff Attorney for

Judge James R. Schrand in the 54th Judicial Circuit. Emily has grown a vibrant practice in Workers' Compensation and litigation as well as landlord/tenant, small business, guardianships, and probate. Emily is an active member of the Northern Kentucky Bar Association and its #MATCH mentoring program. She represents the 6th District on the Board of Directors for the Kentucky Bar Foundation and is currently the Secretary/Treasurer of that organization. Walters Law, PLLC is located at 23 Erlanger Rd., Erlanger, KY 41018. Phone (859) 545-0049; ewalters@walterslawky.com.

A Certified Professional Life Coach, Emily coaches other lawyers to engineer their own empowerment and define their own success maximizing their career and personal satisfaction. Emily offers confidential coaching in individual or group packages and can be reached at (859) 379-9688 or emily@skylarkcoaches.com.



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Sean Dempsey
Tommy Quinlan



Lindsey Yates Receives NKBA Women Lawyer's Section Judge Judy West Award



Lindsey Yates was born in London, England, and raised across Europe while her father served in the United States Navy and mother taught at the Department of Defense Dependents School. She attended high school in rural eastern Kentucky later attending Morehead State University on a full-tuition scholarship after graduating as Valedictorian. After early completion of her undergraduate studies, Lindsey worked at a suboxone clinic and decided to return to higher education for a Masters in Clinical Psychology. She chose to attend law school afterwards in order to address more systemic issues in addiction in society and have more direct contact helping her community. She married her husband, Wesley, before starting law school at NKU Chase College of Law in 2018.

While at Chase College of Law, Lindsey volunteered at various pro se clinics and clerked at the Kentucky

Department of Public Advocacy, assisting indigent clients to navigate the judicial system and serving as their advocate with a limited license. After successfully completing the Kentucky Bar Exam in July 2021, Lindsey is continuing her advocacy work as a Juvenile Specialist for the Kentucky Department of Public Advocacy offices in Lexington, Kentucky.

The Judge Judy West Award was established in 1991 by the NKBA Women Lawyers Section to honor the contributions made to the legal profession by the late Judge Judy West. The fund is administered by the Northern Kentucky Bar Foundation and presents a monetary award each year to a female student entering her last year of study at the Chase College of Law.

Special consideration is given to the non-traditional student or returning student who, in the judgment of the Foundation, best exemplifies the characteristics and attributes of Judge Judy West.

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