



Access

... to legal resources and information about the legal system that affects your life



A quarterly newsletter from The Missouri Bar
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Probate — Its Bark is Worse Than Its Bite

One word has the capacity to spread fear and dread into any human heart. *Probate*. It's a simple word. Only two syllables long, but most people equate it with delay, government interference and expense. That's not necessarily the case, says Kathleen Forsyth, chair of The Missouri Bar Probate and Trust Law Committee. Ms. Forsyth has served as a Probate Commissioner for the Jackson County Circuit Court. "The Missouri Probate Code has been modified in recent years to reduce the amount of court involvement in estate administration (and consequently the cost and delay associated with the handling of estates). For example, most estates are now administered 'independently,' which means that the attorney for the estate need not seek court orders to perform routine tasks like selling the deceased person's assets and making periodic distributions to estate beneficiaries," she said.

Need to know more about probate? Lawyers who have years of experience helping clients deal with the financial and legal aftermaths of a relative's death have written the *Probate Law Resource Guide*, which is provided free by The Missouri Bar.* The 38-page Guide provides an overview of the state's probate system and covers topics such as will and living trusts.

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*To receive free copies of *The Missouri Bar's Probate Law Resource Guide*, call 573-635-4128, or e-mail brochures@mobar.org.

Is Your Lawyer in Good Standing With The Missouri Bar?

All clients expect the same thing from their lawyers – to be treated respectfully, to be represented professionally and to receive straightforward legal advice that can help them with their problems. But is the lawyer you are thinking of using in good standing with The Missouri Bar? "Good standing" is sort of a minimum expectation that clients should have for their lawyers. It means that the lawyer is licensed to practice law, is current in her dues payment to the state bar, and has been taking the minimum number of continuing legal education hours required of all lawyers.

How can you know for sure that your lawyer is meeting these minimums? Just go to The Missouri Bar's website, www.mobar.org. Then click on LawyerSearch — you'll then see a page that lists the *Official Directory of Missouri Lawyers*. All lawyers in good standing can be found by using the search engine on this page. If you don't have access to the Internet, you can always call The Missouri Bar (573-635-4128) to find out.

Out of the Courtroom and into the Classroom – Missouri lawyers are required to take continuing legal education programs, such as the one pictured below, throughout their careers.



A lawyer's education never ends – and never will — because our laws are constantly changing. Each year, the Missouri General Assembly passes new laws and changes old ones. Cities update ordinances. The U.S. Congress adds its share of new laws. And scores of government agencies produce new regulations that affect all aspects of our lives. In addition, appellate judges are continually adding new meaning to laws as they interpret them. The Missouri Bar is the state's largest provider of continuing legal education courses for lawyers. At these courses, practicing attorneys learn about changes in the law and how to advise their clients, based on the changing legal environment.

High-Profile, Super Big Cases in the News



What's an important trial? Is it the one that all the TV commentators are focusing on? Not necessarily. The super case of the month is the trial of Scott Peterson, accused of killing his pregnant wife Laci, whose body was washed ashore with that of her unborn child.

Unless you turn off your TV set and don't open a newspaper, you are bound to see, hear and read about this case. You can learn a lot about the law and legal system by following some of the news reports about it. But you can also be misled into thinking it's an important case.

"Sometimes the cases that receive the most coverage by media in the state don't have the greatest impact on the lives of you and me" said Jean Maneke, a Kansas City attorney who is also a member of The Missouri Press-Bar Commission. "We all read about the sensational murders or the large jury awards in personal injury cases. We may not, however, take time to read about tax appeals that impact how the state department of revenue collects taxes paid by ordinary citizens. We may not read about how voter registration litigation is handled. We may be bored by stories about school district desegregation. Yet each of those issues probably affects you and me to a much greater extent in our daily lives than today's sensational murder. In truth, the media has to work harder to make us understand the importance of these cases to us. But we generally don't find them on the front page of newspapers or on tonight's 10

p.m. news. They are more likely buried on the inside pages of the business or local section. But that doesn't mean they are any less important to you and me in our everyday lives."

Your Missouri Courts

Some Missouri Courts Dispense Therapy From the Bench

First, there were drug courts. Addicts were given a chance to get the help they need living a drug-free life. If they succeeded in building a new life, they didn't serve time in jail. If they couldn't pull themselves away from drugs, they wound up with jail time. Drug courts were such a success that the idea spread, and now mental health courts are sprouting up in Missouri. So far, mental health courts are operating in St.

Louis and in the following counties: St. Louis County, Jackson, Greene and Boone.

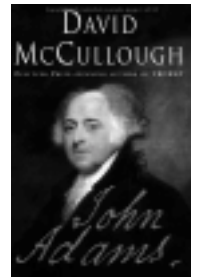
In a drug court, the judge doesn't actually do therapy. Judges coordinate a wide range of services that are made available to defendants. It's still up to the defendant to decide what's best: getting the therapy he needs or going to jail?

Mental health courts offer a humane alternative to filling jails with the mentally ill. A recent national study showed that about 7 percent of all police contacts in cities with 100,000 or more population, involve a person believed to have a mental illness.



Civics 101

Ever wish you had been paying attention back in high school in civics class? It's never too late to learn more about the history of our nation and our system of government. It can even be entertaining. Next time you're at the library or book store, you might consider picking up a copy of *John Adams* by David McCullough. Read this biography and you'll share in the excitement, the dangers and the ideas that were fermenting around July 4, 1776. You'll also learn about the courage and determination of one of our first presidents, John Adams.



Do you have a legal problem? Don't know who to call?

The Missouri Bar or your local bar association can help.

If you don't have a lawyer and think you have a legal problem, The Missouri Bar Lawyer Referral Service can help you find a local attorney. Just call The Missouri Bar Lawyer Referral Service at 573-636-3635. The Missouri Bar Lawyer Referral Service is one of four such referral services provided by bar associations in Missouri. Each Lawyer Referral Service operates in different parts of the state. The Missouri Bar serves all Missouri, except the St. Louis area, the Kansas City area and Springfield. If you live in St. Louis, call 314/621-6681. In Kansas City, call 816/221-9472. In Springfield, call 417/831-2783. Wherever you live in Missouri, there's a lawyer referral service to help. When you call The Missouri Bar, the attorney to whom you are referred will provide an initial consultation of up to 30 minutes with no fee for the attorney. However, there will be a \$25 administrative charge from The Missouri Bar that you must pay for the referral, whether or not the lawyer accepts the case.



Law in Your Life

Working With Your Lawyer

Q. I am embarrassed by some of the things I did when I learned my wife was going to leave me. Do I have to tell my lawyer everything?

A. Legally, you don't *have* to do anything. But there are a few good reasons for telling your lawyer the truth, the whole truth and nothing but the truth. First off, letting your lawyer know all the details will help him to assess your situation better. The last thing you need is for your wife's attorney to surprise you in court by sharing some of the embarrassing things you did or said. Your lawyer will be able to prepare some strategies for reducing the impact of your actions — but he must know the full story.

Secondly, even if your wife's attorney never mentions these things, your secrets are safe with your lawyer. Anything you tell your attorney can not be used against you. Additionally, everything you say to your attorney must be held confidential by him. The only exception is if a client mentions that he is planning to hurt someone. Lawyers must follow the Rules of Professional Conduct, created by the Supreme Court of Missouri. One of those rules is: "A lawyer shall not reveal information relating to representation of a client unless a client consents..."

Law in the Workplace

Q. I work for a small business. There's just me, (I'm a part-time accountant/clerk), the owner and a salesperson. I need my job, but the owner is making me uncomfortable with his constant compliments about my clothing, my hair, my voice, my eyes. You name it and he gives me compliments about it. Can I sue him for sexual harassment?

A. Since there are less than six (6) employees at your place of employment, you will be unable to state a claim for sexual harassment under state or federal law. Missouri requires that there be at least six (6) employees for an employer to be subject to its law precluding sexual harassment. Only employers with at least fifteen (15) employees must comply with the federal law precluding sexual harassment.

Beyond not having enough employees to be able to state a claim against your employer for sexual harassment, I'd like to point out that compliments about clothing, hair, voice and eyes *alone* do not rise to the level of sexual harassment. For an employee to state a claim for sexual harassment, it is necessary that the harassing behavior be objectively and subjectively offensive such that the behavior creates an abusive working environment. Mere compliments, without any touching or sexual connotations are not sufficient to be deemed sexual harassment.

Answer by Cathy Martin, Chair of The Missouri Bar Labor & Employment Law Committee

Law and Your Money

Q. I've received some advertisements from companies that offer to sell credit card protection policies. Is it a good idea to buy this extra protection, in case someone steals my credit card or gets hold of my credit card number via the Internet?

A. If you like throwing your money away, go ahead and buy the extra insurance. But it is completely unnecessary. Federal laws offer solid protection to anyone who loses a credit card or has it stolen. Under the law, you can be held liable for a maximum of \$50 for unauthorized charges, as long as you notify your credit card company within a reasonable time. And, if you notify your card company before any unauthorized charges have been made, you won't owe them a penny.

Make sure you know what credit cards you have and what your account numbers are. The easiest way to keep track of this is to make a copy of everything you keep in your wallet or purse, then put your copies somewhere you won't lose them. Do yourself a favor and take the time to make those copies today.

Law and Your Family

Q. I don't have to worry about having so much money that when I die my survivors will have to pay taxes on my estate. The truth is I am more than several thousand dollars in debt. Is there any reason why a person in my financial situation should bother with the expense of having a lawyer draw up a will?

A. Money is only one reason that people need wills. Even if you are in debt, a will is a good idea. If you have children who are minors, you can use a will to name someone to raise them if you and your spouse should die. If you don't have a will, a judge will have to make that difficult decision. What about pets? That's another thing to think about. Do you have something that's of sentimental value? Old photos, a quilt someone made for you? Wills aren't only for people who have considerable means — they're for everyone who wants (or needs) to control what happens to their things or their family after they are gone.

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The *Justice First* logo expresses the core of The Missouri Bar's mission. The Missouri

Bar was created by the Supreme Court of Missouri to improve the state's laws and legal system and to strengthen the ability of lawyers to provide professional, knowledgeable services. The Missouri Bar is the only statewide organization to which all practicing Missouri lawyers must belong.

For questions or comments about this newsletter, contact Jack Wax, Media Relations Director, The Missouri Bar, 573/638-2251 or e-mail: jack.wax@mobar.org.

Clothes For Court

Some folks have old clothes,
And some have new;
But whatever you have
Should cover you!

In court your clothes
Will be a hit,
So long as they're clean
And properly fit.

When appearing in court,
Please don't neglect
To be clean and neat...
It shows respect!

Poem presented by Judge Gene Hamilton, Columbia, Missouri.