Table of Contents for Volume 100, Issue 4

Kentucky Law Journal

Follow this and additional works at: https://uknowledge.uky.edu/klj
Click here to let us know how access to this document benefits you.

Recommended Citation
Available at: https://uknowledge.uky.edu/klj/vol100/iss4/1

This Table of Contents is brought to you for free and open access by the Law Journals at UKnowledge. It has been accepted for inclusion in Kentucky Law Journal by an authorized editor of UKnowledge. For more information, please contact UKnowledge@lsv.uky.edu.
ARTICLES

FOREWORD: RESTORING LUSTER TO THE PALLADIUM OF FREEDOM
Wm. T. (Bill) Robinson III 729

SYMPOSIUM ON STATE COURT FUNDING: KEYNOTE ADDRESS
Erwin Chemerinsky 743

JUDICIAL INDEPENDENCE AND THE STATE COURT FUNDING CRISIS
David J. Barron 755

NO EXIT: THE FINANCIAL CRISIS FACING STATE COURTS
G. Alan Tarr 785

THE INVISIBLE BRANCH: FUNDING RESILIENT COURTS
THROUGH PUBLIC RELATIONS, INSTITUTIONAL IDENTITY,
AND A PLACE ON THE “PUBLIC RADAR”
Chief Justice Paul J. De Muniz 807

DO WE HAVE 18TH CENTURY COURTS FOR THE 21ST CENTURY?
Michael L. Buenger 833

STATE COURTS AND PUBLIC JUSTICE: NEW CHALLENGES, NEW CHOICES
John T. Broderick & Lawrence Friedman 857

NOTES

RECONSIDERING STATE PAROLE BOARD MEMBERSHIP
REQUIREMENTS IN LIGHT OF MODEL PENAL
CODE SENTENCING REVISIONS
Stefan J. Bing 871

GIVING UP YOUR TAX REFUND TO KEEP IT:
TAX PREPAYMENT IN THE CONTEXT OF THE BANKRUPTCY ESTATE
C.D. Bradley 895
This 100th Anniversary Issue of the Kentucky Law Journal is dedicated to

Wm. T. (Bill) Robinson III, ’71
President of the American Bar Association (2011-12)

the first alumnus of the University of Kentucky College of Law and of the Kentucky Law Journal to serve as ABA President, for his dedicated, tireless national leadership toward adequate funding of our Courts as one of the three co-equal branches of government in America.
# Kentucky Law Journal

**Volume 100**  
**2011-2012**  
**Number 4**

**Editor-in-Chief**  
Stefan J. Bing

**Managing Editor**  
Jerrad T. Howard

**Articles Editors**  
Allison E. Bosserman  
Andolyn Johnson  
Sean Whelan

**Notes Editors**  
Tiffany J. Fannin  
Joseph A. Wright

**Online Content Manager**  
Thomas M. Cothran

**Special Features Editors**  
Kathryn M. Anderson  
Jane Lyle Hord

**Production Editors**  
Colin R. Bruckel  
Abigale N. Rhodes  
Allyson N. Watts

**Online Content Editors**  
Carly Compton  
Brittany Griffin Smith

**Operations Manager**  
Stephanie A. French

**Senior Staff**  
Bradley L. Hart  
Lucas W. Humble  
Christopher L. Jackson  
Kristeena L. Johnson  
Joseph P. Mankovich  
Matthew J. Middendorf  
Philip C. Newsom  
Abigail E. Sheehan  
Jessica R. Shoulders  
Samuel I. Thorner  
Erin E. Tibe  
Andrew H. Trimble  
Jason P. Woodall

**Staff**  
R. Lauren Biggs  
Jerad Blair  
Devon Callaghan  
Zachary G. Cato  
Steven T. Clark  
Heather R. Coleman  
Virginia F. Deaton  
Ryan Easton  
Karema A. Eldahan  
Brian R. Epling  
R. Ian Forrest  
Jessica C. Harvey  
R. Brooks Herrick  
Luke A. Johnson  
Chris Leopold  
Jonathan J. London  
Ian A. Loos  
Erica L. Mitchell  
Aaron C. Moody  
E. Alan Morgan  
Gordon L. Mowen, II  
Shane J. Orr  
Keaton H. Osborne  
Mary Katherine Parrott  
Mason Powell  
Tyler Roberts  
Christopher J. Ryan, Jr.  
Hamid H. Sheikh  
Molly Katherine Smith  
Taylor J. Stuckey  
Sarah E. Townzen  
Ryan M. Underwood  
Rebecca Wichard

**Faculty Advisor**  
Nicole Huberfeld

**Staff Assistant**  
April Brooks
Since 1913, the Kentucky Law Journal has published scholarly works of general interest to the legal community. The Journal is produced by students of the University of Kentucky College of Law under the direction of a fifteen-person editorial board and with the advice of a faculty member.

We welcome unsolicited submissions. Submissions must be typed double spaced with footnotes. Citations should generally conform to The Bluebook: A Uniform System of Citation (19th ed. 2010); the Chicago Manual of Style (16th ed. 2010) is recommended for non-citation stylistic guidance. The author's résumé or a brief biographical statement should accompany the manuscript. Manuscripts will not be returned unless accompanied by a return envelope and postage. Send all submissions to:

editors@kentuckylawjournal.org

or

Articles Editor
Kentucky Law Journal
University of Kentucky
College of Law
Lexington, KY 40506-0048

Electronic submissions are also accepted through the ExpressO online service.

The editing process will be facilitated by sending articles in Microsoft Word format. Any required graphics should consist of high-resolution black-and-white line art provided as separate eps or tiff files.

Except as otherwise provided, the author of each article in this issue has granted to the Journal a nonexclusive license to publish, reproduce, distribute, and use the article in print or electronic form. The Journal hereby authorizes the reproduction of article(s) to be made for classroom use in a nationally accredited law school, provided that (1) author and journal are identified, and (2) proper notice of copyright is affixed to each copy. The views expressed in the articles, etc., do not necessarily represent the views of the Journal.

Communications of an editorial or business nature may be addressed to Kentucky Law Journal, University of Kentucky, College of Law, Lexington, KY 40506-0048. All notifications of change of address should include old address and new address, including zip code. Please inform us one month in advance to ensure prompt delivery.

Subscription price: $44.00 per year, $11.00 per number. Subscriptions are accepted only on a volume basis, starting with the first issue of the current volume. If subscription is to be discontinued at expiration, notice to that effect should be sent before the receipt of the first issue of the next volume; otherwise, subscriptions will be renewed and sent as usual. Claims for issues not received must be made within one year of publication. Back issues and volumes are available from William S. Hein & Co., Inc., 1285 Main Street, Buffalo, NY 14209-1987.

The Kentucky Law Journal is published quarterly by the College of Law, University of Kentucky, Lexington. Periodicals postage paid at Lexington, Kentucky 40506 and additional offices. POSTMASTER: send address changes to Kentucky Law Journal, University of Kentucky, College of Law, Lexington, KY 40506-0048. ISSN 0023-026X.
UNIVERSITY OF KENTUCKY COLLEGE OF LAW

Eli Capilouto, President of the University. BS 1971, University of Alabama; DMD 1975, MPH 1985, University of Alabama at Birmingham;

Kumble R. Subbaswamy, Provost. BSc 1969, Bangalore University; MSc 1971, Delhi University; PhD 1976, Indiana University

David A. Brennen, Dean and Laramie L. Leatherman Professor of Law. BA 1988, Florida Atlantic University; JD 1991, LLM 1994, University of Florida

Administration

Drusilla V. Bakert, Associate Dean. AB 1974, University of North Carolina; JD 1977, Harvard University

Kevin P. Bucknam, Director of Continuing Legal Education. BS 1987, Eastern Kentucky University; JD 1992, California Western School of Law

Mary J. Davis, Associate Dean for Academic Affairs and Stites and Harbison Professor of Law. BA 1979, University of Virginia; JD 1985, Wake Forest University

Melissa Henke, Director and Assistant Professor of the Legal Research and Writing Program. JD 2001, George Washington University; BA 1998, University of Kentucky

Diane Kraft, Assistant Director of Legal Writing and Director of Academic Success. BA 1986, University of Wisconsin; MA 1996, Indiana University; MA 1998, Indiana University; JD 2006, University of Wisconsin.

Daniel P. Murphy, Assistant Dean for Administration and Community Engagement. BA 1993, JD 1998, University of Kentucky.

Susan Bybee Steele, Associate Dean of Career Services. BS 1985, JD 1988, University of Kentucky

Emeritus Faculty

Carolyn S. Bratt, Professor of Law (Emeritus 2008). BA 1965, State University of New York at Albany; JD 1974, Syracuse University

Alvin L. Goldman, Professor of Law (Emeritus 2008). AB 1959, Columbia University; LLB 1962, New York University

Thomas P. Lewis, Professor of Law (Emeritus 1997). BA 1954, LLB 1959, University of Kentucky; SJD 1964, Harvard University

John M. Rogers, Judge, US Court of Appeals for the Sixth Circuit, Thomas P. Lewis Professor of Law (Emeritus 2002). BA 1970, Stanford University; JD 1974, University of Michigan
Faculty

Richard C. Ausness, Gallion & Baker Professor of Law. BA 1966, JD 1968, University of Florida; LLM 1973, Yale University

Kent H. Barnett, Visiting Assistant Professor. BA 2002, Centre College; JD 2005, University of Kentucky

Scott Bauries, Assistant Professor of Law. BA 1995, University of West Florida; MEd 2001, University of South Florida; JD 2005, PhD 2008, University of Florida

Jennifer Bird-Polan, Assistant Professor of Law. BA 1999, Penn State University; JD 2007, Harvard University

Rutheford B Campbell, Jr., James & Mary Lassiter Professor of Law. BA 1966, Centre College; JD 1969, University of Kentucky; LLM 1971, Harvard University

Stephen Clowney, Assistant Professor of Law. AB 2000, Princeton University; JD 2006, Yale University

Allison Connelly, Director of the UK Legal Clinic and Associate Clinical Professor of Law. BA 1980, JD 1983, University of Kentucky

Joshua A. Douglas, Assistant Professor of Law. BA 2002, JD 2007, George Washington University

William H. Fortune, Robert G. Lawson Professor of Law. AB 1961, JD 1964, University of Kentucky

Christopher W. Frost, Frost Brown Todd Professor of Law. BBA 1983, JD 1986, University of Kentucky

Eugene R. Gaetke, Edward T. Breathitt Professor of Law. BA 1971, JD 1974, University of Minnesota

Mary Louise Everett Graham, William H. Fortune and Robert G. Lawson Professor of Law. BA 1965, JD 1977, University of Texas

Roberta M. Harding, William L. Matthews Professor of Law. BS 1981, University of San Francisco; JD 1986, Harvard University

Michael P. Healy, Willburt D. Ham Professor of Law. BA 1978, Williams College; JD 1984, University of Pennsylvania

Nicole Huberfeld, Galion & Baker Professor of Law. BA 1995, University of Pennsylvania; JD 1998, Seton Hall Law School

Mark Kightlinger, Wyatt, Tarrant & Combs Professor of Law. BA 1981, Williams College; JD 1988, Yale Law School

Robert G. Lawson, H. Wendell Cherry Professor of Law. BS 1960, Berea College; JD 1963, University of Kentucky

Douglas C. Michael, Gallion & Baker Professor of Law. AB 1979, Stanford University; MBA 1982, JD 1983, University of California

Kathryn L. Moore, Laramie L. Leatherman Distinguished Professor of Law. AB 1983, University of Michigan; JD 1988, Cornell University
Melynda J. Price, Robert E. Harding, Jr. Associate Professor of Law. BS 1995, Prairie View A & M University; JD 2002, University of Texas

Paul E. Salamanca, Wyatt, Tarrant & Combs Professor of Law. AB 1983, Dartmouth College; JD 1989, Boston College

Robert G. Schwemm, Ashland–Spears Professor of Law. BA 1967, Amherst College; JD 1970, Harvard University

Richard H. Underwood, Spears–Gilbert Professor of Law. BA 1969, JD 1976, The Ohio State University

Stephen J. Vasek, Jr., Associate Professor of Law. BS, BA 1961, JD 1966, Northwestern University; LLM 1969, Harvard University

Harold R. Weinberg, Everett H. Metcalf, Jr. Professor of Law. AB 1966, JD 1969, Case Western Reserve University; LLM 1975, University of Illinois

Sarah N. Welling, Ashland–Spears Distinguished Research Professor of Law. BA 1974, University of Wisconsin; JD 1978, University of Kentucky

Richard A. Westin, Professor of Law. BA 1967, MBA 1968, Columbia University; JD 1972, University of Pennsylvania

Adjunct Faculty

Glen S. Bagby, Adjunct Professor of Law. AB 1966, Transylvania University; JD 1969, University of Kentucky. Firm: Dinsmore & Shohl

Perry M. Bentley, Adjunct Professor of Law. BS 1979, JD 1984, University of Kentucky. Firm: Stoll, Keenon Ogden

Jonathon Buckley, Adjunct Professor of Law. JD 1975, University of Kentucky

Don P. Cetrulo, Adjunct Professor of Law. BA 1971, Morehead State University; JD 1974, University of Kentucky. Firm: Knox & Cetrulo

Shawn Chapman, Adjunct Professor of Law. BA 1999, JD 2002, University of Kentucky. Senior Law Clerk to Kentucky Supreme Court Justice Mary Noble

Laura A. D'Angelo, Adjunct Professor of Law. JD 1996, University of Kentucky. Law Firm: Wyatt, Tarrant & Combs

Rebecca DiLoreto, Adjunct Professor of Law. BA 1981, Amherst College; JD 1985, University of Kentucky. Children's Law Center

Robert F. Duncan, Adjunct Professor of Law. BS 1980, JD 1983, University of Kentucky. Firm: Jackson Kelly

William G. Garmer, Adjunct Professor of Law. BA 1968, JD 1975, University of Kentucky. Law Firm: Garmer & Prather

Tom Griffiths, Adjunct Professor of Law. BA 1992, New York University; JD 1996 Northeastern University. Department of Public Advocacy

Jane Grise, Adjunct Professor of Law. BA 1970, JD 1973, University of Kentucky. Law Firm: Garmer & Prather

Pierce W. Hamblin, Adjunct Professor of Law. BBA 1973, JD 1977, University of
Dale Henley, Adjunct Professor of Law. BA 1970, University of Louisville; JD 1976, University of Kentucky; MA candidate, University of Louisville

G. Edward Henry II, Adjunct Professor of Law. BA 1976, JD 1979, University of Kentucky. Firm: Henry, Watz, Gardner, Sellars & Gardner

Paula Holbrook, Adjunct Professor of Law. JD 1990, University of Kentucky. UK HealthCare

Davida Isaacs, Adjunct Professor of Law. BA 1992, Brandeis University; JD 1995, New York University

Marianna Jackson-Clay, Adjunct Professor of Law. BA 1975, JD 1978, University of Kentucky

Raymond M. Larson, Adjunct Professor of Law. JD 1970, University of Kentucky. Fayette County Commonwealth Attorney

Paul McCaffrey, BA 2003, University of Kentucky; JD 2006, Washington University.

John T. McGarvey, Adjunct Professor of Law. BA 1970, JD 1973, University of Kentucky. Firm: Morgan & Pottinger

Jennifer Moore, Adjunct Professor of Law. BA 2000, Centre College; JD 2003, University of Kentucky. Law Clerk to Karl S. Forester, US District Court for the Eastern District of Kentucky

Thomas E. Rutledge, Adjunct Professor of Law. BA 1985, St. Louis University; JD 1990, University of Kentucky. Firm: Stoll, Keenan & Ogden

Andrew L. Sparks, Adjunct Professor of Law. BA 1997, Transylvania University; JD 2000, University of Kentucky College of Law. Assistant US Attorney, Eastern District of Kentucky

Charles Wisdom, Adjunct Professor of Law. JD 1985, University of Louisville. Chief, Appellate Section, US Attorney's Office