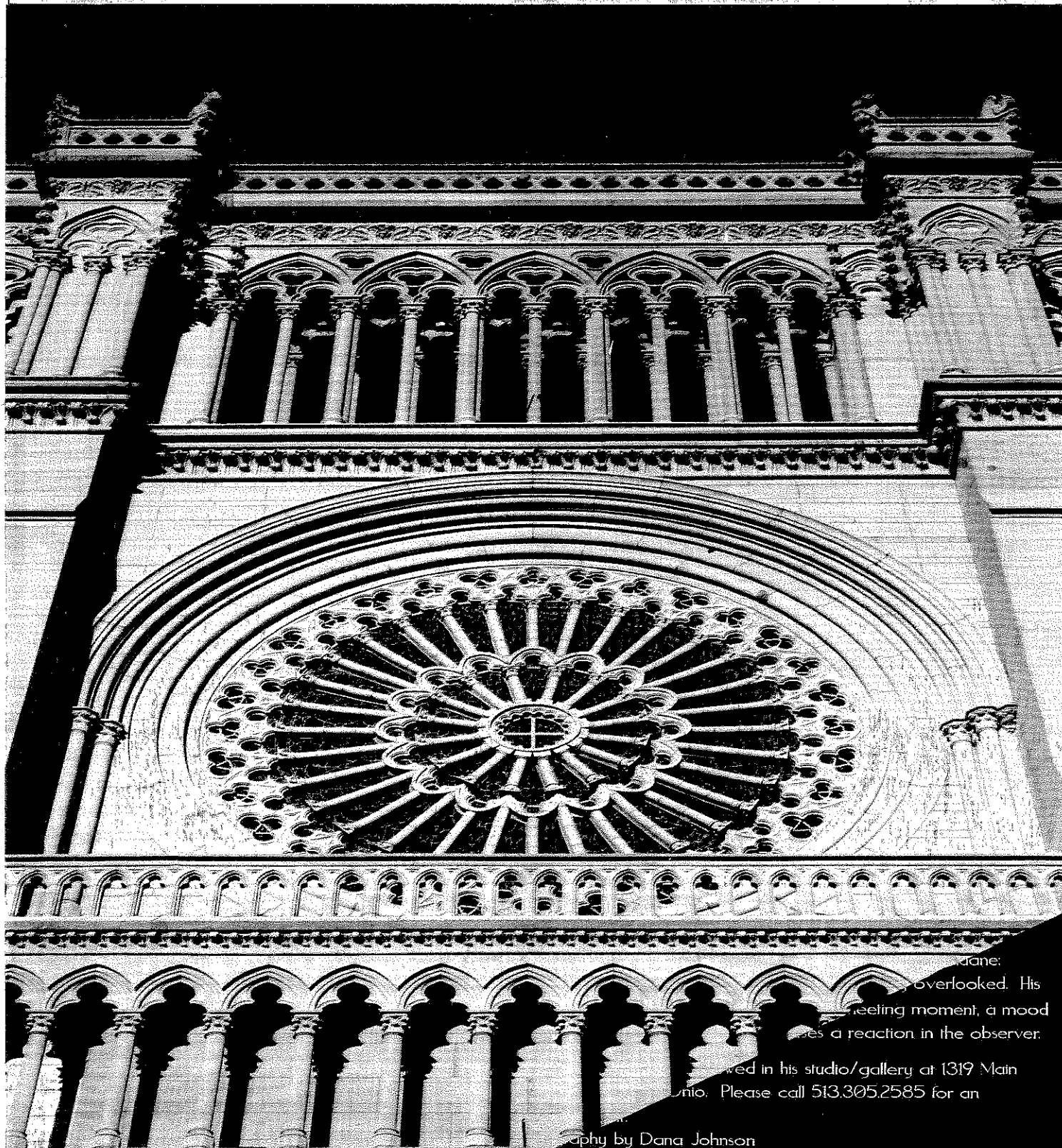


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aphy by Dana Johnson

Kentucky Ethics Research: The Basics

By Carol Furnish, Assistant Director of Instruction/Professor of Library Services, Chase Law

I. Background

Section 116 of the Kentucky Constitution provides that the Supreme Court shall, by rule, govern admission to the bar and the discipline of members of the bar. The KBA, acting as an agency of the Supreme Court, helps the court admit, educate, and discipline Kentucky attorneys. KRS 21A.150 defines the powers of the Kentucky Bar Association (KBA) in disciplinary proceedings. The KBA is responsible for investigating complaints against lawyers practicing in the Commonwealth and for prosecuting charges of professional misconduct.

II. Planning Your Research

Your research encompasses Kentucky Rules of Professional Conduct, judicial decisions of the courts, and ethics opinions of the KBA.

Avenues of persuasive authority include: ethics opinions of the ABA and other states that adopted the ABA model rules, judicial opinions in states with similar rules, law review articles, and treatises.

A. Kentucky Rules of Professional Conduct

The Kentucky Supreme Court adopted the ABA Model Rules of Professional Conduct with some variations effective January 1, 1990. The Kentucky Rules of Professional Conduct are incorporated in the Supreme Court Rules as SCR 3.130 (1.1) to 3.130 (8.4). Additional information related to lawyer regulation and discipline is located in SCR 3.

Kentucky Revised Statutes Annotated (KRS), Rules Volume contains the Rules of the Supreme Court with case annotations, West Topic & Key Numbers, citations to law review articles, and compiler's notes (a history of the rule).

B. Judicial Opinions

Use the *Kentucky Digest 2d*, *Shepard's Professional and Judicial Conduct Citations*, and the *KRS Rules Volume* to find court opinions. The *Kentucky Digest 2nd* contains case law back to 1930 and professional responsibility issues appear primarily under the Attorney and Client topic heading. *Shepard's Professional and Judicial Conduct Citations* is organized by Model Rule Number and can be used to find cases on a particular section of the rules adopted by Kentucky and by other courts. Use the *KRS Rules Volume* to locate additional case law.

C. Kentucky Ethics Opinions

The Kentucky Supreme Court Rule (SCR) 3.530 provides that an attorney may ask a member of the KBA Ethics Committee for advice related to the ethical propriety of a contemplated conduct. The request may be in writing or via the ethics hotline. Written requests for Advisory Opinions can be sent to the Ethics Committee Chair. The Kentucky Bar Association Web Site <<http://www.kybar.org/>> lists the names and phone numbers of members of the KBA Ethics Hotline.

A written informal letter (private advisory opinion) is provided to the requesting attorney and if the question is deemed to be of sufficient importance, a formal opinion will be issued for the benefit of the bar. All formal advisory opinions are published in full or in synopsis format in the next forthcoming issue of the *Kentucky Bench and Bar*.

Todd B. Eberle et al., *Kentucky Legal Ethics Opinions and Professional Responsibility Deskbook 3rd ed.* (2004) is the essential tool for ethics research. The deskbook includes: all versions of ethics rules used in Kentucky, all formal ethics opinions through 2002, procedures for disciplinary enforcement, bar admission guidelines, a comprehensive research guide, unauthorized practice of law opinions, and helpful tables.

ABA/BNA Lawyers' Manual on Professional Conduct is a multi-volume looseleaf service published by the ABA Center for Professional Responsibility and the Bureau of National Affairs. The service contains *Ethics Opinions*, a *Lawyer's Manual*, and the biweekly *Current Reports*. The *Ethics Opinions* volumes provide digests of ethics opinions from state and local bar associations. The *Reference Manual* offers a thorough analysis of issues related to legal ethics. The manual includes the ABA Rules and a brief description of the ethics rules adopted in each state.

The *National Reporter on Legal Ethics and Professional Responsibility*, published by Univ. Publications of America, provides full text legal ethics opinions from almost every state, six states are excluded. Coverage varies by state and is not always complete.

D. Additional Information

The Chase Law Library offers an extensive collection of handbooks and guides on professional responsibility. Here are a few recommended titles:

Lawyer Law: Comparing the ABA Model Rules of Professional Conduct with the ALI Restatement (3rd) of the Law Governing Lawyers

The Law of Lawyering: a Handbook on the Model Rules of Professional Conduct

A Legislative History: The Development of the ABA Model Rules of Professional Conduct 1982-1998

Modern Legal Ethics, by Charles W. Wolfram (Hornbook)

Restatement of the Law Governing Lawyers (3rd)

Understanding Lawyer's Ethics

B. Web Sources:

KY Court Rules

<<http://kyrules.west.thomson.com/home/kyrules/>>

KY Ethics Opinions

<http://www.uky.edu/Law/Library/ky_ethics_opinions.html>

KBA's Casemaker Service

<<http://www.kybar.org/>>

American Ethics Library by Cornell Law School, Legal Information Institute

<<http://www.law.cornell.edu/ethics/>>

LegalEthics.com

<<http://www.legaethics.com/>>

Legal Research Guide: Legal Ethics by The Virtual Chase

<<http://www.virtualchase.com/resources/ethics.shtml>>

III. For Further Information

This article briefly outlines the major tools for legal ethics research. You will find additional information in Chapters 17 and 18 of Todd B. Eberle et al., *Kentucky Legal Ethics Opinions and Professional Responsibility Deskbook* 3rd ed. (2004).

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