KENTUCKY LAW UPDATE

2024

ADVANCING THE PROFESSION THROUGH EDUCATION

Alphabet Street: The ABCs and 123s of GALs, FOCs, & PCs in Kentucky Family Law Cases

1 CLE Credit
Sponsor: KBA Family Law Section

Compiled and Edited by:
The Kentucky Bar Association
Office of Continuing Legal Education
for
Kentucky Bar Association
2024 Kentucky Law Update

Published and Printed by:
Kentucky Bar Association, August 2024

Editor's Note: The materials included in the following Kentucky Bar Association Continuing Legal Education handbook are intended to provide current and accurate information about the subject matter covered as of the original publication date. No representation or warranty is made concerning the application of legal or other principles discussed by the instructors to any specific fact situation, nor is any prediction made concerning how a particular judge or jury will interpret or apply such principles. The proper interpretation of the principles discussed in a matter for the considered judgment of the individual legal practitioner. The faculty and staff of this Kentucky Bar Association CLE program disclaim liability therefor. Attorneys using these materials, or information otherwise conveyed during these programs, in dealing with a specific legal matter have a duty to research the original and current sources of authority. In addition, opinions expressed by the authors and program presenters in these materials do not reflect the opinions of the Kentucky Bar Association, its Board of Governors, Sections, or Committees.

ALPHABET STREET:
THE ABCS & 123S OF GALS, FOCS & PCS IN KENTUCKY FAMILY LAW CASES

Nicole S. Bearse, Laurel S. Doheny, James K. Murphy, Rebecca Adams Simpson, and Robert P. Stith

I. GUARDIANS *AD LITEM* (GALs)

A. History

"The term 'guardian *ad litem*' is very much a chameleon. According to one commentator, the term is employed in all of the United States' fifty-six jurisdictions, but in no two of them does it have exactly the same meaning. Katherine Hunt Federle, *The Curious Case of the Guardian Ad Litem*, 36 U. Dayton L. Rev. 337, 348 (2011)." *Morgan v. Getter*, 441 S.W.3d 94, 106 (Ky. 2014).

"Among CAPTA's provisions was a requirement that 'in every case involving an abused or neglected child which results in a judicial proceeding a guardian ad litem shall be appointed to represent the child in such proceedings.' 42 U.S.C. §5103(b)(2)(G) (1976 & Supp. V 1981)." *Morgan v. Getter*, 441 S.W.3d 94, 109 (Ky. 2014).

> The GAL Commission was chaired by former Justice Cooper, and for five months, beginning in May 1999, heard testimony from numerous groups and individuals with interests in the matter, considered approaches taken by other states, and evaluated a Laurel-Knox County pilot GAL training program. The Commission's Report, issued in October 1999, recommended that GAL responsibilities be specified by statute and by rule, and that they include "advocat[ing] the child's best interest, but advis[ing] the court when the child disagrees with the attorney's assessment of the case." Admin. Office of the Courts, Recommendations of the Commission on Guardians *ad litem*, p. 4 (October 25, 1999).

Morgan v. Getter, 441 S.W.3d 94, 110 (Ky. 2014).

B. Appointment of a GAL

"In our jurisdiction 'A guardian ad litem must be a regular, practicing attorney of the court.' He is appointed to represent defendants who are under legal disability and is given the duty to 'attend properly to the preparation of the case' in their behalf. Sec. 38(2, 3), Civil Code of Practice." *Black v. Wiedeman*, 254 S.W.2d 344, 346 (Ky. App. 1952). Superseded in statute by KRS 387.305.

"To the extent that *Wiedeman* could be thought to focus the GAL's representation on the child's preferences, as opposed to his or her 'best interest,' the new provision supersedes it." *Morgan v. Getter*, 441 S.W.3d 94, 108 (Ky. 2014).

"A guardian *ad litem* (a guardian for the purposes of suit or litigation), is then, broadly, a person appointed by a court to appear on behalf of, to 'guard,' a minor

(or other incompetent) in a lawsuit." *Morgan v. Getter*, 441 S.W.3d 94, 106 (Ky. 2014).

"The presumption remains, furthermore, that the guardian *ad litem* shall be 'a practicing attorney,' CR 4.04(3), appointed to act in that capacity." *Morgan v. Getter*, 441 S.W.3d 94, 107 (Ky. 2014).

"Rule 6 provides that in family court actions involving a dispute over custody, shared parenting, visitation, or support, the parties may request, or the court on its own motion may order, among other things, the 'appointment of a guardian *ad litem*.'" *Morgan v. Getter*, 441 S.W.3d 94, 96 (Ky. 2014).

"CR 17.03 mandates the appointment of a GAL for an unrepresented minor party to an IPO case. The GAL is the child's agent and is responsible ... for making motions, for introducing evidence, and for advancing evidence-based arguments on the child's behalf." *Smith v. Doe*, 627 S.W.3d 903, 915 (Ky. 2021).

> Our Supreme Court, in *Smith v. Doe*, 627 S.W.3d 903, 913 (Ky. 2021), recently held that the family court was required to appoint a GAL for unrepresented minor petitioners and respondents to an Interpersonal Protective Order ("IPO"). *Smith* also specifically noted that the statutes governing IPOs and DVOs are nearly identical, and that CR 17.03 applies to both.

Hamilton v. Milbry, 676 S.W.3d 42, 46 (Ky. App. 2023).

C. KRS 387.305(4) – A GAL is entitled to a reasonable fee for his or her services.

> The court shall appoint counsel for the child to be paid by the Finance and Administration Cabinet. Counsel shall document participation in training on the role of counsel that includes training in early childhood, child, and adolescent development . . . The fee to be fixed by the court shall not exceed five hundred dollars ($500); however, if the action has final disposition in the District Court, the fee shall not exceed two hundred fifty dollars ($250). KRS 620.100(1)(a).

Morgan v. Getter, 441 S.W.3d 94, 109 (Ky. 2014).

> Affidavits of himself and of other persons are receivable to prove the services rendered, but the court must decide the value without reference to their opinions. Sec. 38(4), Civil Code of Practice. KRS 453.060 also provides for the allowance of a reasonable fee for a guardian ad litem to be taxed as costs in the action.

Black v. Wiedeman, 254 S.W.2d 344, 346 (Ky. App. 1952). Superseded in statute by KRS 387.305.

"The fixing of the fee by the trial court should also cover an allowance for services in the Court of Appeals. *Lacey's Executrix v. Lacey*, 170 Ky. 625, 186 S.W. 501."

Black v. Wiedeman, 254 S.W.2d 344, 346 (Ky. App. 1952). Superseded in statute by KRS 387.305.

Basic Rules of Thumb on Payment:

1. GALs in the cases listed below are paid by the Finance and Administration Cabinet by submitting the FIN-GAL_1 Form. Always be sure that you are using the most up-to-date version of the form, which can be found on the Finance and Administration Cabinet's website on the Office of General Counsel's page under "Guardian Ad Litem." The form is submitted to the clerk's office and they forward it to Finance.

    a. For children in dependency, neglect, and abuse cases.

    b. For children in voluntary or involuntary TPRs.

    c. For children in domestic violence cases.

    d. For children in minor abortion cases.

    e. For incarcerated adults in child support cases.

2. GALs in adoption cases are paid privately by the petitioner and you typically file a motion for fees, to be approved as a reasonable fee by the court. The exact process can be venue dependent. Some GALs request their fee as part of their report or simply send a bill. Best practice is to file a motion for approval by the court.

3. GALs in dissolution or custody proceedings (also includes other civil actions such as grandparent visitation, etc.) are paid privately. The court may assess a retainer at the start of the appointment to be billed against or give some advance directive as to payment. Fees may be assessed to one party or apportioned in advance or at any point during or at the conclusion of the appointment. Venue and GAL dependent and often require a motion for fees. No right or wrong method – ask for guidance from the court if you are unsure.

D. Expectations of a GAL

> A child's representative appointed to participate actively as legal counsel for the child, to make opening and closing statements, to call and to cross-examine witnesses, to make evidentiary objections and other motions, and to further the child's interest in expeditious, non-acrimonious proceedings – in our terminology a GAL.

Morgan v. Getter, 441 S.W.3d 94, 111 (Ky. 2014).

"The Court defined the role of the GAL as that of a person that advocates consistently for [the child's] best interests. The GAL is not in the business of making the parents happy. Her job is to get information from [the child] and in return give

that information to the Court." *Dhawan v. Naumchenko*, 2015 Ky. App. Unpub. LEXIS 409, *5-6, 2015 WL 3533214, *2 (Ky. App. June 5, 2015).

KRS 387.305(2) – A GAL must be a regular, practicing attorney of the court.

KRS 387.305 provides, in the same terms as §38 did formerly, that a guardian ad litem may be appointed to defend an infant who does not have a resident guardian, curator, or conservator; that the guardian ad litem must be a regular, practicing attorney of the court; that his duty is to attend properly to the preparation of the case; and that he is to be allowed a reasonable fee for his services "to be paid by the plaintiff and taxed in the costs." **KRS 387.305(4)**. *Morgan v. Getter*, 441 S.W.3d 94, 107-108 (Ky. 2014).

KRS 387.305(5) – When a GAL is appointed by the court, he or she has a duty to advocate for the child's best interest in the proceeding.

KRS 403.270(2) – GAL applies best interest standard.

KRS 26A.140(1)(a) – Courts may implement measures to accommodate the special needs of children to offer consistency and support to the child and to represent the child's interests when necessary.

SCR 3.130(1.4)(b); *see Morgan v. Getter*, 441 S.W.3d 94 (Ky. 2014) – A GAL should explain a matter to the extent reasonably necessary to permit the client to make informed decisions.

"GALs appointed in DNA cases have 'training appropriate to the role, including training in early childhood, child, and adolescent development.'" 42 U.S.C. §5106a(b)(2), KRS 620.100(1)(a), and *Morgan v. Getter*, 441 S.W.3d 94, 117 (Ky. 2014).

"The GAL is obligated to stand in the infant's place and determine their rights. The GAL is both a fiduciary and lawyer for the infant." *Black v. Wiedeman*, 254 S.W.2d 344, 346 (Ky. App. 1952).

"[T]herefore, that in domestic custody proceedings, the parties' right to due process includes the right to cross-examine the authors, including so-called GALs, of evidentiary reports upon which the fact finder is entitled to rely." *Morgan v. Getter*, 441 S.W.3d 94, 112 (Ky. 2014).

"Additionally, the Court concluded, however, that if a trial court relies on a GAL report, due process demands that the other parties must be afforded an opportunity to question/cross-examine the GAL." *S.E.A. v. R.J.G.*, 470 S.W.3d 739, 743 (Ky. App. 2015).

"A number of courts have required that the constituent roles of the 'hybrid' GAL be separated. *See, e.g., Ross v. Gadwah, Jacobsen v. Thomas*, 2004 MT 273, 323 Mont. 183, 100 P.3d 106 (Mont. 2004); *Clark v. Alexander, Newman v. Newman*, 235 Conn. 82, 663 A.2d 980 (Conn. 1995)." *Morgan v. Getter*, 441 S.W.3d 94, 113 (Ky. 2014).

Supreme Court Order 2020-01 – amending the Family Court Rules of Procedure and Practice, providing standards for court appointed counsel, including Guardians ad Litem.

American Bar Association, *Standards of Practice for Lawyers Representing Children in Custody Cases*, 37 FAM. L.Q. 1, 16 (2003) – "The GAL has the discretion to interview individuals significantly involved with the child which may include social workers, caretakers, neighbors, relatives, school personnel, coaches, clergy, mental health professionals, physicians, and law enforcement officers."

E. Best Interest

1. **Most applicable statute:** KRS 403.270 – Custodial issues – Best interests of child shall determine – Rebuttable presumption that joint custody and equally shared parenting time is in child's best interests – De facto custodian.

"GAL has no duty to advocate for children's wishes, *i.e.* to abide by their decisions concerning objectives of representation."

a. "A GAL should advocate for the child's best interests. However, when the child disagrees with the attorney's assessment of the case, the GAL has a duty to advise the court of this disagreement."

b. "A GAL's recommendation to the court can be based on evidence that was presented to the court or on evidence not available to the court."

c. "A properly trained GAL, in sum, who has thoroughly investigated the child's situation and consulted with the child, is not disqualified from advocating what he or she determines is the child's best interest merely because the child disagrees." *Morgan v. Getter*, 441 S.W.3d 94, 117 (Ky. 2014).

2. Differentiating case types:

a. If the case is a grandparent visitation matter, the modified *Vibbert* best interest factors will apply.

> A trial court can look at several factors to determine whether visitation is clearly in the child's best interest. The *Vibbert* court laid out many of these factors, including:
>
> 1) the nature and stability of the relationship between the child and the grandparent seeking visitation;
>
> 2) the amount of time the grandparent and child spent together;

3) the potential detriments and benefits to the child from granting visitation;

4) the effect granting visitation would have on the child's relationship with the parents;

5) the physical and emotional health of all the adults involved, parents and grandparents alike;

6) the stability of the child's living and schooling arrangements; and

7) the wishes and preferences of the child.

To this list, we add:

8) the motivation of the adults participating in the grandparent visitation proceedings.

Walker v. Blair, 382 S.W.3d 862, 871 (Ky. 2012).

b. If a GAL is appointed in a dependency, neglect and abuse, or a TPR action and "best interests" are referred to, they are looking to KRS 620.023:

(1) Evidence of the following circumstances if relevant shall be considered by the court in all proceedings conducted pursuant to KRS Chapter 620 in which the court is required to render decisions in the best interests of the child:

(a) Mental illness as defined in KRS 202A.011 or an intellectual disability as defined in KRS 202B.010 of the parent, as attested to by a qualified mental health professional, which renders the parent unable to care for the immediate and ongoing needs of the child;

(b) Acts of abuse or neglect as defined in KRS 600.020 toward any child;

(c) Substance use disorder, as defined in KRS 222.005, that results in an incapacity by the parent or caretaker to provide essential care and protection for the child;

(d) A finding of domestic violence and abuse as defined in KRS 403.720, whether or not committed in the presence of the child;

(e) Any other crime committed by a parent which results in the death or permanent physical or mental disability of a member of that parent's family or household; and

(f) The existence of any guardianship or conservatorship of the parent pursuant to a determination of disability or partial disability as made under KRS 387.500 to 387.770 and 387.990.

(2) In determining the best interests of the child, the court may consider the effectiveness of rehabilitative efforts made by the parent or caretaker intended to address circumstances in this section.

3. Best interest cases.

"[W]e believe the safer course is simply to require a 'best interest' role for GALs appointed in custody cases as well as in DNA and termination cases." *Morgan v. Getter*, 441 S.W.3d 94, 117 (Ky. 2014).

The court stated in weighing the factors in consideration of a custody dispute between parents, the overriding issue is what is in the best interest of the child. *Calhoun v. Calhoun*, 559 S.W.2d 721 (Ky. 1977).

Cases with the child's best interest at issue: *Atwood v. Atwood*, 550 S.W.2d 465 (Ky. 1976) and *S. v. S.*, 608 S.W.2d 64 (Ky. App. 1980).

> "Without an appointment, the guardian ad litem shall have no obligation to initiate action or to defend the client in other proceedings. KRS 387.305(5). To the extent that *Wiedeman* could be thought to focus the GAL's representation on the child's preferences, as opposed to his or her "best interest," the new provision supersedes it."

Morgan v. Getter, 441 S.W.3d 94, 108 (Ky. 2014).

4. Critique of "best interest" advocacy.

a. "Critics also maintain that legal training simply does not qualify lawyers to make 'best interest' judgments for other people, in particular for people whose backgrounds, experience, and prospects are far different from the lawyer's own." *Morgan v. Getter*, 441 S.W.3d 94, 116-117 (Ky. 2014).

b. "The lawyer's discretion, furthermore, is constrained by the statutory best-interest factors (including the wishes of the child) that the court is obliged to consider and hence the lawyer is obliged to

address, as well as by the particular facts of the case." *Morgan v. Getter*, 441 S.W.3d 94, 117 (Ky. 2014).

c. [T]he asserted tendency of "best interest" representation to suppress the voices of children and to disempower them in proceedings that will significantly affect their interests. "Child centered" or "client directed" representation, on the other hand, is seen as respecting and encouraging child autonomy as well as keeping the attorney appropriately focused on protecting his or her client's rights, the only role attorneys are deemed competent to play.

Morgan v. Getter, 441 S.W.3d 94, 118 (Ky. 2014).

F. The GAL's Role in Protecting a Minor's Mental Health Records

The Court of Appeals has held that minors are entitled to a psychotherapist-patient privilege pursuant to KRE 507, which protects their mental health records from disclosure to even their parent during discovery in a custody matter. The court may either interview the therapist directly, or review their records *in camera*, to determine what portions of the records are relevant, or may a appoint guardian *ad litem* to do so. *Bond. v. Bond*, 887 S.W.2d 558, 561 (1994) *and Williams v. Williams*, 526 S.W.3d 108, 117 (Ky. 2017).

G. Appointment of GALs for Domestic Violence and Interpersonal Violence Actions Involving Minors

In September 2023, the Court of Appeals in *Hamilton v. Milbry*, 676 S.W.3d 42 (Ky. App. 2023), surprised Kentucky judges and attorneys alike with their decision reversing the trial court because a guardian ad litem had not been appointed for the minor child who was listed by the petitioner/mother as an "other protected person" in her petition.

The Court's decision was guided by the Kentucky Supreme Court's ruling in *Smith v. Doe*, 627 S.W.3d 903 (Ky. 2021), which had been decided just two years prior. In *Doe*, the Court held that a guardian ad litem must be appointed for an unrepresented minor who is a party to an Interpersonal Protective Order case in accordance with CR 17.03, which provides as follows:

CR 17.03 **Infants and persons of unsound mind**

(1) Actions involving unmarried infants or persons of unsound mind shall be brought by the party's guardian or committee, but if there is none, or such guardian or committee is unwilling or unable to act, a next friend may bring the action.

(2) Actions involving unmarried infants or persons of unsound mind shall be defended by the party's guardian or committee. If there is no guardian or committee or he is unable or unwilling to act or is a

> plaintiff, the court, or the clerk thereof if its judge or judges are not present in the county, shall appoint a guardian ad litem to defend unless one has been previously appointed under Rule 4.04(3) or the warning order attorney has become such guardian under Rule 4.07(3).
>
> (3) No judgment shall be rendered against an unmarried infant or person of unsound mind until the party's guardian or committee or the guardian ad litem shall have made defense or filed a report stating that after careful examination of the case he is unable to make defense.
>
> (4) Papers required to be served on a party under Rule 5.01 shall be served on the person bringing or defending an action under this rule.
>
> (5) The court shall allow the guardian ad litem a reasonable fee for services, to be taxed as costs. Fees allowed to counsel for children, indigent parents or non-parental custodians of children in dependency, abuse or neglect cases, and to counsel for children or indigent parents in parental rights termination cases, under the Juvenile Code, shall not exceed the amounts specified in KRS 620.100 or KRS 625.080. Counsel fee awards shall not exceed the statutory maximum, regardless of the number of persons represented in a proceeding by the counsel.

In rendering its decision, the *Doe* Court cites to its prior decision in *Morgan v Getter*, 441 S.W.3d 94 (Ky. 2014), defining the role of the GAL stating "the GAL is the child's agent and is responsible ... for making motions, for introducing evidence, and for advancing evidence-based arguments on the child's behalf."

The Court in *Milbry* vastly expanded the *Doe* holding, requiring the appointment of a GAL in all DVO or IPO hearings where a minor is listed as a protected party.

The practical challenges for courts and GALs have been significant, although the new requirement has certainly resulted in more child-centric discussions and arguments, especially when an adult petitioner seeks to lift restrictions or dismiss an action.

II. FRIENDS OF THE COURT (FOCs)

A. History of FOCs

"The statute authorizing the use of FOC investigators in custody proceedings, KRS 403.300, has been in place since 1972, when the General Assembly adopted the Uniform Marriage and Divorce Act." *Greene v. Boyd*, 603 S.W.3d 231, 236 (Ky. 2020).

B. Appointment of an FOC

KRS 403.300 – "In contested proceedings, and in other custody proceedings, if a parent or the child's custodian so requests, the court may order an investigation and report concerning custodial arrangements for the child. The investigation and report may be made by the friend of the court or such other agency as the court may select."

"The investigation and report may be made by the friend of the court or such other agency as the court may select." KRS 403.300(1). *Morgan v. Getter*, 441 S.W.3d 94, 104 (Ky. 2014).

"A family court's appointment of a friend-of-court investigator (FOC) to investigate and generate a report amounts to a determination that the FOC is sufficiently qualified to offer opinion evidence concerning the fitness of a parent and child's custody arrangements." *Greene v. Boyd*, 603 S.W.3d 231, 233 (Ky. 2020).

C. Expectations of the FOC

1. Investigation.

KRS 403.300(2): In preparing their report, the FOC may consult "any person who may have information about the child and his potential custodial arrangements. Upon order of the court, the investigator may refer the child to professional personnel for diagnosis. The investigator may consult with and obtain information from medical, psychiatric, or other expert persons who have served the child in the past without obtaining the consent of the parent or the child's custodian; but the child's consent must be obtained if he has reached the age of 16, unless the court finds that he lacks the mental capacity to consent."

2. Report.

KRS 403.300(3): The FOC must file a report at least 10 days prior to the hearing, which the clerk shall mail to counsel and any party not represented by counsel. The FOC's file, including all data, reports and diagnostic reports, including the names and addresses of everyone consulted in their investigation, shall be made available to counsel or unrepresented parties to allow them to be cross-examined. Parties *cannot* waive their right to be cross-examined prior to the hearing. (emphasis added)

3. Hearsay objections.

> These reports consist largely of hearsay declarations often double-or triple-level hearsay as well as opinions of various social workers, medical or paramedical personnel, psychologists, teachers and the like, which may or may not have a reasonable basis. Statements contained in a custody investigation report have no special indicia of reliability. They are generally not under oath and often emanate from people having overt or covert bias. In many instances, the

> statements represent subjective feelings and perceptions rather than objective observations or empiric data.

Greene v. Boyd, 603 S.W.3d 231, 239 (Ky. 2020).

> Filing the report at least 10 days prior to affords sufficient due process protection to allow hearsay evidence contained therein to be admitted and relied on by the court by allowing the parties ample time to call the witnesses relied on in the report to testify. *Greene v. Boyd*, 603 S.W.3d 231, 239-240 (Ky. 2020); *see also Morgan v. Getter*, 441 S.W.3d 94, 104 (Ky. 2014). "Provided the parties were given adequate notice of it, the investigator's report could be received in evidence at the custody hearing, but then 'any party to the proceeding' could 'call the investigator and any person whom he has consulted for cross-examination.'"

D. Objections to the Qualifications of an FOC

A friend of the court is an individual appointed by the court to "to investigate the child's and the parents' situations, to file a report summarizing his or her findings, and to make recommendations as to the outcome of the proceeding…" *Morgan v. Getter*, 441 S.W.3d 94, 111 (Ky. 2014).

"An FOC's ability to render opinions is constrained by the requirements KRE 701 & 702." *Greene v. Boyd*, 603 S.W.3d 231, 243 (Ky. 2020).

"That is, an FOC must still properly be qualified as a medical expert to render medical opinions about the mental health of the parents in a custody proceeding." *Greene v. Boyd*, 603 S.W.3d 231, 243 (Ky. 2020).

"A family court's appointment of a friend-of-court investigator (FOC) to investigate and generate a report amounts to a determination that the FOC is sufficiently qualified to offer opinion evidence concerning the fitness of a parent and child's custody arrangements." *Greene v. Boyd*, 603 S.W.3d 231, 233 (Ky. 2020).

> [G]iven the role of an FOC – to investigate and make custodial recommendations to the family court – we think the appointment of an FOC is simultaneously a determination that the FOC possesses the knowledge, skill and experience sufficient to render credible opinions about the fitness of a parent and child's custody arrangements and the ability of parents to care for their child. Such a determination is within the wise discretion of the trial court and may be challenged as such.
>
> But we caution that family courts must be careful to admit those opinions only where they do not cross into the realm of medical-expert testimony, and judges should be particularly vigilant in guarding against those opinions when medical experts that appeared in the FOC's report do not themselves testify."

Greene v. Boyd, 603 S.W.3d 231, 244-45 (Ky. 2020).

E. Compensation of an FOC

1. FCRPP 6(2) – Allows for a parent or custodian, or the court to request the appointment of an FOC at the cost of the parent or custodian.

> The friend of the court's compensation was to come from the authorizing county. *Id. See* Delmer D. Howard, "*Friend of the Court*," 45 Ky. L. J. 128, 128 (1956-57) (discussing the advent of this statute and noting that it was in part a response to courts becoming aware "of the need of an investigative officer to represent the children in contested divorce cases where it was apparent that the parties were prone to exaggerate the favorable conditions of each home.)

Morgan v. Getter, 441 S.W.3d 94, 104 (Ky. 2014).

2. Basic rules of thumb regarding payment.

a. All cases are private pay. There is some chatter that some counties have had some ability to get payment from fiscal court resources (*see* above), but payment is acquired from the parties in nearly all circumstances.

b. A retainer is often ordered and billed against; ask for one if you can. Some judges will leave it open to the FOC to assess what they think is reasonable or say nothing at all. You are a third-party provider as an FOC. This leaves you open to ask for payment as you see fit if not ordered otherwise.

c. Be clear from the outset in an email or letter how you intend to assess payment and bill.

d. If the court is assessing fees at the end, make it clear what you will be billing for and how you will be requesting payment (*i.e.* lump sum for overage of the retainer, or if there was no retainer, whether you will be open to payments).

e. Being clear on your role with attorneys and parties makes your billing clearer.

F. Direct Comparisons between GAL and FOC

1. Attorney v. advisor.

"The role of a GAL and a friend of the court are quite different. A GAL functions as an attorney advocating for a party and a friend of the court advises the court." *Feller v. Kimble*, 2017 Ky. App. Unpub. LEXIS 127, *10, 2017 WL 541079, *4 (Ky. App. Feb. 10, 2017).

> Like the FOC investigator, the GAL should undertake a thorough examination of the custodial circumstances, but *unlike* the investigator the GAL is the child's agent and is responsible, as is counsel for the parties, for making motions, for introducing evidence, and for advancing evidence-based arguments on the child's behalf. The GAL should *not* file reports, testify, make recommendations, or otherwise put his own or her own credibility at issue.

Morgan v. Getter, 441 S.W.3d 94, 114 (Ky. 2014).

2. Witness v. advocate.

   a. SCR 3.130(3.7) **– Lawyer as witness**

> (a) A lawyer shall not act as advocate at a trial in which the lawyer is likely to be a necessary witness unless:
>
> (1) the testimony relates to an uncontested issue;
>
> (2) the testimony relates to the nature and value of legal services rendered in the case; or
>
> (3) disqualification of the lawyer would work substantial hardship on the client.
>
> Whereas the friend of the court investigates, reports, and makes custodial recommendations on behalf of the court, and is subject to cross-examination, the guardian *ad litem* is a lawyer for the child, counseling the child and representing him or her in the course of proceedings by, among other things, engaging in discovery, in motion practice, and in presentation of the case at the final hearing. The guardian *ad litem* neither testifies (by filing a report or otherwise) nor is subject to cross-examination.

Morgan v. Getter, 441 S.W.3d 94, 119 (Ky. 2014).

   b. Should an FOC be allowed to observe the testimony of others prior to testifying?

KRE 615 **– Exclusion of Witnesses**

> At the request of a party the court shall order witnesses excluded so that they cannot hear the testimony of other witnesses and it may make the order on his own motion. This rule does not authorize the exclusion of:

(1) A party who is a natural person;

(2) An officer or employee of a party which is not a natural person designated as its representative by its attorney; or

(3) A person whose presence is shown by a party to be essential to the presentation of the party's cause.

3. Participant v. observer.

> The first is a distinction between, on the one hand, a child's representative appointed as an officer of the court to investigate the child's and the parents' situations, to file a report summarizing his or her findings, and to make recommendations as to the outcome of the proceeding – in Kentucky statutory terminology a sort of "friend of the court" (FOC); and on the other hand, a child's representative appointed to participate actively as legal counsel for the child, to make opening and closing statements, to call and to cross-examine witnesses, to make evidentiary objections and other motions, and to further the child's interest in expeditious, non-acrimonious proceedings – in our terminology a GAL.

Morgan v. Getter, 441 S.W.3d 94, 111 (Ky. 2014).

4. Confidentiality.

When serving as a GAL, an attorney maintains an attorney-client relationship with their minor child client, while *Morgan v. Getter* and *Greene v. Boyd* both make it clear that the FOC's file is open, and that their reports must include references to all material collected and all individuals interviewed. The FOC should give no expectation of confidentiality to those interviewed. *Morgan v. Getter*, 441 S.W.3d 94, 111, 113 (Ky. 2014) and *Greene v. Boyd*, 603 S.W.3d 231, 239-240 (Ky. 2020).

The GAL's duty to report, pursuant to KRS 620.030(1), does override the attorney-client privilege if there is a suspicion of dependency, neglect, and abuse, however.

5. Immunity.

FOCs are integral to the judicial process and have immunity for actions made in good faith. *See Briscoe v. LaHue*, 460 U.S. 325 (1983) and *Kurzawa v. Mueller*, 732 F.2d 1456 (6th Cir. 1984).

G. Role Confusion

1. Should an FOC be allowed to sit through a hearing and observe the testimony of others prior to testifying?

2. Should an FOC attend court appearances other than when required to testify if not ordered to do so or subpoenaed?

3. Should an FOC be relied on to weigh in on smaller decisions during their investigation, or between the filing of a report and their testimony, outside of the ultimate decision they have been appointed to make recommendations related to?

4. When is the GAL's appointment over? When is an FOC's?

5. Do both GALs and FOCs have to sign off on agreed orders?

6. Do both GALs and FOCs have to be sent copies of pleadings?

7. Can an FOC file a motion?

8. Should both GALs and FOCs file motions for fees, or should an FOC simply submit an invoice?

> The problem is that, however referred to, the appointee is often expected to blur these roles – to investigate for the court and to litigate for the child. In this case, for example, the "GAL" was appointed expressly "to help the court decide the case," and in that role he examined records, interviewed the family members, and filed a report with concluding recommendations, a report that was introduced into evidence and was expressly considered by the trial court.

Morgan v. Getter, 441 S.W.3d 94, 111 (Ky. 2014).

H. **<u>You Can Always Have Both – and Sometimes that is Needed</u>**

> We agree that an attorney should not be asked to serve simultaneously as both a *de facto* FOC investigator on the court's behalf and a GAL attorney for the children involved. Expediency and informality may argue for such a hybrid approach, but…the hybrid approach compromises basic notions of due process and is not consistent with the provisions the General Assembly has made for investigation in child custody matters.

Morgan v. Getter, 441 S.W.3d 94, 111 (Ky. 2014).

> Under FCRPP 6(2)(e), the appointment of a GAL is not limited to those circumstances, however, and the rule does not preclude (although expense certainly might) the appointment of both a *de facto* FOC investigator and a GAL, the need for which may become apparent only after some initial investigation.

Morgan v. Getter, 441 S.W.3d 94, 111 (Ky. 2014).

I. Model Orders for GAL and FOC

A clear and concise order from the judge clarifies the roles, keeps costs down, minimizes questions, and assists counsel in explaining to third party providers who they are and what they need. *See attached, a sample order provided by the Woodford, Scott, and Bourbon Family Court.* A helpful order can clarify:

1. That you are allowed access to the child.

2. That you are allowed access to inspect and get copies of records.

3. That you will keep that information confidential, except that your file is open to the court, counsel, and the parties – and whether the court wants to put any safeguards in place for how access to your file will be requested.

4. What the court expects in terms of you having notice of proceedings and *your attendance*.

5. How the court will notify you if they want you to attend.

6. Cite to the appointing statute.

7. Inform counsel that if they want you to testify that they need to tell you (that won't be assumed).

8. Outline the scope of your appointment.

9. Set out terms of payment, *i.e.* retainer, division of expenses if already determined, etc.

10. It's lovely if it cites to the immunity cases, but not required.

III. PARENTING COORDINATORS: COURT DELEGATION OF POWER TO THIRD PARTIES

A. History of Parenting Coordination

Parenting coordination (PC) began gaining recognition in the 1990s as a result of presentations and trainings first offered at conferences such as the Association of Family and Conciliation Courts (AFCC) and by experienced parenting coordinators. Initially there were variations in role, source and degree of authority, and practice in different jurisdictions, and different titles were used to describe this innovative intervention model, including special masters, co-parenting facilitators, or mediator/arbitrators. In 2003, AFCC appointed an interdisciplinary task force to develop Guidelines for Parenting Coordination to guide mental health professionals, mediators, and lawyers with respect to training, practice, and ethics (AFCC, 2006).

Parenting coordination and the parenting coordinator were envisioned as a non-adversarial dispute resolution process in high conflict or highly litigated cases. The focus of the PC, as with the FOC and GAL, is and should be the children's best

interest and should be designed to help parents make timely decisions to reduce the amount of damaging conflict between parents and diminish unnecessary re-litigation about child related issues.

Jefferson County Rule 705 sets forth the role and anticipated uses of the parenting coordinator. Specifically, the parenting coordinator is employed to facilitate decision making and, when agreed to by the parties, make decisions, with the exception of custody or primary residence, on behalf of the families.
These decisions include:

1. Revising the parenting schedule or conditions of contact.

2. Recommend orders regarding exchange and/or transportation of the child (including time and place of exchange).

3. Change education, daycare, and/or extracurricular activities for the child.

4. Require drug screens, psychological or custody evaluations, and provide releases for results.

5. Recommend more specific orders to facilitate implementation of court orders.

6. Change the times for religious observances and training for the child.

7. Address other issues raised by the parties.

The parties may agree (by agreed order) to comply with the decisions of the PC (if contemplated by the agreed order) or if the parties have not agreed then the PC may make recommendations (not orders) to the court. The court will consider the recommendations and other evidence at a hearing when making the decisions.

Studies have shown that parenting coordination can work for family court. *See* Ergun, S., *Evaluating Parenting Coordination: Does It Really Work*, Institute for Court Management, ICM Fellows, Program, 2016. While not perfect, PC's do appear to be effective in reducing litigation, can deescalate situations but may not necessarily improve the coparenting relationship, and do satisfy the stated need of quick resolutions in difficult cases.

However, while the rules seem to imply that some of the PC's decisions could be binding on the parties without court approval, the recent case of *Warawa v. Warawa*, 587 S.W.3d 631, 636-637 (Ky. App. 2019), effectively stated that the parenting coordinator was limited in their role as the court cannot delegate the authority to resolve issues affecting the best interests of the children to the parenting coordinator.

In *Warawa*, as part of an agreed order, Mother and Father agreed they would use a parenting coordinator with a "limited role." "Issues of custody and parenting time, other than minor issues such as vacation dates, special occasions, etc. [were to] be addressed by the Court." Later, Mother filed a motion to compel Father to pay parenting coordinator, and Father objected, requesting a hearing on why a

parenting coordinator was necessary. The family court ordered the parties to submit their outstanding issues to the parenting coordinator, without conducting a hearing. Father later filed several motions regarding custody and contempt for which he requested a hearing. The family court issued an order requiring all issues, including the contempt motion, be sent to the parenting coordinator. The parenting coordinator submitted recommendations to the family court, to which Father filed objections and requested a hearing. The family court denied the request for a hearing and adopted the recommendations of the parenting coordinator as orders of the court.

Father argued, on appeal, that the family court improperly delegated its judicial authority to the parenting coordinator, and that he was denied due process when the family court would not hold a hearing on the recommendation of the parenting coordinator. The Court of Appeals held the family court improperly delegated its judicial authority to the parenting coordinator and denied Father due process. It reasoned that family courts have the authority to enlist the assistance of persons outside the judicial system, including parenting coordinators, through FCRPP 6(2). However, "a court may not delegate to a parenting coordinator the authority to resolve issues affecting the best interests of the children." A parenting coordinator should not be a final decision-maker and independent review should be conducted by the family court if a party so requests.

The conclusion supported by *Warawa* is that it is not an unlawful delegation of judicial power to permit parties to select a nonjudicial person to hear proof on child-related claims and make presumptively binding recommendations. Rather, it is an unlawful delegation of judicial power to deny parties the right to have a judge review and pass final judgment on such recommendations (*i.e.*, it is unlawful to give a parenting coordinator the final say).

B. Relevant Citations

> However, that agreement did not permit the parenting coordinator to be a final decision-maker without the family court conducting an independent review if requested by one of the parties. That is the overriding problem. The family court delegated its final decision-making authority to the parenting coordinator. While no doubt the family court was familiar with the parties and the case, as it should have been given the one-family one-judge approach of our family courts, that familiarity does not relieve the family court of making judicial decisions on an issue-by-issue basis."

Warawa v. Warawa, 587 S.W.3d 631, 636-637 (Ky. App. 2019).

> We agree with the Court's concise statement in *Silbowitz v. Silbowitz*, 88 A.D.3d 687, 687-88, 930 N.Y.S.2d 270, 271 (2011) [citations omitted]: "Although a court may properly appoint a parenting coordinator to mediate between parties and oversee the implementation of their court-ordered parenting plan[,] a court may not delegate to a parenting coordinator the authority to resolve issues affecting the best interests of the children.

Warawa v. Warawa, 587 S.W.3d 631, 636 (Ky. App. 2019).

> Because the parties can turn to the family court for a final decision, we held that participation in *counseling* with a parenting coordinator is not an improper delegation of the family court's judicial function. *Id.* "Rather, in a high conflict case . . . the parenting coordinator merely assists the court by ensuring that the court's mandates are being carried out in a manner that serves the best interests of the child."

Id. at 635

> Although the use of a parenting coordinator was not at issue, this Court's decision in *Maclean v. Middleton*, 419 S.W.3d 755 (Ky. App. 2014), including the well-written dissent in that case, is insightful. This Court addressed the use of a Master Commissioner in a Jefferson Family Court case and the delegation of judicial authority to decide the distribution of marital property.
>
> The majority addressed the dissent's view that the family court lacked the authority to appoint the Master Commissioner. While the majority agreed that there was no statutory or procedural authority for the process used, neither party raised the issue and both agreed to have the issues concerning marital property decided by the commissioner. *Id.* at 761.

Warawa v. Warawa, 587 S.W.3d 631, 635-636 (Ky. App. 2019).

COMMONWEALTH OF KENTUCKY
SCOTT CIRCUIT COURT
DIVISION III – FAMILY COURT
CASE NO. 21-CI-05555

JOHN DOE PETITIONER

v.

JANE DOE RESPONDENT

ORDER APPOINTING FRIEND OF THE COURT

Issued *sua sponte* by this Court, it is hereby ORDERED that the Hon. _____, a practicing attorney of this Court, is hereby appointed as Friend of the Court for the minor child subject to this action: ____(*child initials*) XX/XX/___ pursuant to *Morgan v. Getter*, 441 S.W.3d 94 (Ky. 2014), KRS 403.090, and subject to KRS 403.300. This appointment is limited to an investigation and written report regarding (*short description of reason for appointment*).

It is further ORDERED that the Friend of the Court shall:

1. Be allowed access to the child by the caretaker of the child whether caretakers are individuals, authorized agencies or health care providers;

2. Have, upon presentation of this Order to any agency, hospital, organization, school, individual or office, including but not limited to the Clerk of this Court, human services and/or child caring agencies, public or private institutions and/or facilities, medical and mental health professionals, law enforcement agencies and the Attorney General, the authority to inspect and receive copies of any records, notes and electronic recordings concerning the child that are relevant to the proceedings without the consent

of the child or individuals and authorized agencies who have control of the child unless consent of the child is required pursuant to KRS 403.300(2) if the child has reached the age of 16 unless there has been a finding by this Court that the child lacks the mental capacity to consent;

3. Hold all information received from any such source as confidential, and shall not disclose the same except to the Court, where allowed by the Court, to other parties in this matter, and where provided by law;

4. Be given notice of all hearing and proceedings including, but not limited to, administrative, family, civil, criminal, grand juries or appellate; and all conferences including, but not limited to, multi-disciplinary team meetings, individual educational program meetings or inter-agency cluster meetings involving the child(ren);

5. Be copied on all pleadings filed into the record and file and respond to pleadings in his or her discretion unless directed otherwise for good cause shown by the Court. The Friend of the Court shall not be required to appear at regular motion hour for new motions filed by the parties. If a party or the Court determines the presence of the Friend of the Court is necessary, notice to the Friend of the Court and request for appearance shall be made;

6. Conduct an investigation and prepare a report pursuant to KRS 403.300;

7. So long as the Friend of the Court has complied with KRS 403.300(3), his or her report may be received into evidence without additional testimony. If either party wishes to call the Friend of the Court for additional testimony or to cross examine him or her regarding the report, the party shall notify the Friend of the Court and opposing party in writing at least three days prior to the hearing;

8. The scope of this Friend of the Court appointment shall be limited to the investigation, report, and testimony (if requested) as set forth in KRS 403.300 relevant to the pending motions before the Court. Any ongoing matters shall require a new appointment unless otherwise agreed. The Friend of the Court shall have discretion to limit the information deemed necessary to complete his or her investigation and is not required to fill the role of mediator, parenting coordinator, child counselor, or referee;

9. Unless otherwise agreed by both parties and the appointed Friend of the Court, the parties shall pay $_____ as an advancement of F.O.C. fees within 10 days of the entry of this Order with the Petitioner paying 50% and the Respondent paying 50% of said fee. Final allocation of Friend of the Court fees shall be determined after final hearing on this matter. Failure to timely pay Friend of the Court fees may result in a delay of any final hearing or other appropriate sanctions until such time as payment arrangements have been made. The appointed Friend of the Court may be excused from further duties on any matter in which he or she has been appointed if fees for services are not being paid by the parties. Court hereby orders that the appointed FOC shall have leave to file motions in this matter regarding payment of fees or enforcement of this order;

10. Be hereby declared to be an "integral part of this judicial process," pursuant to *Briscoe v. LaHue*, 460 U.S. 325 (1983) and *Kurzawa v. Mueller*, 732 F.2d 1456 (6th Cir. 1984), and as such, shall be granted absolute immunity for any actions, made in good faith, in this matter.

Entered this the _____ day of _____, 2024.

_____
JUDGE, SCOTT CIRCUIT FAMILY COURT

CERTIFICATE OF SERVICE

The foregoing ORDER was served by first class mail, postage prepaid, to the following on this the _____ day of _____, 2024:

Hon. Santa Claus
123 Main Street
Christmastown, KY 11111
Counsel for Petitioner

Hon. John Doe
123 Main Street
Christmastown, KY 11111
Counsel for Respondent

Hon. Jane Doe
123 Main Street
Christmastown, KY 11111
Friend of the Court

_____, D.C.
SCOTT COUNTY CLERK

Finance Cabinet, 702 Capital Avenue Room 195 Capitol Annex Frankfort, KY 40601 https://finance.ky.gov/Pages/default.aspx		ORDER FOR GAL/CAC ATTORNEY FEES

GAL/CAC ATTORNEY INFORMATION

Law Firm/Attorney: Goldberg Simpson, LLC/Nicole S. Bearse

Address: 229 West Main Street, Frankfort, Kentucky 40601

Phone: 502-699-2355 Email: nbearse@goldbergsimpson.com

Commonwealth of Kentucky eMARS Vendor Number: KY0034075

(If law firm/attorney has not registered as a vendor with the Commonwealth of Kentucky, please visit eMARS311.ky.gov to register)

CASE INFORMATION

Case Numbers*:				

*CR 17.03(5) states, "Counsel fee awards shall not exceed the statutory maximum, regardless of the number of persons represented in a proceeding by the counsel." If more than four case numbers were included in the sibling group for this proceeding, please list the remaining numbers on a separate sheet and attach it to the order.

On _____ (date) the above-named Attorney/Law Firm was appointed as either a GAL or CAC in the following case name(s):

_____

in ☐District Court ☐Family/Circuit Court in _____ County.

If appointed as a CAC in a DNA/TPR case, list client's name and relationship of client to the child(ren): _____

I was appointed pursuant to the appropriate Kentucky Revised Statute (KRS) and in the role marked below. *(Check only one box.)*

KRS 620.100 DNA Cases	☐ GAL for child(ren) – GAL ☐ CAC for indigent parent – CACP ☐ CAC for indigent family non-parent exercising custodial control or supervision of the child(ren) – CACF ☐ CAC for indigent non-family exercising custodial control or supervision of the child(ren) – CACN
KRS 625.0405, .041 Voluntary TPR	☐ GAL for child(ren) if Cabinet for Health and Family Services (CHFS) receives custody of the child(ren) – GAL ☐ CAC for parent if TPR is not granted or if CHFS receives custody of the child(ren) – CACP
KRS 625.080 Involuntary TPR	☐ GAL for child(ren) if CHFS is the proposed custodian of the child(ren) – GAL ☐ CAC for indigent parent – CACP
KRS 202B.210 Commitment	☐ Private counsel appointed for individual alleged to have an intellectual disability – GAL
KRS 311.732(3)(c),(6) Minor Abortion	☐ GAL/CAC for minor on a petition seeking self-consent for an abortion – GAL
KRS 199.502(3)(b) Adoption	☐ CAC for biological parent who does not consent to the adoption and the petitioner is the child's blood relative or fictive kin in accordance with KRS 199.470(4)(a) – CACP
KRS 403.100 Dissolution/Custody	☐ GAL for respondent who is incarcerated for a conviction pursuant to KRS Chapter 507, 508, 509, or 510, where petitioner was the victim – GAL

1. Counsel certifies that he/she performed duties justifying the fees requested on this form.
2. Counsel certifies that he/she has not been paid the statutory maximum amount by the Commonwealth related to this appointment.
3. If the Commonwealth has not paid the maximum fee for this appointment, counsel certifies he/she has already been paid _____.
4. Counsel certifies that he/she has not been paid by the client or by anyone on his/her/their behalf.

It is hereby ordered that said Attorney/Law Firm be awarded a fee of _____

_____ (Date) _____ (Attorney's Signature)

_____ (Date) _____ (Judge's Signature)

_____ (Judge's Printed or Typed Name)

FOR YOUR INFORMATION …

The Kentucky Law Update: Continuing Legal Education for All Kentucky Lawyers

The Supreme Court of Kentucky established the Kentucky Law Update Program as an element of the minimum continuing legal education system adopted by Kentucky attorneys in 1984. The KLU program is now offered in a hybrid format. The 2024 Kentucky Law Update is offered as a one-day, in-person program at nine different locations across the state. The 2024 On-Demand Kentucky Law Update is offered virtually on the Kentucky Bar Association website from September 1st until December 31st. These two programs offer every Kentucky attorney the opportunity to meet the 12 credit CLE requirement, including the 2 ethics credit requirement, ***close to home and at no cost!*** Judges can also earn continuing judicial education credits at the Kentucky Law Update.

This program was designed as a service to all Kentucky attorneys regardless of level of experience. This service is supported by membership dues and is, therefore, each member's program. The program is a survey of current issues, court decisions, ethical opinions, legislative and rule changes, and other legal topics of general interest that are faced by the Kentucky practitioner on a daily basis. As such, the program serves both the general practitioner and the practitioner who limits his or her practice to a particular field of the law. The Kentucky Law Update program is not intended, nor designed, to be an in-depth analysis of a particular topic. It is designed to alert the lawyers of Kentucky to changes in the law and rules of practice that impact the daily practice of law.

About the Handbooks and Presentations

Handbook materials are the result of the combined efforts of numerous dedicated professionals from around Kentucky and elsewhere. The KBA gratefully acknowledges the following individuals who graciously contributed to this publication:

Nicole S. Bearse
Robbie O. Clements
Don H. Combs, III
Larry C. Deener
Laura Day DelCotto
Haley Dennis
Sean Dennis
Laurel S. Doheny
Angela Logan Edwards
Stephen Embry
Yvette Hourigan
James K. Murphy
Mary Ellis Patton
Damon Preston
Shari Polur
Lou Anna Red Corn
Lori J. Reed
Jeffery L. Sallee
Bruce Simpson
Rebecca Adams Simpson
Jordyn Smith
Henry L. Stephens, Jr.
Robert P. Stith
Eleanore Stoess
Judge Thomas Lee Travis
B. Scott West

Special Acknowledgments

Special thanks to the following KBA Sections, Committees, and other organizations whose participation and assistance with the 2024 Kentucky Law Update programs have been invaluable:

KBA AI Task Force
KBA Alternative Dispute Resolution Section
KBA Criminal Law Section
KBA Elder Law Section
KBA Ethics Committee
KBA Family Law Section
KBA Law Practice Committee
KBA Military Law Committee
KBA Office of Bar Counsel
KBA Well Being Committee
Kentucky Court of Appeals
Kentucky Lawyer Assistance Program
Lawyers Mutual of Kentucky
Legislative Research Commission
NAELA – Kentucky Chapter
Supreme Court of Kentucky

Presentations are also made on a voluntary basis. To the individuals who volunteer in this capacity, special gratitude is owed. Individuals contributing to this program are contributing to the professional development of all members of the Kentucky Bar Association. We wish to express our gratitude in advance to these individuals.

A special thank you to all of the organizations, authors, presenters, moderators, and other 2024 Kentucky Law Update program volunteers will appear in the January 2025 issue of the *Bench & Bar*.

CLE and Ethics Credit

The one-day, in-person 2024 Kentucky Law Update Program is accredited for 7 CLE credits, including 2 ethics credits. The 2024 On-Demand Kentucky Law Update is accredited for 7.75 CLE credits, including 3 ethics credits. One credit is awarded for each 60 minutes of actual instruction as noted on the agendas provided on the KBA website.

The Kentucky Bar Association 2024 Kentucky Law Update programs are accredited CLE activities in numerous other jurisdictions. Credit categories and credit calculations vary from state-to-state. CLE reporting information for other states will be provided at the registration desk at the in-person programs. The out of state information for the on-demand sessions will be available on the program website.

Kentucky Judges, don't forget you can claim CJE credit for attending this program.

REMEMBER! Reporting attendance credits is now online. Reporting information and activity numbers will be available at each respective in-person event. The on-demand reporting information and activity number will be located on the program website.

Evaluations

The 2024 Kentucky Law Update is *your* program and your input *is* valued and needed. Links to the program evaluations for the live, in-person programs and the on-demand program will be provided to all registrants via email. PLEASE take a few minutes to complete the evaluation questionnaire upon receipt. We appreciate your assistance in improving this service.

Kentucky Bar Association
2024-2025 Board of Governors

Rhonda Jennings Blackburn
President
Pikeville

Todd V. McMurtry
President-Elect
Ft. Mitchell

Matthew P. Cook
Vice President
Bowling Green

W. Fletcher McMurry Schrock
Immediate Past President
Paducah

Don H. Combs III
Chair, Young Lawyers Division
Pikeville

Amelia M. Adams
Lexington

Douglas G. Benge
London

Miranda D. Click
Pikeville

LaToi D. Mayo
Lexington

Ryan C. Reed
Bowling Green

Jennifer M. Gatherwright
Crescent Springs

William M. "Mitch" Hall, Jr.
Ashland

Stephanie McGehee-Shacklette
Bowling Green

Susan Montalvo-Gesser
Owensboro

Susan D. Phillips
Louisville

James M. Ridings
London

James A. Sigler
Paducah

Catherine D. Stavros
Ft. Mitchell

J. Tanner Watkins
Louisville

2024-2025 Continuing Legal Education Commission

Jennifer S. Nelson
First Supreme Court District

Colton W. Givens
Second Supreme Court District

Kelly K. Ridings
Third Supreme Court District

Eric M. Weihe, Chair
Fourth Supreme Court District

Nealy R. Williams
Fifth Supreme Court District

Frank K. Tremper
Sixth Supreme Court District

Robert Stephen McGinnis
Seventh Supreme Court District

Justice Robert B. Conley
Supreme Court Liaison

Cassie H. Cooper
Director for CLE

Kentucky Bar Association CLE Staff

John D. Meyers
Executive Director

Cassie H. Cooper
Director for CLE

Lori J. Reed
CLE Attorney Editor &
Section/Division Program
Coordinator

Caroline J. Carter
CLE Lead Program Coordinator
– Annual Convention & Virtual
Education

Laura Cole
CLE Program Coordinator –
Kentucky Law Update & New Lawyer
Program

Coleen Kilgore
CLE Compliance
Coordinator

Terri Marksbury
CLE Regulatory Coordinator

Clifford D. Timberlake
CLE Accreditation
Coordinator