

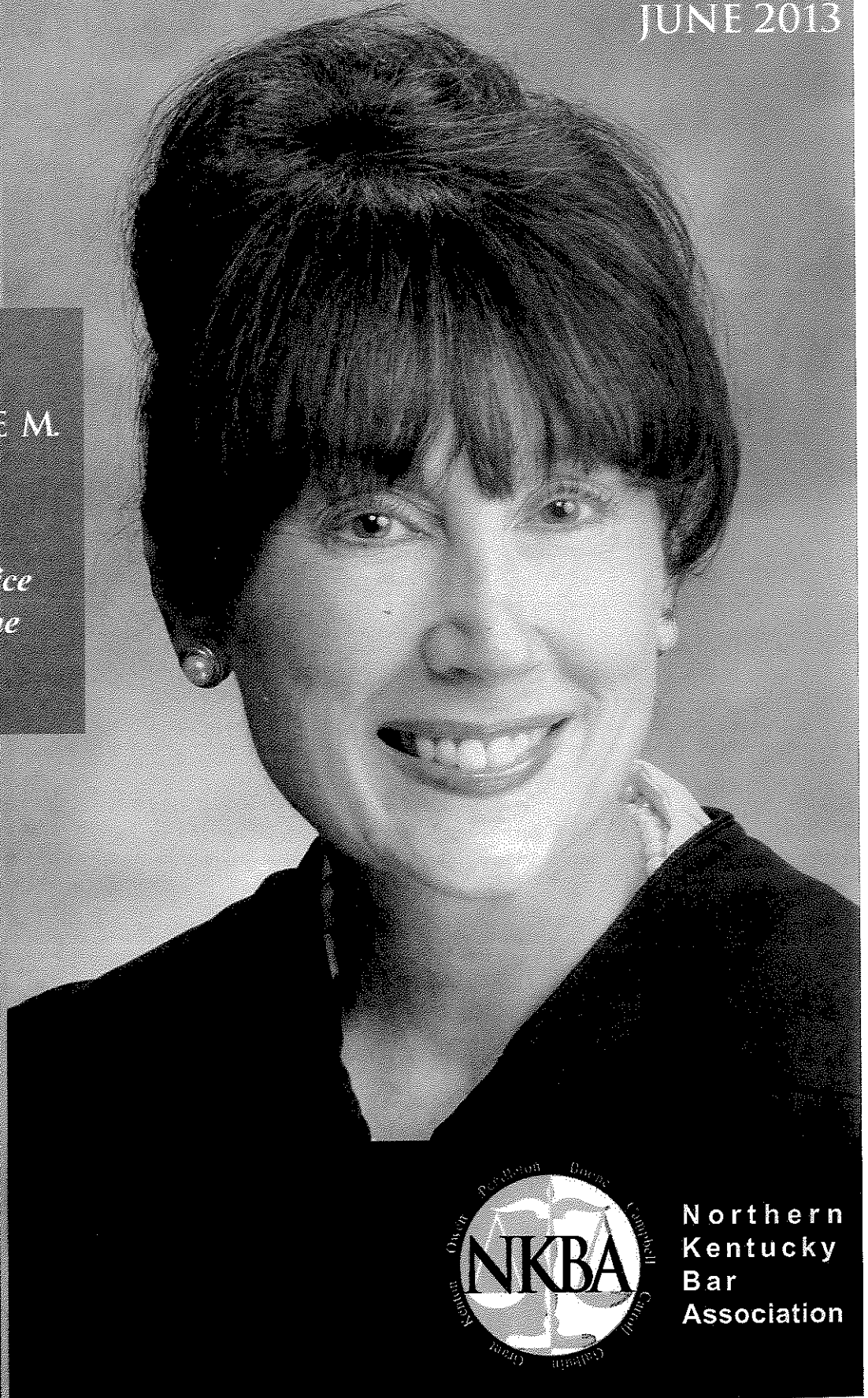
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JUNE 2013

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MICHELLE M.
KELLER

*Making history as
the third female Justice
sitting on the Supreme
Court of Kentucky.*



Northern
Kentucky
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SERVICEMEMBERS CIVIL RELIEF ACT RESOURCES

By Tom Heard¹

With 1,430,000 servicemembers on active duty, many Kentucky attorneys will be involved in a legal action in which a soldier is a party. The Servicemembers Civil Relief Act (SCRA) is intended to provide for the temporary suspension of any federal or state judicial or administrative proceeding that may adversely affect the civil rights of soldiers during their military service. The most recent version of the SCRA was signed into law December 19, 2003, and not only protects those on active duty, it also affords protection for Reservists and members of the states' National Guards upon activation.

Below is a list of several major issues included in the SCRA and some additional resources for further research.

Help with Civil Actions

If the defendant is in military service, the court cannot enter judgment until the court appoints legal representation. The court shall grant a minimum 90-day stay if the court finds that there is a defense and the defendant needs to be present. Any additional stay is discretionary. The court must find that the servicemember's ability to participate is "materially affected" by reason of his or her active duty service. Once this finding is made, the servicemember is entitled to a stay until the material effect is removed.

Help with Statutes of Limitation

No period of military service may be used in computing time for statutes of limitations including the redemption of real property.

Help with Interest on Debt

Any debt incurred prior to military service should incur no more than 6% interest during the period of military service and one additional year for mortgages and trust deeds.

Help with a Residential Lease

An active duty servicemember or dependent may not be evicted from a residence for which the monthly rent does not exceed \$2,932.31, except by court order. A court must on a motion made by a servicemember, stay the proceedings for 90 days, or adjust the obligation under the lease to preserve the interests of all parties.

Help with Health Insurance

Servicemembers are entitled to have their health insurance policies fully reinstated after they return from a period of active duty if they apply within 120 days of the end of their military service. The reinstatement is immediate and without exclusions for conditions that arose before or during the period of military service as long as the condition would not have entailed an exclusion or waiting period had the servicemember remained covered for that period.

Help with Life Insurance

The Act guarantees that a servicemember's life insurance policy will not lapse due to non-payment of premiums during active service and for two years thereafter. The Act does not forgive the premiums, which must be repaid within 2 years. If the servicemember dies on active duty,

the government pays the premiums. That amount is deducted from the final settlement paid to the beneficiaries under the policy.

Resources at NKU/Chase Library:

Odom, John S.,
[A Judge's Benchbook for the Servicemembers Civil Relief Act](#)
(ABA 2011)
Call Number: KF7680.O326 2011

[The American Veterans and Servicemembers Survival guide: How to cut through the Bureaucracy and get what you need](#)
(Veterans for America 2007)
Call Number: UB357.A44

[The Judge Advocate General's School Guide to the Servicemembers Civil Relief Act.](#)
(ABA 2007)
Call Number: KF7680.A32J83 2007

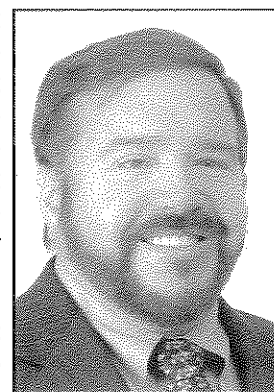
Resources on the web:

Kentucky Attorney General's Office
[Judge's Guide to the Servicemembers Civil Relief Act.](#)
http://ag.ky.gov/civil/consumerprotection/military/Documents/judges_guide.pdf

U.S. Army Judge Advocate General
The Army Judge Advocate General's Corps public preventive legal information site.
<https://www.jagcnet.army.mil/legal>

U.S. Department of Justice
DOJ cases, investigations, and settlements Involving Servicemembers and Veterans
www.servicemember.gov

¹ Tom Heard
Associate Director for Information Technology
NKU Chase College of Law Library



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