



LEGAL BEAGLE



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President's Message

Happy Holidays to all! Hopefully, you will find valuable information in this issue of the Beagle. If you have news of interest to the Bar, such as office moves, new hires, deaths, etc., you may send notices and announcement to me or directly to Bill Piedimonte via e-mail or telephone.

Randall Cain
President

Reminder of Coming Events

The Kansas City Bar Association's annual Christmas Party is this **Thursday, December 12th** at 4:30 at the KCMBA offices, 2 Pershing Square, St. 100, 2300 Main, Kansas City, Mo.

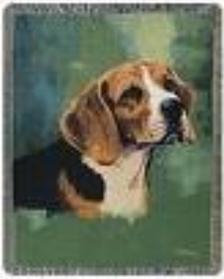
Our next meeting is a luncheon at Bass Pro Shop on Thursday, **January 23, 2014**. Our speaker is John Brady, current President of the Missouri Bar. We anticipate receiving an hour of CLE credit for this luncheon.

February 28, 2014 - Luncheon at Monetti's

March 28, 2014 - Luncheon at Carrabas

April 18, 2014 - CLE at Drumm Farm

May 2, 2014 - Annual Steak Fry



Register Online

You can now register for an event online at the bar website, www.ejcba.com,

As you utilize this site, please give us feedback about the site and its effectiveness. We appreciate your input to help make our site informative and functional.

If you would like to receive the Legal Beagle by e-mail please forward your e-mail address to:

william.d.piedimonte@piedimontelaw.com

Courthouse Happenings

There has been a change of policy in Kansas City Municipal Court regarding continuances. They may be obtained online, but now the application must be made at least 48 hours in advance.

Several judicial appointments have been made recently:

- Probate Commissioner Margene Burnett has been appointed as Judge of Division 7
- Associate Judge Kenneth R. Garrett III has been named Judge of Division 2
- Assistant Prosecuting attorney Jeff Keal has been named Judge of Division 28.

The EJCBA welcomes all of these new judges, and wishes them well during their tenure on the bench.

The investiture of Jeff Keal as Judge of Division 28 will be held Friday, December 20, at 1:00 at the historic Truman Courthouse on the Independence square.

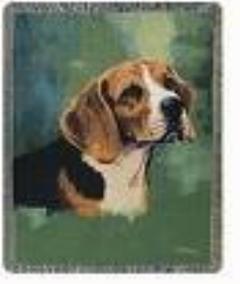
After 42 years of outstanding service to the City of Blue Springs and to EJCBA members, Bob Welch's tenure as Prosecuting Attorney will end on January 1. The new Prosecuting Attorney is former Division 28 Judge Vernon Scoville. The EJCBA thanks Bob (and assistants Andrea Welch and Eric Butkovich) for their long and dedicated service, and extends best wishes to former Judge Scoville as he begins a new phase of his career.

Financial Report

Our balance at the present time is \$4,200.00. This is unusually low, but is caused by the fact that we won't start getting renewal fees until the end of the year.

Membership Renewal

As many of you know, we have decided to change our membership term to a calendar year basis. Thus, renewals are now due. Applications are available on the EJCBA website. Membership fees may be paid online or mailed to Executive Secretary Paige Waits.



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News You Can Use

The Western District of Missouri Court of Appeals has issued two opinions of tremendous importance in the area of Under-Insured Motor Vehicles (UIM). It's not uncommon to have a client who has been seriously injured by someone with inadequate insurance coverage. Such an eventuality can be protected against by the purchase of Under-Insured Motorist coverage (which is optional coverage, unlike Uninsured Motorist coverage, which is mandatory). However, until now many Missouri consumers and their attorneys have learned to their dismay that the coverage they thought had been paid for as listed in the Declarations page was illusory. The policy language often contained set-offs, limiting Definitions, and Limits of Liability Language that diminished the amount of coverage shown on the Declarations Page, or rendered the coverage completely unavailable.

The Western District has now ended many of these practices. In *Miller v. Ho Kun Yun*, 400 S.W.3d 779, and *Fanning v. Progressive Northwestern Insurance Company*, WD #75943, the court has held that such limitations will not be enforced without some type of notice in the Declarations Page itself. The court noted that consumers often do not even receive their policies until a month or so after purchase, so the listing of coverage in the Declarations Page creates an ambiguity when compared with the limitations contained within the policy...an ambiguity which must be construed against the insurer.

The court also held that UIM coverage is "excess" and not "gap" coverage, as purportedly defined in some policies. In other words, if the tort-feasor's coverage was \$50,000.00, and the UIM coverage was \$100,000.00, some carriers have policy language that results in only \$50,000.00 of UIM coverage being available (to fill the "gap"). Or, if the tort-feasor's coverage was \$50,000.00 and the UIM coverage was \$50,000.00, there was no "gap" so no coverage was afforded at all.

The Western District has clearly held that such a construction will not be followed. The coverage limits as shown in the Declarations Page will be available to the insured if warranted by the injuries, regardless of limitations and off-sets in the policy language. *Miller* was not appealed, and the Missouri Supreme Court denied transfer of *Fanning* on November 26, 2013. Carriers will now undoubtedly start amending their Declarations Page, and practitioners will need to be on the lookout for any such amendments.

Finally, EJCBA members are reminded the statute of limitations for insurance claims is 10 years. So, if you have turned down UIM cases in the recent past because it seemed no coverage was provided, you might want to take another look at that file and possibly reach out to those clients.