Kentucky Law Survey

A review of significant developments affecting Kentucky law between 
July 1, 1975 and June 30, 1976.

CONTENTS

INTRODUCTION ........................................................................................................................................ 253

CORPORATIONS

I. Federal Corporation Law ........................................... 255
   A. SEC Rule 10b-5
   B. The Proxy Rules
   C. Insider Trading

II. State Corporation Law ........................................... 270
   A. Securities Regulation
   B. Preemptive Rights
   C. Tender Offers

REMEDIES: CONTRIBUTION AND APPORTIONMENT AMONG “JOINT TORTFEASORS”

I. Introduction ........................................... 285
II. Clarification of Terms and Concepts ......................... 288
   A. Indemnity
   B. Contribution
   C. Apportionment

III. Nix's Impact upon the Interaction of Kentucky’s Contribution and Apportionment Statutes ....... 294

TORTS

I. False Imprisonment ........................................... 301
   A. Common-Law Liability Rules
   B. Probable Cause
   C. Reasonableness of the Detention and Search
   D. Conclusion

II. Intentional Infliction of Emotional Distress ............... 311
   A. Development of an Independent Action for Intentional Infliction of Emotional Distress
B. Recovery for Emotional Distress in Kentucky
C. Conclusion

III. Products Liability .................................. 321
   A. Medical Aspects
   B. Implied Warranty
   C. Strict Liability in Tort
   D. Conclusion

MEDICAL MALPRACTICE

I. Medical Malpractice Insurance and Claims Act . 338
   A. Patients' Compensation Fund
   B. Ad Damnum Clause
   C. Statute of Frauds
   D. Reporting of Claims
   E. Informed Consent
   F. Constitutionality of the Act
II. Joint Underwriting Association .................... 352
III. Decision of the Court ............................. 354
   A. McMichael v. American Red Cross
   B. Laws v. Harter

COMMERCIAL LAW AND CONSUMER CREDIT

I. The Demise of the Holder in Due Course and Related Doctrines ................................. 361
   A. Smiling Creditors
   B. The FTC Rule
      1. Scope of the Rule
      2. The Rule and Discount Type Transactions
      3. The Rule and Direct Loan Transactions
   C. The Kentucky Legislation
II. Other Developments ............................... 380
   A. Uniform Commercial Code Statutes of Frauds
   B. Prejudgment Creditor's Remedies

DOMESTIC RELATIONS

I. Child Custody ...................................... 383
   A. Lewis v. Lewis: Reports of Social Workers
   B. Barr v. Barr: The Appropriate Jurisdiction
C. Early v. Early: Moving from the Jurisdiction
D. Phillips v. Horlander

II. Adoption ........................................ 389

III. Modification of Separation Agreements and Child Custody Awards ................... 390

IV. Division of Marital Property ........................ 393
   A. Brown v. Brown: The Amount of Maintenance
   B. Griffin v. Griffin: Division of Marital Property

Professional Responsibility

I. Control of Conduct in Traditional Areas ........ 398
II. Control of Competence and Related Areas ...... 403
III. Sanctions Applied in Disciplinary Cases .......... 407
IV. Future Possibilities for Discipline .............. 409

Workmen's Compensation

I. Computation of Benefits .......................... 411
   II. Independent Contractor Defense ................ 416
   III. Work Related Change in the Human Organism .. 418
   IV. Special Fund .................................. 420
   V. Uninsured Employers' Fund ........................ 420

Kentucky Taxation

I. Inheritance Tax .................................. 425
II. Coal Severance Act .............................. 425
III. Sales and Use Tax .............................. 426
IV. Property Tax .................................. 428
   V. Income Tax .................................. 431
   VI. Procedural Matters ............................ 432
   VII. Uniform Gift to Minors Act ................... 432

Civil Procedure

I. Failure of Parties to Testify ...................... 435
II. Supervision of Discovery ........................ 437
III. Setting Aside Judgments ........................ 439
IV. Multiple Party Litigation ........................ 442
   V. Patterns in the Decisions ...................... 445
Criminal Procedure

I. Search and Seizure ........................................ 448
   A. Automobile Searches
   B. Third Party Consent

II. Harmless Error ........................................... 455
    A. Restrictions on the Assistance of Counsel
    B. Fifth Amendment Right of Silence

III. The Evidentiary Use of Similar Criminal Acts ... 461