

# KPA

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## The Kentucky Press

PUBLISHED AS A MEMBER SERVICE OF THE KENTUCKY PRESS ASSOCIATION AND KENTUCKY PRESS SERVICE

### Circuit court rules against Landmark in carrier case

By LISA CARNAHAN  
News Bureau Carnahan

The Franklin Circuit Court has ruled against Landmark Community Newspapers Inc. (LCNI) in the company's fight against a Kentucky Unemployment Commission decision that newspaper carriers and drivers are employees eligible for unemployment insurance benefits.

Judge William H. Graham made the ruling Sept. 3. Landmark filed its appeal with the Kentucky Court of Appeals on Sept. 24.

The lawsuit stems from a claim filed by two former newspaper carriers for The Kentucky Standard in Bardstown, Leonard Faulkner and Ronald Warner. After losing their jobs in 1996 with LCNI (The Standard's parent company), the two filed for unemployment insurance benefits and an auditor with the Division for Unemployment Insurance was

assigned to investigate their claims.

The Division determined that Faulkner and Warner, along with 21 other workers, were employees of the newspaper for purposes of unemployment insurance.

"Landmark Community Newspapers and The Kentucky Standard are appealing this ruling because we think it's an important issue for our industry and potentially for all Kentucky papers using carriers," said Kentucky Standard Publisher David Greer.

"This issue has gone before the courts in several other states with some courts ruling in favor of carriers but in several cases, according to information I've seen, the courts have ruled in favor of the newspapers and affirmed that carriers are indeed

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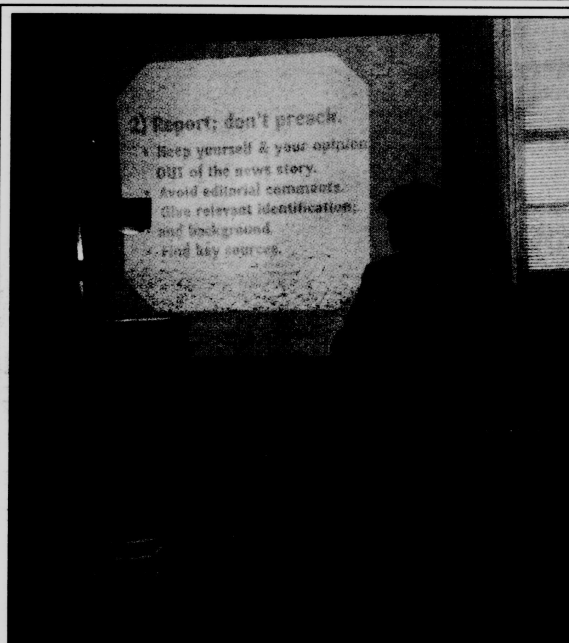
### Thornberry elected in District 14

David Thornberry, publisher of the Somerset Commonwealth-Journal, has been elected to represent District 14 on the Kentucky Press Association/Kentucky Press Service Board of Directors.

The special election was held to fill the vacancy created when Stuart Simpson resigned after accepting a teaching position at Somerset Technical College.

Thornberry will complete the unexpired term until January 2001 when a new three-year term on the board begins.

See THORNBERRY, page 14



Libby Fraas was one of the presenters at the recent high school journalism workshop held at Eastern Kentucky University. Over 400 students attended the seminar that was co-sponsored by the Kentucky High School Journalism Association. Fraas is a member of the journalism faculty at EKU and adviser of the university's student newspaper, The Eastern Progress.

### KSU case a setback for free speech in college publications

By LISA CARNAHAN  
KPA News Bureau

The First Amendment took a beating in a federal appeals court ruling that upheld the confiscation of yearbooks at Kentucky State University.

The decision has outraged free-speech advocates and sent a chill through college advisers who fear the decision has extended the court-given right of censorship of high school papers to college publications.

A three-judge panel of the 6th U.S. Circuit Court of Appeals in Cincinnati ruled 2-1 in favor of KSU and against two former students, Capri Coffer and Charles Kincaid.

The students took action after a lawsuit and a petition for an injunction that would have forced the university to distribute the yearbooks, filed by then-publications adviser Laura Cullen, were dismissed. Coffer was the editor of the year-

See KSU, page 16

# Kentucky people, papers in the news

## Bivona named circulation director at Ashland

Dwayne Bivona has been named circulation director at the Ashland Daily Independent.

Bivona, 30, comes to Ashland from Utica, N.Y., where he had been circulation manager of the Observer-Dispatch, a Gannett newspaper, since February 1998. He started his newspaper career while attending the Ithaca (N.Y.) College School of Communications. He joined the Ithaca Journal, also a Gannett paper, as a member of the customer service department and moved through the ranks to district manager, sales and marketing manager and, finally, operations manager. While operations manager at the Ithaca paper, Bivona did some work

for Gannett at the Cincinnati Enquirer, where he received his first exposure to Kentucky. He was involved in circulation in the Erlanger area.

## Brown wins award from Farm Bureau

Buddy Brown, editor of The Farmer's Pride in Columbia, has been selected as the 1999 winner of the Kentucky Farm Bureau Communications Award.

The award, consisting of a plaque, \$300 and an expense-paid trip to Washington, D.C. for the Kentucky Farm Bureau's annual Congressional Tour, has been presented annually since 1960. It goes to a print journalist whose work has generated a better public under-

standing of agriculture. The newspaper's publisher, Sharon Burton, is a past recipient.

Brown is a 1979 journalism graduate of Western Kentucky University and has worked at the Cumberland County News, the Clinton County News, and the Greensburg Record-Herald. He joined the staff of The Farmer's Pride in 1996.

## Carlisle County Weekly resumes publication under new ownership

The Carlisle County Weekly has resumed operation after being purchased by a Bardwell couple, Tiffany and Bill Wildharber. Former owner Kay Presson, who founded the newspaper in 1996, halted publication of the weekly newspaper in June. The Wildharbers, who own several businesses in Bardwell, resumed publication on Sept. 14.

According to the new owners, the newspaper will focus solely on Carlisle County schools and communities. Donna Redford, a former employee of the Carlisle County News, has been named editor of The Carlisle County Weekly.

## Schwartz joins staff at Flemingsburg Gazette

Carolyn Schwartz, a retired English teacher, has joined the staff of the Flemingsburg Gazette to work part time in the newsroom proofing and editing copy.

Schwartz is a native of Flemingsburg and a graduate of Morehead State University. She did graduate work at MSU and the University of Dayton. She retired

this past spring after teaching English for 35 years in Ripley, Ohio.

## Dean named ad rep at Spencer Magnet

Patricia Dean has joined the staff of the Spencer Magnet as an advertising representative.

Dean has spent the past 14 years in advertising, primarily in speciality advertising such as clothing sales. She moved to Spencer County from Louisville in April.

## Jessamine Journal hires Wheeler as reporter

David Wheeler is the newest addition to the Jessamine Journal's newsroom. A graduate of Asbury College, Wheeler earned his degree in media communications with an emphasis in radio and television after completing an internship in film study at Mel Gibson's Icon Production in Los Angeles.

While in college, he started writing a movie column for the campus weekly, The Collegian, the started reporting news and eventually became an editor.

## Pett to speak at editorial cartooning symposium

Joel Pett, editorial cartoonist for the Lexington Herald-Leader, is one of the speakers at the University of Iowa symposium "Drawing the Line: Political Cartooning Under Pressure."

The symposium, scheduled for Oct. 14-16, is being held in conjunction with the UI School of Journalism and Mass Communications' 75th anniversary celebration.

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## The Kentucky Press

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## Deaths

### Pat Hume

Hattie Carter "Pat" Hume, former business manager and society editor of the McCreary County Record, died of cancer Sept. 9 at her home in Florence. She was 93.

Mrs. Hume and her husband, the late Whitman Hume, ran the weekly newspaper from the early 1950s to 1975. Whitman Hume was also superintendent of the Stearns school system while he was editor of the paper.

Mrs. Hume also was clerk of the Selective Service board in Stearns while she worked at the newspaper.

She was born in Greene County, Tenn., and moved to Kentucky to work for Stearns Coal & Lumber Co. after graduating from a business school in

Knoxville. She met her husband in McCreary County, where he worked as a teacher and basketball coach.

Mrs. Hume did volunteer work for the American Cancer Society and the American Red Cross while living in McCreary County. She also was a member of the Stearns Woman's Club and Community Congregational Church.

She continued to be active after she and her husband retired to Florence in 1975. Mrs. Hume was an officer in the Florence Woman's Club and a volunteer at Booth Hospital in Florence.

Surviving are two daughters, Hannah Baird of Florence and Martha Hume of Nashville; a sister, a brother; and three grand-

See DEATHS, page 14

Service will offer ad placement in papers across the nation

# State associations join to form AdNet America

The Kentucky Press Association, together with 27 other newspaper associations across America, has officially joined AdNet America, an interstate newspaper advertising placement service.

Denise Lawson, executive director of the North Dakota Newspaper Association and chairwoman of the organizational board for AdNet America, announced the conclusion of the organizational board at the Newspaper Association Managers (NAM) meeting in Shell Beach, CA.

During that meeting, newspaper association managers committed to AdNet America, agreeing to adhere to specific placement standards and marketing and promotional efforts.

For several years, newspaper associations have placed interstate advertising for clients all across America utilizing the placement services of other associations; however, AdNet America will ensure adherence to a set of practices and standards that will ensure consistency and quality customer service.

Lawson said, "Newspaper associations are able to offer the best customer service and advertising placement because they offer the unique advantage of knowing their member newspapers, including the most accurate rates, deadlines and column sizes. Now, we will be able to extend those relationships nationwide by offering AdNet America to all of our clients."

The idea of AdNet America was first explored by an Ad Standards Committee, established by the NAM in 1996, and lead by Bill Monroe, executive director of the Iowa Newspaper Association.

The Committee developed the standards, and NAM then named the organizational board in 1998.

The AdNet America board of directors will include association managers and advertising managers.

State associations in addition to KPA that have committed to AdNet America at this time are the Alabama Press Association, Arizona Newspaper Association, Arkansas Press Association, Florida Newspaper Association, Georgia Press Association, Illinois Press

Association, Iowa Newspaper Association, Kansas Press Association, Louisiana Press Association, Maryland-Delaware-Washington D.C. (MDDC) Press Association, Minnesota Newspaper Association, Missouri Press Association, Montana Newspaper Association, New England Newspaper Association, New Jersey Press Association, New York Press Association, North Carolina Press Association, North Dakota Newspaper Association, Pennsylvania Newspaper Association, South

Carolina Press Association, South Dakota Newspaper Association, Tennessee Press Association, Texas Press Association, Utah Press Association, Virginia Press Association, Washington Newspaper Publishers Association, and the Wisconsin Newspaper Association.

AdNet America has the capabilities to place newspaper advertising anywhere in the United States. Advertising clients should contact the newspaper association closest to them for additional information.

## State press services closed in on half-billion dollars in 1998

\$447,396,064. That's a lot of money, not far from a half-billion dollars.

But that's the amount state press services handled for their member newspapers in 1998.

The totals were gathered by the Newspaper Association Managers (NAM) and released at the group's annual convention in August.

And that's only part of the story. Those press services with Statewide Classified Programs handled another \$21,566,729; \$1,742,058 in 2x2 display network advertising; and \$4,545,968 in public notice advertising.

In all, state press services billed \$475,250,819 in its advertising services last year.

"We (Kentucky) are just a drop in that bucket," said KPA/KPS Executive Director David T. Thompson. "We did \$3.4 million last year and might well hit \$4 million in 1999."

"We don't do a lot of national placement, concentrating on our own Kentucky newspapers and the Indiana Newspaper Advertising Network," he added.

The total is not all new business for newspapers, in fact only a small portion would be classified as "new business."

"But that's just one of our roles," he said.

"The other is to preserve advertising dollars earmarked for newspapers. What agencies and retailers are finding is that they'd much rather work with one contact to cover a large number of newspapers. That way they don't have to work individually with each newspaper."

"That's time- and cost-consuming. So they make one contact — such as with Gloria Davis for KPS or Karen Martin for INAN — and it makes their placement much easier. I know newspapers would rather have a half-billion in new business but the role that's equally important from our standpoint is to make sure newspapers don't lose a half-billion in advertising."

Thompson used JCPenney as an example. "JCPenney was working directly with newspapers, maybe 1500 newspapers across the U.S. That meant mailing individual ads and insertion orders to that many newspapers. Then they had to get 1,500 invoices and 1,500 tearsheets and write 1,500 checks."

In late 1997, JCPenney contracted with the California Newspaper Network to handle the placement. "That amounted to several million dollars. Sure, it wasn't several million in new business but it could have been several million dollars that newspapers would have lost had it not been for the state press services."

## \$4 million within reach for KPS, INAN in 1999

The calendar read September 29. But already October, 1999, was the highest single advertising month in Kentucky Press Service history.

Before the month even started, KPS and the Indiana Newspaper Advertising Network, a subsidiary operation of KPS, had \$620,000 scheduled for October.

"Octobers have typically been our highest advertising month," said KPA/KPS Executive Director David T. Thompson, "primarily because of the Abandoned Property lists that are run in most every county."

"But we're looking at \$700,000 and don't even have the list yet."

Of the highest 14 months in advertising dollars, six are Octobers.

The October, 1999, placement is buoyed by one large order that runs in Kentucky and Indiana.

The October total pushes

KPS/INAN over the \$3 million mark and with the Abandoned Property list, plus two months remaining, a \$4 million total is well within reach.

"Last November and December totalled more than \$600,000," said Thompson, "so with a comparable amount this year, our first \$4 million year is on the horizon."

"When Gloria (Davis, KPS Director of Sales) gave me the total for October, I told her to shoot for our first \$1 million month. I was joking but the way the staff works together, I wouldn't put it past them to find another \$300,000 before October ends."

The totals do not include the standard 15 percent commission paid to agencies when using national/commission rates.

"If you include the agency commission, then we're talking \$4 million last year and \$4.7 million for this year."

Month	Year	Total Placed
October	1999	\$620,000*
April	1998	\$497,151.54
October	1996	\$488,172.39
April	1999	\$435,246.63
October	1994	\$431,099.95
May	1998	\$411,161.08
March	1999	\$408,151.76
February	1998	\$384,326.62
October	1998	\$384,275.73
October	1991	\$359,340.09
March	1998	\$350,089.24
November	1998	\$334,900.85
December	1998	\$277,066.28
October	1992	\$267,513.61

\* October, 1999, total as of September 29

## Line between news and ads getting blurred

By MARTHA L. STONE

In newspapers, there's a clear half-point rule between editorial content and advertisements. The ad stack anchors the page, and the news hole sits on top of it. But online, it's much less clear where the ads end and the editorial begins. Consider:

• USA Today Online and HotWired have both ran advertisements on their sites for HP Color Printers in which their normally colorful news pages appeared monochrome until the user clicked on the ad. The explanation: "Without color, something's missing: Click here to see HotWired's (or USA Today's) true colors. This reminder of the impact of color brought to you by Hewlett-Packard color printers."

The campaign was met with jeers from online news editors, including Steve Yelvington on startribune.com in Minneapolis. "We ought to be able to expect ethical leadership from sites like Wired and USA Today," he says. "Instead, we're all let down. I don't mean to suggest that news Web sites shouldn't work with commercial Web sites. Obviously we should. But we can do it in a way that's clear and fair and above-board, where everybody wins, including the consumer."

The Wall Street Journal Interactive Edition declined the ad. "HP's ad campaign is very central to our concern about advertising impacting the way people get content from the Web," says Randy Kilgore, advertising director. "When sites allow advertisers to affect the way the content is viewed, then it can't help but leave a negative impression on the value of the content they are getting. It's an over-commercialization." Because so many sites are willing to allow advertising to masquerade as content, Kilgore and others are urging the news industry to change the way content is presented.

• The book sections of several news sites, including those at The New York Times on the Web, USA Today Online and Chicago Tribune Internet Edition, offer a link to barnesandnoble.com from each editorial book review. The news sites receive a cut of the profits from the traffic sent to Barnes & Noble's Web site. Such "contextual advertising" dilemmas were among the first salvoes fired in the advertising-editorial skirmish.

• Many sites, particularly search engines, engage in the selling of links and key words to eager mar-

See BLURRED, page 15

# Design experimentation doesn't mean rules go out the window

## Design is Everything

By Edward F. Henninger



As I was being introduced at a recent workshop, the host said: "...and while I don't want to steal any of Ed's thunder, it's important for you to know that--when it comes to design--there are no rules."

That was a difficult moment for me because I do not believe what he said. Not for an instant. Perhaps the strong belief in design rules is what sets me apart from other designers.

Yes, I do believe that design should involve some experimentation. Without that, we'd never grow. But I also believe that the risks of experimentation should be grounded upon our knowledge of what works and what doesn't.

I remember reading years ago: "Minds are like parachutes -- they only work when they are open." I agree. But I also recognize the fact that even sky-surfers wear those parachutes. Their risk comes to an end a few hundred feet above the ground because they know and appreciate the rules of gravity.

I want my clients to know and appreciate the rules of design.

When I meet someone who tells me "I really enjoy breaking the rules," my immediate reaction is to ask them to tell me what some of the rules are. Thus confronted, the dilettantes will usually retreat and the real designers will show their strength.

Some of the rules are obvious:

1. For the most part, we print in black ink on white paper, not the other way around.
2. Headlines go above stories, not below them.
3. Text type has to be large enough to be read comfortably.
4. Your nameplate goes near the top of page 1.
5. Photos should be captioned.
6. Type should run horizontally, not vertically.

Some rules aren't so obvious, but are necessary nonetheless:

1. Content drives design. Once you know the nature of the content, then you can decide how to design it. For example, you'd design a sports agate package differently than food page.

2. Less is more. The more bells and whistles geegaws and gimmicks you place on the page, the more clutter and the less professional the look. For example, a drop initial might work well at the beginning of a feature story -- but not if it's set bold italic, outlined and with a drop shadow.

3. Black and white are colors, too. Resist the temptation to use color just because it's available. No, that nameplate in yellow does not look better because it's in color. It looks worse. And the magenta headline on your feature page only demonstrates that you do not understand the principles of color. Many elegantly designed newspapers are done in black in white.

4. Structure is important. Pagination software allows us to set type as wide or as narrow as we wish -- and that's precisely why we must set and adhere to standard measures for our pages. A page with too many type widths becomes a hodgepodge for readers.

5. Negative space matters. Especially on open pages, how you treat space is as important as the structure of the page. Jazz musicians will tell you that the greats -- Charlie Parker, Miles Davis, Bill Evans -- often were great because of the notes they chose NOT to play. Good use of negative space helps raise you from layout to design.

6. Typography is the key. If you have the typography in your newspaper right, your readers will forgive a multitude of other sins. But run your text too small -- or in a typeface that is not easy to read -- and your readers will eventually give up the struggle of trying to read you.

You may have other rules on your list. Let me know. I'll be happy to share them in a future column.

*(Edward F. Henninger is an independent newspaper consultant and the director of OMNIA Consulting in Rock Hill, S.C. You can reach him at 803-327-3322, fax: 803-327-3323, e-mail: go2omnia@aol.com)*

## Permit must be obtained for certain types of sales

(Editor's note: Kentucky law requires retailers to obtain a permit from the local county clerk and to use that permit number in all ads and commercials concerning a going out of business, fire, liquidation, lost our lease sale.)

### 365.410 Definitions

As used in KRS 365.410 to 365.480 and 365.992:

(1) "Going out of business sale" means any sale, whether described by such name or by any other name such as, but not limited to, "closing out sale," "liquidation sale," "lost our lease sale," "forced to vacate sale," held in such a manner as to induce a belief that upon disposal of the stock of goods on hand, the business will cease and discontinue at the premises where the sale is conducted.

(2) "Sale" means a transfer of goods from the seller to the buyer for a price less than that for which the goods were originally offered to the public by the person conducting a sale hereunder.

(3) "Fire sale" means any sale held in such a manner as to induce a belief that the goods are being sold at a reduction in price due to damage by fire, smoke, water or otherwise.

(4) "Cost" means that price which the seller actually paid for goods.

(5) "Goods" means all goods, wares, merchandise and other personal property

(6) "Person" includes a person, firm, corporation, partnership, association or two (2) or more persons having a joint or common interest.

(7) "Removal sale" means any sale held in such a manner as to induce a belief that upon disposal of the stock of goods on hand, the business will cease and discontinue at the premises where the sale is conducted, and thereafter will be moved to and occupy another location.

### 365.415 License Requirement for Fire, Removal, and Certain Other Sales

No person shall advertise, represent or hold out to the public that any sale of goods is an insurance, bankruptcy, mortgage foreclosure, insolvent's, assignee's, executor's, administrator's, receiver's, trustee's, removal sale, going out of business sale or fire sale unless he first obtains a license to conduct the sale from the county clerk of the county in which he proposes to conduct the sale.

### 365.420 Application for license; bond

Any person proposing to conduct any sale governed by KRS 365.410 to 365.480 and 365.992 shall file an application in writing and under oath with the county clerk set-

See SALES, page 13

## Beginning this month, reach Dr. Tech with toll-free call

### Dr. Tech Hotline

Tim Jones



Would you like to use an 800 phone number to call me? In October, you can use 1-800-484-1181, then use the code: 7076.

This will call my answering machine, which I will check often during each day and return your call. Another way to reach me is email: [tjones9692@aol.com](mailto:tjones9692@aol.com) or fax at 606-624-9893.

A good tip for email or fax is to do a screen print of a window where there is a question or problem. You do this by holding down the Command and Shift keys and then hit the number 3. This creates a file "Picture 1", "Picture 2", etc. The file will be in your hard drive, not in any folder and not on the desktop. You can double-click the picture file and it will open with Simpletext. Print it and fax it or fax it from your computer. You can also insert it as an attachment to email. If you have something that is difficult to explain, this can be of great help to you and to me. This way I will see what you see.

Normally, if you have a Macintosh break down, you can connect its scanner to another computer, load the related software and you are up and running. When the Garrard County

### Hotline Numbers

606-872-2349  
606-623-3880  
606-624-3767  
1-800-484-1181  
code:7076  
email:  
[tjones9692@aol.com](mailto:tjones9692@aol.com)  
FAX:  
606-624-9893

News tried this a few days ago, the computer would not recognize the scanner. The Umax 1200 SCSI scanner had been moved to a Performa 6400.

By checking the UMAX Website we found that an update file is needed for the 6400 and 5400 Macintoshes. The update file is available on Apple's Website but in this case the CD that came with the UMAX scanner had the updater on it. After running the updater, the Performa recognized the scanner and both worked fine.

If you need this file you can find it at the UMAX Website: [ftp://ftp.umax.com/scanners/patches/apple\\_updater/macoupd.sea.hqx](ftp://ftp.umax.com/scanners/patches/apple_updater/macoupd.sea.hqx) or the Apple website: <http://asu.info.apple.com/swupdates.nsf/artnum/n10019>

Please call me with any questions.

## Try the indirect route in handling bad ideas

### Ad-libs<sup>©</sup>

By John Foust  
Raleigh, N.C.



think?"

She talked as she wrote, "Photo. Attorney." Then she asked, "In what setting?"

"In a courtroom, naturally," he said.

As soon as she heard his idea, she knew it was a clunker. But she kept her opinion to herself as she numbered the points on her list, "First, we'll need to contact the courthouse and get clearance to have a photograph taken." She continued to recite as she wrote, "Then we'll have to get permission from a judge to use the courtroom we select. And we'll need to find out when that courtroom will be empty for an extended period. Next, we'll need to arrange for a photographer and studio lighting. And then..."

"On second thought," the accountant interrupted, "let's try something else."

Human nature is a funny thing. Within minutes, the accountant changed his mind. The ad manager was sincere in her effort to help him save face. His idea was trite and unimaginative, but she didn't tell him so. She simply let him see that it would be difficult to produce. If she had sailed directly into the wind and attacked the idea itself, he would have dug in this heels to defend it.

Her legal pad played a key role. When the accountant mentioned his idea, she gave it credibility by writing it down. Then

See INDIRECT, page 12

In an idea-driven profession like advertising, clients are likely to come up with plenty of suggestions for ads. Of course, some of their ideas will be acceptable. But others will not. What's a salesperson to do?

It might be best to take an indirect route. Anyone who has taken the wheel of a sailboat knows that it is impossible to sail directly into the wind. You have to approach it at an angle.

The advertising manager of a large corporation recently told me how she was placed in the awkward position of "unselling" a bad idea. She explained how the head of their accounting department thought he was an advertising genius. You know the type. He was one of those people who sees advertising as the business world's toy department.

Legal pad in hand, she was prepared when he said, "I've got this fantastic idea for a new ad. It just popped into my mind while I was eating breakfast this morning."

"Okay," she nodded, "I'd like to take notes."

"Let's do an ad with a picture of our staff attorney. Whatcha

When January 21 gets here, you can still be celebrating the New Year – but only if you enter the 1999 KPA Fall Newspaper Contest.



Entry deadline is October 15.

Awards will be given out Friday, January 21, at the Year 2000 KPA Winter Convention and Trade Show, Marriott Resort, Lexington

## Video workshop can help your staff create better ads



At last...a program that is tailor-made for newspapers! *Basics of Layout and Copy* is getting rave reviews from publishers and ad managers coast-to-coast.

It's a workshop, not a lecture. Your staff will be involved from the start—working on layouts, getting ad ideas and writing more effective headlines.

Find out how to train your staff the quick and easy way. Write today for free brochure.

John Foust Advertising Seminars  
PO Box 10861, Raleigh, NC 27605, ☎ (919) 834-2056

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## With Open Records Law, public can keep tabs on agencies

*(Editor's note: Kentucky's Open Meetings Law became effective on June 21, 1974, and the state's Open Records Law became effective on July 15, 1976. Both laws underwent drastic changes in 1992 at the direction of the Kentucky Press Association. Assistant Attorney General James M. Ringo, who works in the area of the open records law, recently discussed the law and its importance with State Journal Staff Writer Susan Allen. Corey Bellamy, communications deputy director, sat in on the interview and offered comment.)*

The laws are intended to allow residents of the Commonwealth to have a free and open examination of public records and the meetings of government agencies. Public records are defined under the law as "all books, papers, maps, photographs, cards, tapes, discs, diskettes, recordings, software or other documentation regardless of physical form or characteristics, which are prepared, owned, used, in the possession of or retained by a public agency."

A public agency is defined as "every state or local government officer; every state or local government department, division, bureau, board, commission and authority; every state or local legislative board commission, committee and officer; every county and city governing body, council, school district board, special district board and municipal corporations; state or local government agencies created by statute or other legislative acts; agencies that receive at least 25 percent of their funds from state or local authority; agencies created and controlled by public agencies; and interagency bodies of two or more public agencies."

**Open meetings and open records issues have been in the news a lot recently. Explain the importance of the open records law governing the public's access to information.**

The importance of the Open Records Act allows the citizens, the public, or anyone to know how the government is doing its business and functioning as a public agency. The records are a way that the citizens can understand what their government is doing.

**Under the Open Records Law, what information is available for public inspection?**

First, the Open Records Law is not the same as the Freedom of Information Act, which pertains to both records and information. The Open Records Act pertains to the public records and not just requests for information, although the public is entitled to look at public records to find the information that they are seeking. The act also brings responsibility on the citizen to specifically identify the record that he or she is looking for so the agency may be able to identify it. There are certain exceptions to the Open Records Act. The legislature has said that an agency may withhold certain records that are preliminary in

nature and not complete. Records that have insufficient agency action on an issue or certain records that have private information, such as a person's Social Security number and other information in those records that are exempt from disclosure.

**If someone's Social Security number or other personal information is on a document, is there a provision that the public agency must remove just the portion of the secretive information and release the rest of the document?**

Yes. There is a specific statute that allows the agency to mask or redact the Social Security number, home address, or things that are more considered to be private to the individual and not necessarily information of how government is doing its business. The General Assembly has recognized that and there is a specific statute that allows the agency to redact the personal information and disclose the remainder of the public record to the public.

**What are some of the most common complaints regarding violations of the Open Records Law?**

One common situation that occurs is when an agency denies access to a record but fails to state specifically to the person under what exception they are withholding the record and how it applies to the specific record withheld.

**And that is considered a violation of the Open Records Law?**

Right. The law requires the agencies, if they do withhold a record, they must do it under a specific statutory exemption. Sometimes the information on a specific record may be withheld pursuant to a state statute or federal statute. There is an exemption for each of those and certain information, such as juvenile records and so forth, are required to be withheld from disclosure under specific acts.

**As far as the Open Records Act, are the documents in the circuit court clerk's offices exempt from the Open Records Act?**

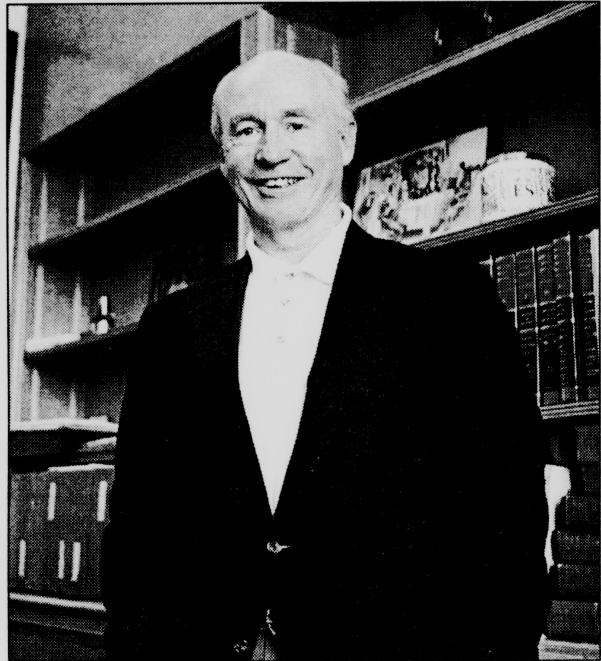
Yes. The Supreme Court of Kentucky held in a case that the Open Records Act does not apply to the court system's records. The court held that the court administers its own records. The requests for court records go through the court system, rather than through either the attorney general's office on appeal or through an appeal of the Open Records Act. The court records are under the purview of the courts rather than the Open Records Act.

**Even though the courts are funded with public money?**

Right.

**Why is there a difference?**

It's just that the courts have not said that they were not public records. They've just said that the court will administer its records and, therefore, requests to reveal those records go through the court system rather than through the Open Records Act.



Susan Riddell/State Journal

James Ringo has been with the Kentucky AG's office for nearly 30 years.

**It seems most of these kinds of violations involve public officials throughout the state and in state government. What can be done to ensure that those officials know and obey the Open Records Act?**

Generally, if there has been an appeal of a denial of a request for public records, and this office has held or the courts have held, that in one way inform the public agencies and officials in those agencies what the requirements of the Open Records Act are, we also have pamphlets that have been prepared by the office of the attorney general for citizens to know their rights under the law and the agencies to know what their obligations are under the Open Records Act. These pamphlets are available to the public and the publications will help them ensure that the Open Records Act is complied with.

**How can someone obtain those pamphlets?**

Just call or write the attorney general's office and ask for a copy of the Open Records-Open Meetings pamphlets. (The address for the attorney general's office is Capitol Building, Suite 118, Frankfort, KY 40601. The phone number is (502) 696-5300.)

**Is this information also on the attorney general's Web page?**

Yes. The attorney general's office has an Open Records site including specific sites not only for these pamphlets but for recent open records opinions and open meetings decisions since probably

about 1993. This information and these decisions can be accessed by the public through the Internet. (The AG's Web site is <http://www.law.state.ky.us>)

**What can citizens do if they feel they are being improperly denied access to public information?**

They can appeal the denial of records to the attorney general's office, which is more of an administrative expedited appeal. Or, they can go directly to the circuit court in the county in which the records are kept.

**What does someone need to do to prepare an open records appeal to the attorney general's office?**

If you are appealing to the attorney general, send a letter to the attorney general's office stating that you were denied access to public records, include your original request for records and a copy of the agency's response. That's so we can review what records they specifically requested and how the agency responded to that request. That would start an appeal process in the attorney general's office. If an appeal is made to circuit court, a court action would have to be filed in a circuit clerk's office.

**Is it best to make a request to inspect public records in writing?**

That's correct. That gives a paper trail, so to speak, to show exactly what

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# Records

Continued from page 6

was requested; the basis of the denial; and whether or not the public agency complied with the requirements of the Open Records Act in denying access to the record or partial denial of the request.

**How can citizens become more informed about what records are available to them under the law?**

BELLAMY: If they are looking for a specific document, they can write to the agency and say, "I am looking for a complaint filed against in January 1999 regarding (a public employee or an agency)," then they can get that information, but they need to be specific with details about exactly what they want.

**So, that's one of the keys to ensure that requests are made properly by a citizen? For the person to be very specific about what records they are asking for?**

Right. The Open Records Act is not a research-type act. The agency is not required to do research, but they are required to respond to a request which specifically identifies documents. It's important to be as specific as possible in identifying the records that are sought.

**Does the agency have to respond to the request in a certain amount of time?**

The agency is required to respond in writing within three business days after receipt of the request. And, they are required to respond in writing. If the records aren't readily available or they need more time to find the record, they are still required to respond in writing in three days. The response must say that it will take extra time to find the records and, state the approximate date that they expect to find the record. It must also tell the person when the records will be available.

**If someone wanted to get records from another county in the state and they send a written request to that agency, what is that agency's responsibility concerning the request?**

The agency is still required to respond to the request in writing. The citizen, if it is in another county, may request that they be sent copies of the records requested rather than having to go to the county to inspect or copy the records. In some instances, the agency may say we have 100 pages of documents, and ask if the person wants the copies sent to them. Or, the agency may ask if the citizen would rather inspect the records and ask whether or not the person wants to pay the cost for copies of records they haven't yet inspected. That's the person's option as far as cost.

**What can an agency charge someone for a copy of a public document?**

The statute provides the agency can just charge the actual cost of producing the document. We have held,

## James Ringo

- Resident of Lexington
- Joined AG's office in 1970
- Graduated from University of Kentucky College of Law same year
- Undergraduate degree in agricultural economics from UK

through the courts and our office, that 10 cents per page is a reasonable cost. But, if the actual costs are more than 10 cents per page, then a documenting agency may charge its actual cost to copy the records, not including the staff's time to make the copy.

**How many open records appeals does the attorney general's office usually receive?**

The number varies from month to month. We have no control over the volume. The appeals just come in sometimes in slews. We have as many as 300 a year. That's probably an average.

**Are the appeals more from citizens, or media agencies?**

It's mixed. It's from citizens; from attorneys; from the newspapers; and the news media. Appeals just come in from all different angles.

**How can abuses of the law be prevented?**

Generally, with education of the agencies and public officials of what their responsibilities are under the law. That's one of the reasons we publish the pamphlets and make them available to citizens and public officials which are also available on the Internet. It's an educational process.

**Most newly elected public officials take office in January of the particular year; has this office held seminars to educate those officials about the Open Records Act?**

We have seminars of that type from time to time. Generally, even when there are newly elected officials taking office, there are existing employees in the agency that generally have that information. Most public agencies have an official records custodian that is familiar with the Open Records Act. It is usually a continuing body of public employees that are aware of the laws and provide education to the public officials.

**The law requires that a request for public documents be made to the custodian of the records. If the person designated as custodian is available when a request is made, what is the responsibility of the public agency?**

Generally, the agencies have someone who can stand in the stead of the official custodian in case they were ill, or on vacation, or just not available. Their absence still doesn't change the requirement for the agency to timely respond within three business days to a request. Or, if there is going to be any delay in making the records readily available, the agency is to inform the

requester when the records will be available for inspection or copying.

**Under the law, public records are available for inspection during the normal business hours of the public agencies. If someone wanted to look at certain documents, does the three-day waiting period apply the same as if a written request was submitted?**

It's better for someone to make a written request rather than an oral one. The public agency generally publishes its rules and regulations as to how they handle Open Records requests. Public agencies are required to post those regulations in the public office where the public can see them. If someone came in and orally asked to inspect records, the agency still has three days to respond to the request.

**Would the same time requirements apply if someone had a written request and made an oral request?**

Yes. The written request would be the best record of what records they asked for if the matter should go on to the appeal to the attorney general's office or circuit court.

**How effective are the open records laws in allowing the public the information to know how their government is working?**

I think the open records laws have been effective in allowing the public access to government information. I think the laws have been very successful in Kentucky and will continue to do so.

**If a citizen makes an appeal to the attorney general's office, and it is determined that they were wrongly denied access to public documents, what happens then?**

We write a decision to that effect, that access was wrongly denied. The public agency has 30 days to appeal our decision to circuit court. If an agency does not appeal our decision, then the attorney general's decision will have the full force and effect of law.

**How serious an offense is it for a public agency to deny access to public records?**

Well, it depends. If citizens are denied access under a specific exception that the legislature has recognized, the public agency may withhold a record. That is proper under the law. But, if the agency fails to state and provide a proper basis for denying the record, then that is a violation of the act. The burden is upon the agency to explain why access was denied and to

establish why they are withholding the records and under what authority.

**What if any penalties result from a violation of the Open Records Act?**

The Open Records Act allows appeals to circuit court. The court may in its discretion, if they find a willful violation of the act, award the records requester or appealing party costs. An award can include reasonable attorney fees if the court finds that it is a willful violation of the act. But, that is the discretion of the particular court.

**Why is it important for public agencies to follow the laws concerning open meetings and open records, as far as actions that they may take as public officials?**

The public agencies, and actions of public officials, are funded with public funds. The citizens have a right to know if their tax dollars or public funds are being used in a proper manner. Through the use of the Open Meetings Act and requests from the citizens, the public has an opportunity to find out what their government officials are doing with public funds.

**If documents became official through some official actions that were taken and, those actions were later determined to be in violation of the open meetings or records law, what could be the consequences?**

It depends. That's a broad question. It depends on what particular action was taken. It would bring the violation to light. The citizen or someone could take whatever appropriate actions were necessary to correct the problem.

**Is it important for public agencies to follow the laws because their actions may be voided if they are found to be in violation?**

Could be. The reason that the General Assembly enacted the Open Records/Open Meetings Act was to make the actions of the public agencies and the officials accountable to the public. That is revealed through these particular acts of law.

**Is there anything you want to add regarding the Open Records Act?**

In summary, I would like to emphasize that if a citizen wants to review a public record of an agency, they should make the request and be as specific as to a particular document or documents that they are seeking. And, make the request in writing. The agency has three business days to respond if they are going to withhold all or part of the public records requested. If the citizen is dissatisfied with the agency's response, which must be in writing, they can appeal to the attorney general's office. This appeal is done by notifying the attorney general you are appealing the actions of the agency in denying the record. Enclose a copy of the original request and the agency's response. Send the information to the attorney general for a decision as to whether the agency's actions were responsible. Or, they can go directly to the circuit court with their appeal.

## LEGAL NEWS & VIEWS

# Newspapers receive unfavorable ruling in carriers' case

By **KIM GREENE**  
KPA General  
Counsel  
Dinsmore & Shohl



Over two years ago, this column brought you news of a lawsuit which could have implications for every Kentucky newspaper company which uses independent contractors to deliver newspapers. Since that time, the case has been dormant until September 3, 1999, when the Franklin Circuit Court issued its Opinion and Order.

The question presented by this case is: Are newspaper carriers - traditionally independent contractors throughout the industry - eligible to receive unemployment insurance benefits? Two former carriers for the Kentucky Standard, owned and operated by Landmark Community

Newspapers of Kentucky, Inc. ('Landmark'), filed claims for unemployment insurance benefits after the termination of their contracts. They did this despite the fact that they had signed contracts with the Kentucky Standard acknowledging and accepting their status as independent contractors rather than employees.

Since, under Kentucky law, only employees are eligible to receive unemployment insurance benefits, these independent contractors should be ineligible and their claims rejected. However, that was not view of the Kentucky Unemployment Insurance Commission (the 'Commission'), which determined that these independent contractors were really employees and, as a result, Landmark must make contributions for unemployment insurance not only for its regular employees, but also for contract

carriers.

Landmark appealed the Commission's adverse ruling to the Franklin Circuit Court. Until that court's order on September 3, the Kentucky courts had never ruled upon this particular issue. Unfortunately, the Franklin Circuit Court's decision merely rubber-stamped the decision of the Commission.

At least in part because of the concern that this adverse ruling would be used by the Commission to demand unemployment insurance contributions from all Kentucky newspaper companies that use carriers, Landmark decided to appeal to the Kentucky Court of Appeals. The Commission has given signals throughout these proceedings that it intends to apply its decision that newspaper carriers are employees

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(assuming it is ultimately upheld) as broadly as possible. Any KPA member which uses independent contractor carriers should be very concerned, therefore, about the progress of this case. Landmark filed its appeal on Sept. 24.

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### Commentary

## Court ruling in KSU case damages First Amendment

By **ELIZABETH K. HANSEN**

*"In news we prayed would never come and which I fear could have far greater implications than most of us have envisioned for the college student media, the court affirmed the district court's decision in upholding the censorship."*

- Mike Hiestand,  
staff attorney,  
Student Press Law Center

The news hit college journalists and advisers in Kentucky and elsewhere like a physical blow. On Sept. 8, the Sixth Circuit Court of Appeals in Cincinnati upheld the censorship of the Kentucky State University yearbook. The Thorobred. The school's administration confiscated the yearbook and removed its adviser in November 1994.

The decision in Kincaid v. Gibson shocked students, advisers and journalism professors because it runs counter to more than 30 years of legal precedent establishing that college media are protected by the First Amendment. Instead, a three-judge panel of the Sixth Circuit upheld in a 2-1 decision the application to college media of a 1988 U.S. Supreme Court decision allowing censorship of a high school newspaper.

Attorneys for Kentucky State University students Charles Kincaid and Capri Coffer filed a petition Sept. 22 for a rehearing before the full Sixth Circuit Court of Appeals. More than 30 journalism schools, professional education groups, news media organizations

and civil liberties advocates have filed a friend of the court brief that urges reconsideration of an "unprecedented...unjustified and extremely dangerous" ruling. A decision on the rehearing is expected in about six weeks.

The appeals court's application of Hazelwood v. Kuhlmeier to college media immediately affects student journalists in Kentucky, Tennessee, Ohio and Michigan. It leaves the administrations of public colleges and universities in those states free to censor any student publication that the administration has not specifically declared to be a public forum as long as the restrictions are "reasonable." Any college newspaper, yearbook, radio station, television station or other expressive activity that operates on campus, uses university funds and is supervised by a faculty or staff member could be affected by the ruling.

The appeals court upheld the federal district court's finding that The Thorobred was not a public forum because KSU had not intended to relinquish editorial control of the yearbook to students. Because The Thorobred was not a public forum, the university was entitled to regulate the contents of the yearbook in any reasonable manner, the court ruled.

KSU officials said they confiscated the yearbooks for "quality" reasons. Specifically, they objected to the yearbook's purple cover, which did not use the university colors of gold and green; the book's theme and title "Destination Unknown," which they considered

inappropriate; the inclusion of pictures of current events and public figures unrelated to KSU such as Ross Perot, Bill Clinton, and the Pope; a lack of pictures of school figures and events; and the lack of captions on many photos.

The court found these to be reasonable reasons for censoring the yearbook. "[C]onfiscation of the 1992-94 Thorobred was reasonable in light of the yearbook's failure to accomplish its intended purpose. It is no doubt reasonable that KSU should seek to maintain its image to potential students, alumni and the general public. In light of the undisputedly poor quality of the yearbook, it is also reasonable that KSU might cut its losses by refusing to distribute a university publication that might tarnish, rather than enhance, that image," Judge Alan E. Norris wrote in his opinion for the court.

In applying Hazelwood to colleges and universities, the panel delivered an opinion many who work with college journalists have feared for a decade would come some day. The Supreme Court said in Hazelwood that courts have generally deferred to educators in determining the content of school-sponsored expressive activities and that only when censorship has not had a valid educational purpose have high school students' First Amendment rights been threatened.

The Court added in a footnote: "We need not now decide whether the same degree of deference is appropriate with respect to school-sponsored expressive activities at

the college and university level." If the Sixth Circuit does not reverse the three-judge panel, the Supreme Court will be asked to decide the issue.

In Hazelwood, the Supreme Court adopted a test for determining whether a student publication is entitled to full First Amendment protection of a public forum or the more limited protection of a non-public forum. If the school intentionally established the publication as a public forum either through policy or practice, then the school is limited in its control of the publication's content. However, if the school did not intentionally create a public forum, then the publication remains a nonpublic forum and the school may impose any reasonable non-viewpoint-based restriction on student speech.

The newspaper in question in Hazelwood was school-sponsored and produced as part of a journalism class under the supervision of a journalism teacher. The principal reviewed each issue of the Spectrum prior to publication. The Court found the newspaper was a nonpublic forum and held that "educators do not offend the First Amendment by exercising editorial control over the style and content of student speech in school-sponsored expressive activities so long as their actions are reasonably related to legitimate pedagogical concerns."

In reaching that decision, the Supreme Court said a school may in its capacity as publisher of a school newspaper or producer of a

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# Court

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school play disassociate itself ...from speech that is, for example, ungrammatical, poorly written, inadequately researched, biased or prejudiced, vulgar or profane, or unsuitable for immature audience."

The Thorobred differed from the Spectrum in that it was not produced in a class nor was it under the day-to-day control of the KSU Student Publications Board. Nonetheless, the Sixth Circuit panel noted that the Hazelwood guidelines for determining a public forum applied to The Thorobred and held that "an absence of hands-on control...does not alone evince an intent to create a public forum."

In the wake of Hazelwood, censorship of high school publications increased dramatically, according to the Student Press Law Center. Many fear college- and university-level expressive activities will now be subjected to more censorship.

While the KSU case focused on the censorship of the yearbook, the removal of the newspaper and yearbook adviser was also a factor, according to court documents. Beginning in the fall of 1993, Betty Gibson, then KSU's vice president for student affairs, repeatedly told publications adviser Laura Cullen she was unhappy with cartoons and letters to the editor critical of the KSU administration published in the student newspaper, The Thorobred News. Then in November 1994 Gibson ordered Cullen not to print a particular letter to the editor in the student newspaper.

As she had done before, Cullen refused to censor the content of the newspaper because it would violate the students' First Amendment rights. A few days later, on Nov. 28, 1994, the yearbooks were delivered to the campus, Gibson ordered them locked in a storage room and Cullen was transferred from her job as publications adviser to a secretarial position. Cullen appealed her transfer and was reinstated nearly a month later.

Cullen sued Gibson, KSU President Mary Smith and the KSU regents for violation of her First and Fourteenth amendment rights and sought an injunction to compel distribution of the yearbooks. The federal district court in Frankfort denied the injunction and dismissed Cullen's suit against KSU. Cullen resigned in July 1995.

Students Kincaid and Coffey then filed suit in federal district court against Gibson, KSU's president and regents in November 1995 challenging the yearbook confiscation and contending school officials had attempted to influence the content of the newspaper.

**Ironically, KSU's purported goal in confiscating the yearbooks was to maintain its public image, but the result has been just the opposite.**

**Elizabeth K. Hansen**

assistant professor, EKU Dept. of Mass Communications

Kincaid had contributed to the newspaper and had purchased the 1992-1994 Thorobred with part of his \$80 student activity fee. Coffey was an editor of the yearbook and a staff writer for the newspaper.

Among other things, the two students claimed Gibson's interference with the newspaper and her refusal to distribute the yearbook violated their First Amendment rights to free speech and expression and to free association. They also claimed the confiscation deprived them of property rights under the Fourteenth Amendment and breached a contractual duty the university had to provide students with a yearbook in return for the mandatory \$80 student activities fee. They also alleged the defendants' actions constituted an arbitrary exercise of governmental power in violation of the Kentucky Constitution.

Most of the claims were dismissed by the federal district court, with only the students' freedom of speech and breach of contract claims allowed to go forward. Then in November 1997 the district court granted summary judgment in favor of the university. The Sixth Circuit upheld the lower court's actions.

In the petition for a rehearing before the full court, D. Bruce Orwin of Somerset, the students' attorney, argues that the panel improperly extended Hazelwood from a high school to a university setting without legal or factual justification. The petition also argues the panel misapplied forum analysis and that the public forum doctrine is not applicable to student-controlled publications. It also argues that the yearbook is a limited public forum.

Both the district and appeals courts erred, the petition argues, in not placing the burden of proof on the university to justify the confiscation of the yearbooks. Finally, the petition argues the panel determined the yearbook was "of poor quality" without any evidence. Neither the trial judge nor the appellate judges ever saw the yearbook and relied only on Gibson's assertions. The students denied the yearbook was of poor quality and maintained it was simply in a different style than earlier yearbooks, according to the petition.

For the time being, the yearbooks remain locked away in a storage room at KSU. The university plans to destroy them eventually.

Kincaid v. Gibson is potentially

catastrophic for college and university students' First Amendment rights. Beyond the ruling that a college publication may be considered a nonpublic forum, particularly disturbing is the Sixth Circuit's finding that maintaining the university's image is a reasonable justification for censoring a student publication.

As Orwin argues in the petition for rehearing, if the university were concerned that the alleged poor quality of the yearbook would tarnish the school's image, it could have inserted a disclaimer that it was not an official KSU publication. According to the brief, "A student yearbook is just that; a publication to memorialize people and events for the students. It's not a recruiting brochure."

Ironically, KSU's purported goal in confiscating the yearbooks was to maintain its public image, but the result has been just the opposite. The censorship of The Thorobred and the removal of the adviser have brought the university much more widespread notoriety than the 2,000 copies of the yearbook would have had students been allowed to distribute them as planned.

Kincaid v. Gibson also sends a mixed message to college journalists and further erodes the First Amendment. How are young adults to learn to respect and reverse the protections offered by the First Amendment when federal courts tell students those rights don't apply to them?

The mixed message was apparent to students at Eastern Kentucky University. The day the Sixth Circuit's decision was announced media law students gathered for a review session for an exam. The topic: the First Amendment. The discussion

included Kincaid v. Gibson. The alarm students felt over the decision was genuine.

Under the guidelines laid down, many public university student newspapers in Kentucky would not be considered public fora and therefore would be vulnerable to censorship. Only those newspapers, yearbooks and other student media that specifically have been declared a public forum by the university appear to be outside the reach of administrative censorship under Kincaid v. Gibson.

Students can only hope that enlightened administrators will keep hands off student publications. Student newspapers and yearbooks should be public fora for student communication. The "public" in question are the students, a fact ignored by the Sixth Circuit panel.

Media professionals should join students and educators in calling for the decision to be overturned. Tomorrow's professional journalists will come from the ranks of today's college students. What lessons will future journalists learn if their training on their college newspaper or yearbook includes acceptance of administrative censorship to preserve the image of the university?

If Kincaid v. Gibson is not overturned, the results will be devastating for college media and perhaps for the media as a whole.

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Background information and updates on Kincaid v. Gibson as well as sample pages from The Thorobred and links to the Sixth Circuit's opinion are available on the Student Press Law Center website at <http://www.spic.org/newsflashes>.

*(Hansen is an associate professor in the Department of Mass Communications at Eastern Kentucky University where she has taught since 1987. She teaches Community Journalism, Media Law, Writing and Reporting News, Feature Writing, and Writing and Seeling Nonfiction. She has also taught at Iowa State University, the University of Southern Mississippi and the University of Kentucky.)*

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# Internet brings new ground to some old questions

## Pressing Issues

By Randy Hines & Jerry Hilliard

Police have often requested or demanded from the news media pictures that contain criminal activity. The reasoning, of course, is that the photographers or videographers may have captured some perpetrators in the act, thus helping law enforcement make an arrest.

News organizations in Kentucky and elsewhere have protested this practice for decades.

But the issue had a new twist this summer, when the New York State Police's own Web site carried 14 photographs from the Woodstock '99 mayhem. As you may recall, the somewhat peaceful 30th anniversary concert at a former Air Force base in upstate New York ended with fires and looting of several on-site vendors.

The posting included 10 photographs from the Associated Press, which immediately screamed foul for their unauthorized use.

Police asked concertgoers for additional photos or for help in identifying the people captured in the act. Authorities reasoned that this would assist them in making arrests of those who pried open pay telephones, vandalized automatic teller machines, and set fires to anything that would burn, including vendors' vehicles.

AP's protest added an additional dimension to other media objections in the past. Not only did police authorities want to use the journalistic photographs to aid in apprehending the suspects, they reproduced them.

"We have two concerns--violations of copyright and the journalistic separation from law enforcement," Sam Boyle, chief of the AP New York City bureau, said in a wire story.

All of the photos in question were finally removed Aug. 6, one week after their posting.

"The reason we took the pictures off was because they didn't provide any more leads," said Lt. Jamie Mills, a New York State Police spokeswoman. New photos-mostly taken by state employees-replaced the originals. An attorney for the state police maintained that it was lawful for those officials to post the photos on their Web site.

That opinion was not shared by Robert Penchina, an attorney for the AP.

"We view the fact that the photos have been taken down as a victory not only in protecting AP's copyright interests, but also in avoiding further erosion of the line between investigation and reporting done by journalists and the investigatory arm of the state," he said.

Louis D. Boccardi, president and CEO of the AP, who began his journalism career 40 years ago in his native New York state, called for a separation of police and journalism functions.

"If our photographers are to be seen as proxies for state police investigators, they will be placed in danger."

Another Internet tidbit we came across this summer was an article in Advertising Age that compared 1998 advertising revenue growth with 1997. The overall combined ad expansion total was 7.5 percent.

Newspapers averaged a 6.4 percent jump. Leading in the growth category by a long shot was the Net, with a 75 percent increase over the previous year.

But Shaun Higgins of Spokane, Wash., found different-more disturbing figures-regarding this new medium.

"Internet advertising rose 183 percent last year," he told members

"By the year 2020, 55 percent of all sales will be handled via the Internet."

Kevin McCourt  
director, NAA's Online Classifieds

of the Mid-Atlantic Newspaper Advertising Marketing Executives at their August conference in Raleigh, N.C.

And Kevin McCourt, director of online classifieds for the Newspaper Association of America, addressed the conferees on "The Internet Threat for Classifieds."

"By the year 2020, 55 percent of all sales will be handled via the Internet," he predicted. "Technology is changing the business of creating and publishing advertising."

McCourt pointed out the obvious advantages newspapers have experienced in having camera-ready ads produced. However, the World Wide Web "is another outcome, a new distribution source," he said.

Based on an NAA study, newspaper classifieds — cash cows for many papers — are still preferred by readers. These ads can develop a common bond with customers in a local market. "There's a more caring feeling between the newspaper and reader than between, for example, the customer and ebay.com," McCourt said.

It's important to remember that newspaper classifieds have had three centuries of success, McCourt added. "Seventy percent of adults used classifieds last year."

He said newspapers, which usually have a much better screening process than online ads, should have a good classified index to help readers. Internet companies will provide online advertising, however, if a paper does not, McCourt said.

"Consumers still trust us when they're looking for cars, houses and jobs," he concluded.

\*\*\*\*  
A publication we recently discovered, The Industry Standard, provides news and analysis about the growing Net economy. The weekly magazine can be found online at [www.thestandard.com](http://www.thestandard.com).

One recent issue noted that online banking grew by only two percent during the past year. It also pointed out how consumers can purchase anything on the Internet. For example, one online merchant will sell and deliver tropical fish, guaranteeing they will arrive in good health.

You've already read in Kentucky newspapers about postage stamps being available on the Net. This magazine provides stories and advertisements regarding other services. Just a few include buying non-prescription medicines and health/beauty products ([yourPharmacy.com](http://yourPharmacy.com)), donating to hunger relief ([hungersite.com](http://hungersite.com)), reaching the large Chinese-speaking market ([sina.com](http://sina.com)), and ordering one-hour home delivery of movie rentals along with munchies ([Kozmo.com](http://Kozmo.com)).

\*\*\*\*  
(Hines is chairman of the Mass Communications Department at the University of North Carolina at Pembroke. Hilliard is journalism sequence director at East Tennessee State University. You can contact them at [hinesr@nat.uncp.edu](mailto:hinesr@nat.uncp.edu). You also can reach them by mail at UNCP Box 1510, Pembroke NC 28372-1510, by phone at 910/521-6616, or by fax at 910/521-6238. They are available to consult with individual papers or state press associations.)

## Simple

Continued from page 10

Vargas started entertaining at age 5."

Sometimes we overwrite by using a dummy subject. For example: "There are plans for the city to build a water plant."

The word "There" is a dummy subject. It stands in the traditional place of the subject, directly in front of the predicate "are" But what does "There" mean?

Go ahead. I'm waiting.

See, you can't tell me what "There" means, and for a good reason: "There" means nothing. In fact, "are" means nothing. The whole clause takes up space, but it delivers no nutrition. The sentence should be, "The city plans to build a water plant." Or, if you think you need to make a slight distinction, "The city

has plans to build a water plant."

When you find yourself writing "There are...", or, "There is..." go ahead and write the full sentence, then study it. Somewhere after "There are..." you will find the real subject of the sentence. Rewrite once you know the real subject.

A deliberate double negative or a dummy subject can serve a legitimate purpose, usually to add emphasis. But most the uses I see stem from carelessness. The writer wrote the sentence that way, and he doesn't have the patience to simplify it.

There is a focal point to this column: Take care so unwanted junk doesn't creep into your sentences. If you missed the point, give up writing and try something else. Don't dismiss bowling.

**THE FINAL WORD:** "Staff" can be the correct word, but it doesn't mean "staff members."

Here's a sentence I often read: "The city staff recommended rejecting the project."

As a noun standing alone, "staff" refers to the entire collection of workers in an organization: "Rogers spoke to the staff about the new retirement plan." That's clear and precise.

But when you're writing about a specific chore, make clear the "staff" en masse is not doing it. This is more precise: "Members of the planning staff will study the proposal."

Keep in mind that readers try to visualize what you write. Readers cannot visualize "the staff" studying.

(Writing coach Jim Stasiowski welcomes your questions or comments. Write to 5812 Heron Drive, Baltimore, Md. 21227 or call 410-247-4600.)

## IT'S ALMOST 2000

and that means it's time to ask for your Year 2000 Rate and Data information.

Forms have been mailed to the publisher at all 173 Kentucky newspapers so please complete the information and return by

**OCTOBER 31, 1999**

# Ruling

Continued from page 8

In making its ruling, the Franklin Circuit Court examined the factors set out in Kentucky law for determining whether a particular worker is an independent contractor or not. Those factors include:

- a. the extent of control which, by the agreement, the employer may exercise over the details of the work;
- b. whether or not the one employed is engaged in a distinct occupation or business;
- c. the kind of occupation, with reference to whether, in the locality, the work is usually done under the direction of the employer or by a specialist without supervision;
- d. the skill required in the particular occupation;
- e. whether the employer or the worker supplies the instrumentalities, tools and the place of work for the person doing the work;
- f. the length of time for which the person is employed;
- g. the method of payment, whether by the time or by the job;
- h. whether or not the work is part of the regular business of the employer; and
- i. whether or not the parties believe they are creating the relationship of employer and employee.

The court found that the Commission had applied all of these factors to Landmark's contract and practices and had correctly determined that the carriers more appropriately fit into the employee category than the independent contractor category.

What the court did not do is take into account the prior Kentucky cases which say that control over the details of the work is the primary factor to make this determination. That is the 'bottom line issue.' If the newspaper exercises control over the details of performing the contract tasks, or has the right to exercise that control, then an employee/employer relationship exists.

That does not mean that there can be no control exercised whatsoever. Any contract for services would involve some directions concerning the task to be achieved. For example,

# Indirect

Continued from page 5

she recited each point as she developed the "to do" list. This created a logical, non-judgemental commentary — a technique which was more effective than if she had written in silence and then read the entire list. Without expressing her opinion, she provided a step-by-step glimpse of the problems presented by his idea.

Of course, this indirect

no one is going to hire a building contractor and let the contractor decide what renovations your home needs. You are going to specify the construction to be done. You are also likely going to give the contractor a deadline for completing the work and require that the work be performed in a professional manner with as little disruption as possible to the rest of your living space.

Likewise, when a newspaper contracts with an independent carrier for delivery services, the newspaper ought to be entitled to expect professional and timely delivery to the subscribers on the route. It would make no sense for the newspaper to leave it to the independent contractor carrier to decide when he would deliver Tuesday's newspaper and to whom.

We believe the evidence in this case is compelling that the Kentucky Standard did not have control over the details of newspaper delivery.

For example, the contract does not dictate the method of transportation a carrier must have; the carriers are not given training regarding how to perform the deliveries; carriers receive no instruction on how to bundle papers; carriers receive no performance evaluations; carriers are responsible to find a replacement for themselves if they are unable to perform the deliveries and can do so without consultation with the newspaper; and carriers are free to secure other contracts, even with rival newspapers, or to be employed by other businesses.

In addition, the Landmark contracts are terminable by either party on 30 days notice. Compensation is based solely upon results (per newspaper delivered) as opposed to an hourly basis or salary basis. Carriers' compensation is not decreased due to any tax withholding; instead, carriers are paid for their services through accounts payable like any other vendor, rather than through payroll as employees are paid. Carriers are not provided with employee benefits or otherwise treated as employees (e.g., included in staff meetings).

We will keep you advised as this case moves through the Court of Appeals. In the meantime, if you have any comments or questions don't hesitate to call your Association or Hotline attorneys.

approach doesn't promise smooth sailing in every situation. But it's worth a try — the next time one of your advertisers comes up with an unworkable idea. It just might help you lead them to a better solution.

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*(John Foust conducts advertising training for newspapers. His ad workshop video "Basics of Layout and Copy" is being used by newspapers from coast to coast. For information, call or write: John Foust, P.O. Box 10861, Raleigh, NC 27605, Phone 919-834-2056.)*

## New business publication helps build relationship with chamber, new revenue

Working cooperatively with the area Chamber of Commerce to provide a business-to-business marketing tool, "Impact" was designed to provide both the business community and general public a source of information focusing on business and community issues and to reduce the expense of the Chamber.

This tool is helping the Chamber promote local businesses to area residents as well as cultivate a more active business community.

The Chamber has seen a growth in membership, and the Tribune-Review has seen a stronger partnership with the Chamber because it is helping them reach their goals.

The magazine has also brought in great new accounts and revenue for the newspaper.

Contact: A. Mroz is advertising director at the Tribune-Review, Cabin Hill Drive, Greensburg, Pennsylvania, 15601.

(Reprinted from IDEAS Magazine.)



## A note of thanks

Dear Kentucky Press Association Officers, Directors and Members:

On behalf of the nearly 23,000 Kentuckians who took part in this year's Bluegrass State Games, I would like to extend a heartfelt thanks for your tremendous support of our efforts.

Our 15th year turned out to be the best ever. We continue to be amazed at the loyal following of amateur athletes who trek to Central Kentucky each year for the Summer Games despite the heat. We are also thankful for the nearly 3,000 athletes who have helped make the Winter Games, in only the second year of existence, as well attended as many other state's summer games.

Over the last three years, a growing list of corporate sponsors has allowed us to expand the program to meet the demands of even more amateur athletes. Through your efforts, The Kentucky Press Association is helping to build the Bluegrass State Games into one of the biggest state games programs in America.

We continue to be optimistic concerning the Games' future growth and advancement due, in large part, to your outstanding support. Thanks for everything you've done over the past year, and we look forward to working with you again in 2000.

Sincerely

*Eric C. Ward*

Eric C. Ward

Executive Director

**NNA Update****Community papers prepare for filing of latest postal rate case**

By **CHIP HUTCHESON**  
 Publisher, Princeton Times-Leader

The word on the street in Washington, DC is that the next postal rate case may be filed as soon as this month. Although it's too early to tell what impact this case will have on newspaper rates, you can be assured that NNA will be there to protect community newspapers.

In preparing for the upcoming case, NNA is currently in the process of doing a study to measure the volume of newspaper mail. Special thanks to the many state associations that contributed funds for this study.

If you are an NNA member, the results of this survey and in-depth analysis of the rate case will be made available when ready. If you are not an NNA member and use the postal service to deliver your newspaper, join NNA today to make sure that your voice is represented. Membership information is available from NNA's director of membership, Susan Nicolais (703.907.7909; susan@nna.org).

**"Say It in Print"**

It's not too late to participate in the "Say It in Print" campaign co-sponsored by NNA, the US Postal Service and the American Forest and Paper Association. This national campaign is designed to remind advertisers and readers that print is still the most effective way to reach readers. Copies of the free ads can be downloaded from NNA's website (www.nna.org). For further information, contact Jeremy Ratner at NNA (703.907.7928; jeremy@nna.org).

**Get A Member and Get a Prize**

The NNA Board of Directors has adopted a new membership campaign based on the member-get-a-member concept. NNA membership chair Ken Rhoades recently wrote to every NNA member to invite him or her to participate. Prizes will be given to current members who reach certain goals in getting new members.

The NNA member who sponsors the most new members over the coming year will receive an all-

expense paid trip to NNA's annual convention in Louisville, Kentucky. Bring the benefits of NNA membership to your peers and strengthen NNA's voice on behalf of all community newspapers. For further information, contact Susan Nicolais at 703.907.7909 (susan@nna.org).

**Keep Your Membership Records Up-To-Date**

NNA is in the process of updating its membership records. If you have received a copy of your current record, please review it and submit any corrections to NNA as soon as possible. If you have not yet received your profile, you may call NNA at any time to update your record. For assistance, please contact Joanne Ulmer at NNA (703.907.7929; julmer@nna.org.)

**NNA is the Partner of Community Newspapers**

NNA is the only national organization dedicated to serving community newspapers. As your NNA state chairman, please let me know how NNA can serve you better. You can reach me at 270-365-5588. I look forward to hearing from you.

**Sale****Continued from page 4**

ting out the following facts and information regarding the proposed sale:

(1) The name and address of the applicant for the license, who shall be the owner of the goods to be sold. If the applicant is a partnership, corporation, firm, or association, the name, position, and address of all partners or officers, the address of the principal office within the state, the date and place of incorporation or organization, and whether controlling interest in the firm or business was transferred within the twelve (12) months prior to the date of the filing of the application.

(2) The name and style in which the sale is to be conducted, and the address of the premises where the sale is to be conducted.

(3) The dates and period of time during which the sale is to be conducted.

(4) The name and address of the person who will be in charge and responsible for the conduct of the sale.

(5) The nature of the occupancy where the sale is to be held, whether by lease or otherwise, and the effective date of termination of the occupancy.

(6) A full explanation with regard to the condition or necessity which is the occasion for the sale, including a statement of the descriptive name of the sale and the reasons why the name is truthfully descriptive of the sale. If the application is for a license to conduct a removal sale, it shall also contain a statement setting forth the location of the premises to which the business is to be moved. If the application is for a license to conduct a fire sale, it shall contain a statement as to the time, location and cause of the damage.

(7) A full, detailed and complete inventory of the goods that are to be sold, which inventory shall:

(a) Itemize the goods to be sold and contain sufficient information concerning each item or class of items, to clearly identify them. That information shall include, but not be limited to, the quantity, make, brand name, model, and manufacturer's number, if applicable. The itemization shall be set out in forms prescribed by the Attorney General pursuant to administrative regulation. The Attorney General may design a particularized form to be used for businesses that because of their nature or the type of merchandise offered or sold are better suited to the use of a specialized form.

(b) List separately any goods which were purchased during a ninety (90) day period immediately

prior to the date of making application for the license.

(c) Show the cost of each item or class of items of goods and the total retail value of the inventory, together with the name and address of the seller or supplier of the items to the applicant, the date of the purchase, and the date of the delivery of each item to the applicant. The cost listed shall conform with the costs listed on the inventory used for the applicant's most recent federal income tax return adjusted for sales and purchases.

(8) Provide a good and sufficient bond, payable to the Commonwealth of Kentucky in the penal sum of one thousand dollars (\$1,000), with sureties approved by the court judge, conditioned on compliance with KRS 365.410 to 365.480 and 365.992 and, attached to the bond, a verified statement by the owner or his duly authorized agent:

(a) That the sale is for the purpose designated in the advertising of the sale;

(b) That the inventory contains no goods on consignment or not purchased in the usual course of business for resale, on bona fide orders without cancellation or return privileges;

(c) That no goods will be added to the inventory after the application is made or during the sale;

(d) That the applicant or any person with whom the applicant is or has been associated in the business has not conducted a going out of business sale at the same location within two (2) years prior to the date of filing of the application;

(e) That no means have been established by the applicant for continuation of the business at the same location upon termination of the sale in the case of a going out of business sale; and the business described in such going out of business sale is to be discontinued upon termination of the sale and is not to be continued by the same person, directly or indirectly, by partnership, corporation, or otherwise, under the same name or under a different name at the same location for which the inventory for the sale was filed;

(f) That no goods listed in the inventory have been the subject of a licensed sale conducted within one (1) year prior to the date of the application, unless they were damaged by fire, smoke, or water while in the possession of the applicant.

**365.447 Limitation on Acquisition of Permits for Going Out of Business Sales**

An individual, partnership, corporation, association, or other firm shall not acquire more than two (2) going out of business sale permits during a four (4) year period, excluding renewals awarded pursuant to KRS 365.445, unless the Attorney General determines

after investigation that there is a legitimate business purpose for awarding the applicant a subsequent permit. The Attorney General may charge the applicant the cost of the investigation. The Attorney General shall promulgate administrative regulations setting out the application to be used, the procedures to be followed, and the charges to be assessed the applicant to initiate and conduct the investigation. The procedures to be used shall include a process that meets due process requirements, including an administrative hearing conducted in accordance with KRS Chapter 13B.

**365.470 Additions to Stock During Sale Prohibited**

No person carrying on or conducting an insurance, bankruptcy, mortgage foreclosure, insolvent's, assignee's, executor's, administrator's, receiver's, trustee's, removal sale, going out of business sale, or fire sale under a license as provided in KRS 365.410 to 365.480 and 365.992 shall add, during the continuance of the sale any goods to the stock of goods included in his original application for the license or sell any such added goods. Every addition of goods to the inventory included in the original application and each sale of goods not so included in the application, shall constitute a separate offense under KRS 365.410 to 365.480 and 365.992, and shall void any license issued to conduct a sale under KRS 365.410 to 365.480 and 365.992.

**365.992 Penalties**

(1) Any person making a false statement in the application provided for in KRS 365.410 to 365.480 is guilty of perjury and shall be imprisoned for not more than five (5) years.

(2) Any person who advertises, represents or holds out to the public any sale of goods to be an insurance, bankruptcy, mortgage foreclosure, insolvent's, assignee's, executor's, administrator's, receiver's, trustee's, removal sale, going out of business sale, or fire sale without having first complied with the provisions of KRS 365.410 to 365.480, is guilty of a misdemeanor and shall be fined not more than \$500 or shall be imprisoned in the county jail for not more than six (6) months, or both.

(3) Any person who holds, conducts, or carries on any sale of goods contrary to the provisions of KRS 365.410 to 365.480, or who violates any of the provisions of KRS 365.410 to 365.480 is guilty of a misdemeanor, and shall be fined not more than \$500 or shall be imprisoned in the county jail for not more than six (6) months, or both.

## People

Continued from page 2

### Aulbach joins staff at News-Democrat

Greg Aulbach has joined the staff of the Carrollton News-Democrat as a typesetter, proofreader and paginator. He's a recent graduate of Louisville Tech with a degree in graphic design and his primary interest is advertising design.

### Plasters hired as sports writer at Henry County

Brian Plasters has joined the staff of the Henry County Local as a sports writer. He recently graduated from Wittenberg University near Dayton with a degree in English. While in college, he worked on the campus newspaper covering primarily sports.

### Grelan named columnist at The Oklahoman

Jay Grelan, a former newsroom employee of the Lexington Herald-Leader, has joined the staff of The Oklahoman as a columnist. He earned his journalism degree from Louisiana Tech and in addition to the Herald-Leader, has worked at the Shreveport Times, Baton Rouge Morning Advocate, Denver Post and Mobile Register.

### Walsh named to job with Philadelphia Newspapers, Inc.

John G. Walsh, formerly of the Lexington Herald-Leader, has been named senior vice president of operations for Philadelphia Newspapers, Inc. PNI is owned by Knight-Ridder. Walsh most recently was senior vice president of operations at the Orange County Register in Santa Anna, Calif. From 1987 to 1989, he was circulation director for The Philadelphia Inquirer and also worked at the Knight-Ridder paper in Wichita, KS.

### Farrar named acting dean in South Carolina

Dr. Ronald T. Farrar, a former professor at the University of Kentucky School of Journalism and Telecommunications, has been named acting dean of the University of South Carolina College of Journalism and Mass Communications.

### Sanders joins ad staff at South Carolina papers

Janie Faucette Sanders has joined the advertising staff of Carolina Newspapers, publishers of The Clover Herald and Yorkville Enquirer. She previously served as an account executive for the London-Laurel News Journal.

## Don't forget to put 'correct' first in 'political correctness'

In a time when it is fashionable to be politically correct, reporters and editors often forget to simply be correct when it comes to the words they use in stories.

Newspaper should be alert to make certain that they are fair and consistent in the use of terms for identifying men and women who perform the same jobs.

Many of these words should be obvious, and are generally accepted by wire services and news publications.

For example, instead of saying firefighter or policeman, it's more precise to say firefighter or police officer. The reason is clear: men are not the only people who perform these duties. Make a term gender-neutral when it is necessary to make the meaning more accurate.

Additional examples include workman (worker would be more appropriate), salesman (sales associate or sales staff), and hit man (killer or assassin).

It is not always practical to simply eliminate the word "man" from a word in an effort to neutral-

ize the gender reference. Although the word mankind should be avoided when possible, some alternative terms such as humanity, human beings, and humankind all include the word "man." These words are better to use, however, because they do not emphasize man and they are more descriptive.

Other "man" words are easier to avoid. For instance, rather than writing manmade, a writer could say artificial or synthetic. And instead of using manpower, consider the words personnel, worker, work force or staff.

You could go to an extreme in attempting to find more neutral terminology for such words as manufactured, or management, or mandatory, or mannequin, or even manslaughter. The point is that you don't need to take man out of all such words to make them gender neutral since many do not carry a specific reference to gender.

In addition, if you want to make it clear that you are not giving preference to one sex or the

See CARRIERS, page 16

## Carriers

Continued from page 1

independent contractors.

"As I understand it," Greer said, "the ruling from Franklin Circuit Court is somewhat narrow in scope in that it said that carriers are considered employees and not independent contractors in the context of unemployment benefits. We have reason to believe, based on similar court cases, that the Franklin Circuit Court decision could be reversed on appeal."

Since the Kentucky Unemployment Commission determined the carriers to be employees, it demanded contributions owed to the Division for Unemployment Insurance on monies that had been paid to the workers, plus interest. Landmark appealed the Commission's decision to Franklin Circuit Court in 1997.

According to Kentucky law, 10 factors exist to determine whether an individual is an employee or an independent contractor. The circuit court ruling stated Landmark had only focused on some of the factors: the lack of control the newspaper had

**"We have reason to believe, based on similar court cases, that the Franklin Circuit Court decision could be reversed on appeal."**

**David Greer**  
publisher  
The Kentucky Standard

over the carriers, the minimal requirements to perform the job, the lack of carrier training and duty to report their activities and the fact that carriers could deliver for a competing newspaper or hold any other type of employment. The ruling said the Commission's decision, on the other hand, was "supported by substantial evidence" and the agency had properly applied all 10 of the factors to determine the employees' status.

And although the circuit court ruling says the Commission also looked at Kentucky case law surrounding the issue, KPA General Counsel Kim Greene said the court did not take into account prior cases which have said that control over the details of the work is the primary factor to make this determination.

## Thornberry

Continued from page 1

A native of Chicago, Ill., Thornberry has been publisher of the Somerset daily paper since last September. He's a graduate of Purdue University.

He's held positions with the Commonwealth Journal's parent company, Community Newspaper Holdings, Inc. (CNHI) as director of marketing & resources. He was a vice president and regional manager of the Ohio Valley Division of Park Communications. Thornberry also was president of Kentucky Newspapers Inc., Park Communications/Media General and published a division of newspapers from Niagara Falls, NY to Warner Robbins, Ga., which

included Kentucky operations in Somerset, London, McCreary County, Leitchfield, Russellville, and the six weeklies in the Morehead group.

During a stint in Wyoming, he was senior division publisher of Wyoming Newspapers, Inc., in Cheyenne, Wyo., and senior division publisher of 14 daily and weekly newspapers in Colorado, Wyoming, and Nebraska. He also started Western Harvest Magazine and was active in the Wyoming Press Association and civic affairs in the state.

He began his career in Illinois as circulation manager of the Clinton Daily Journal. He was also circulation director of Central Illinois Business Magazine and a classified advertising manager and advertising manager for News Media Corporation in Clinton.

## Deaths

Continued from page 2

Contributions are suggested to the McCreary County Library, P.O. Box 8, Whitley City, Ky. 42653.

### W. J. Hughes

W. J. Hughes, former editor and publisher of The Leitchfield Gazette, died Sept. 4 at his daughter's home in Maine. He was 90.

Hughes began working at the Gazette in 1926. When his father,

D.L. Hughes, retired as editor and publisher, W.J. and his brother, Fred, assumed their father's responsibilities.

W. J. composed the editorial pages and was well-known for his strong editorials on local, state and national events. He retired from the newspaper business in 1971 when he sold the paper.

A lifelong Democrat, he was active in civic affairs. He served as mayor of Leitchfield in 1950 and was a member of the city council.

He is survived by a daughter, Laura Ragland; a son, John W. Hughes, three grandchildren and three great-grandchildren.

## IAB sets web advertising definitions, standards

The Internet Advertising Bureau has set standards and definitions for advertising on the World Wide Web which have become the basis for national Internet advertising.

- **Visit:** A series of page requests by a visitor without 30 consecutive minutes of inactivity.

- **Visitor:** Visitors can currently be determined by four different methods: unique registration, unique cookie, unique URL tagging, unique IP address with heuristic. Each of these methods contains inaccuracies. It is a nontrivial matter to determine whether several page requests were performed by the same individual. The methods for determining a visitor are also those by which a visit would be qualified as unique.

- **Hit:** A "hit" is defined as any element to be displayed within a browser window, which may contain text, images, media objects (i.e. Java, Shockwave, Real Audio) or other online elements. A single HTML document with 99 graphics would count as 100 "hits." While a "hit" is a meaningful measure of how much traffic a server handles, it can be a misleading indicator of site traffic. Instead, advertising agencies and their clients look at the number of page requests and clicks.

- **Page Request:** An opportunity for an HTML document to be displayed within a browser window, which may contain text, images, media objects (i.e. Java, Shockwave, Real Audio) or other online ele-

ments. IAB chooses to use the term "page request" instead of "page impression" or "page view." The term "page impression" is currently used by different people with different meanings. "Page request" more accurately reflects the fact a page is counted even if it is not "viewed."

- **Click or Click-Through:** The opportunity for a visitor to be transferred to a location by clicking on an advertisement, as recorded by the server. The "Click Rate," which is the number of clicks divided by ad requests, often is used to determine the success of an ad.

- **Standard ad sizes:** 468x60 pixels (full banner); 392x72 pixels (full banner with vertical navigation bar); 234x60 pixels (half banner); 120x240 pixels (vertical banner); 120x90 pixels (button 1); 120x60 pixels (button 2); 125x125 pixels (square button); 88x51 pixels (micro button). The full banner ad size (468x60 pixels) is now widely regarded as the de facto standard banner size.

Consider this example of how some of these numbers can have different values depending on how they are reported:

Ten visitors look at 10 pages in 10 graphics every day for a month. Total hits: 10x10x10x30=30,000. Page requests: 10x10x30=3,000. Total visits: 10x30=300. Total visitors: 10.

(Reprinted from MNA Press Pass.)

## A good manager knows when to delegate duties

This quiz could help you start regaining control of your time.

Read each of the following statements. If you usually perform the task yourself, or one like it, write a "1" beside the statement. Write a "2" if you sometimes delegate the task to someone else. Write a "3" if you regularly delegate the task. Then total your answers.

- Attend routine meetings. \_\_\_\_\_
- Award maintenance contracts. \_\_\_\_\_
- Write my own speeches. \_\_\_\_\_
- Order new stationery. \_\_\_\_\_
- Prepare help-wanted ads. \_\_\_\_\_
- Handle routine personnel chores. \_\_\_\_\_
- Open and sort my mail. \_\_\_\_\_
- Line up speakers for a seminar. \_\_\_\_\_
- Brainstorm for new ideas. \_\_\_\_\_
- Approve expense accounts. \_\_\_\_\_
- Arrange for seasonal help. \_\_\_\_\_
- Plan for departmental growth. \_\_\_\_\_
- Read relevant trade journals. \_\_\_\_\_
- Schedule my own appointments. \_\_\_\_\_

- Handle a personnel problem. \_\_\_\_\_
- Hire additional clerical help. \_\_\_\_\_
- Plan an advertising campaign. \_\_\_\_\_
- Orient a new employee. \_\_\_\_\_
- Talk to a top customer. \_\_\_\_\_
- Pick a new voice mail system. \_\_\_\_\_
- Schedule employees' vacation time. \_\_\_\_\_
- Arrange for meeting refreshments. \_\_\_\_\_
- Total \_\_\_\_\_

If your answers total 45 or more, you're probably delegating a good portion of your low-to middle-level responsibilities.

If you totaled 35 to 44, you may be spending too much time on these kinds of responsibilities, and too little on high-priority, high-impact tasks. Strategy: Go over the list again. Ask: Of the tasks I marked "1," which ones can one of my staff perform? Of those, which tasks could help one or more staff members grow professionally without disrupting their primary responsibilities?

If you scored below 35, you may need help. If you have staff to whom you can delegate some of these responsibilities, go through the exercise and delegate. If you don't have the staff, this checklist could help you make a case for more.

## Blurred

Continued from page 4

eters. When users type in the purchased key words, they are given results from paid advertisers.

Furthermore, sponsored content on online magazines and search engines usually lacks "paid advertisement" labels. "We're at a stage in the Net's evolution where we have developed some conventions that help indicate who's speaking — without having to resort to clumsy labels that say 'paid link,'" Yelvington says. "But they're fragile conventions. When a trusted news source like USA Today peddles its navigational controls to an advertiser, those conventions are damaged."

- Some detractors question the legitimacy of page sponsorships. When IBM's computer was playing chess master Gary Kasparov, IBM sponsored the page on which the story appeared. "Is that crossing over the line, when the subject is sponsoring the page?" asks Vin Crosbie, president of Digital Deliverance, a new media consulting group in Greenwich, Conn. "Would the newspapers put up the special sections had IBM not sponsored it?"

- The Chicago Tribune site's intentions to launch sponsored chat sparked an "excruciating" argument between the advertising and editorial departments. An example of sponsored chat is a promoted chat session between a Chicago plastic surgeon and audience members over surgical

**"Integrity and credibility are not only hard won but difficult values to restore once lost."**

**Randy Kilgore**  
advertising director

The Wall Street Journal Interactive Edition

options, price, and methods. In order to assuage the editorial department's ethical concerns, the advertising department added disclaimers to the chat — that the views are those of the doctor.

"While this cowboy approach in the Wild West environment of the Web may represent short-term gain, it could have a serious long-term downside," wrote Kilgore in an Advertising Age editorial "The question is, can we be saved from ourselves?"

Kilgore is careful not to name names but says there are several sites that are disguising advertising as editorial content in ways that "as yet are completely unheard of in any traditional advertising environment. Why should we care how the old-line media conducted business? In a word — credibility." Kilgore calls for the industry to draw up guidelines to be enforced by the Internet Advertising Bureau and to benefit the consumer, marketer and the media. "Integrity and credibility are not only hard won but difficult values to restore once lost."

(Reprinted from Medainfo.com)

## Protect readers with messages in the classifieds

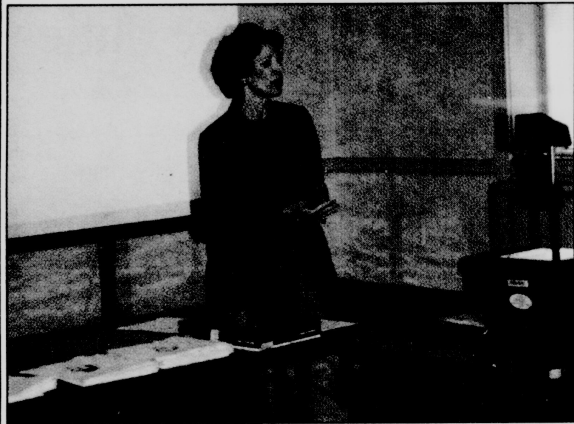
Here are some suggested public service ads to include in your classified columns to protect your readers from scams.

- Don't pay to find work before you get the job. For free information about avoiding employment service scams, write the Federal Trade Commission at Washington, D.C., 20580 or call the National Fraud Information Center, 1-800-876-7060.

- Legitimate job placement firms that work to fill specific positions cannot charge an up-front fee. For free information about avoiding employment service scams, write the Federal Trade Commission at Washington, D.C., 20580 or call the National Fraud Information Center, 1-800-876-7060.

(Reprinted from Ohio Newspaper Services.)

## Advertising know-how



Ruth Wolfe, an advertising account representative at the Richmond Register, presented a session on ad layout and design at the recent high school journalism workshop at EKU. Twenty-five high schools participated in the workshop that was co-sponsored by KHSJA.

## KSU

Continued from page 1

book that was confiscated.

In 1994, KSU's vice president for student affairs confiscated 2,000 newly printed copies of the Thorobred, saying they were of poor quality and reflected badly on the school. School officials were upset with the yearbook's theme, "Destination Unknown," and the fact the students didn't choose the school colors - green and gold - and instead picked purple as the color of the cover. They also didn't like the choice of photos used in the yearbooks, many of which depicted current events or public figures but had no connection to KSU; the lack of photos of school officials or events; and the lack of cutlines on some photos.

U.S. District Judge Joseph Hood in Frankfort dismissed the students' lawsuit in 1997. College yearbooks

are not intended to be read by the general public, so they are not a "public forum" and do not merit First Amendment protection, Hood wrote.

Writing for the majority in the federal appeals court decision, Judge Alan Norris agreed KSU had the right to seize the yearbooks.

"It is no doubt reasonable that KSU should seek to maintain its image to potential students, alumni and the general public," Norris wrote. "In light of the indisputably poor quality of the yearbook, it is also reasonable that KSU might cut its losses by refusing to distribute a university publication that might tarnish, rather than enhance, that image."

Bruce Orwin, a Somerset lawyer representing the former KSU students, said the students will appeal the appellate panel's decision to the full court.

## Correct

Continued from page 14

other, it sometimes is better to leave man or woman in the word instead of using the less personal "person."

One example of this is the word chairman. It is acceptable for a man who chairs a committee. If the chair is a woman, then just say chairwoman. The word chairperson is not needed as a one-word fits all term.

The same would apply to assemblyman or assemblywoman, councilman or councilwoman, and spokesman or spokeswoman. If a more neutral word is available, such as leader or representative, then it should be used.

Some words seem to defy a writer's effort to make them gender-

neutral. Fisherman is one of those words. The word fisherwoman sounds awkward. And fisherperson is a catch-word that likely would not catch on anyway. If it needs to be clear in the sentence that the person is not necessarily a man, one solution would be rephrase the wording and possibly say "a person fishing."

If you believe this issue is unmanageable, don't despair. Although there is no manual for correct gender references, you can gradually add to your list of more precise words.

So the next time you hear someone yell, "Man the lifeboats," remember that it is supposed to be women and children first.

(Reprinted from News Beat)

## Nominations being accepted for 2000 KPA vice president

Nominations and letters of applications are being accepted until October 8 for the office of vice president of the Kentucky Press Association for 2000.

Any KPA member may nominate any individual who meets the criteria set forth in the KPA bylaws for that position. Additionally, individuals interested in holding office in the Kentucky Press Association may submit a letter of application.

KPA bylaws state: "The only persons eligible for election to the office of vice president are those who are currently serving as elected directors; those who have been elected to serve on the board, provided they have previously served as either an elected or appointed director; or those persons who have served three consecutive years as an appointed director."

Nominations must be sent to: David T. Thompson, Kentucky Press Association, 101 Consumer Lane, Frankfort, Ky. 40601.

All nominees consenting to the nomination and agreeing to serve if elected will be interviewed by the Nominating Committee once it has been determined that the nominee meets bylaw requirements.

Following the interview process, the Nominating Committee will recommend a candidate for vice president to the Kentucky Press Association and Kentucky Press Service Board of Directors. Following action by the board, the individual will be recommended for approval to the full membership of the Kentucky Press Association during the business session of the 2000 Winter Convention in Lexington.

## ASNE adopts benchmarks to reach 2025 diversity goal

The American Society of Newspaper Editors has adopted progressive benchmarks to guide its efforts to reach parity with the minority population in newspaper newsrooms by 2025. At its fall board meeting, ASNE's approved benchmarks at three-year intervals on:

- increasing overall newsroom minority employment; increasing the number of minority interns; increasing the number of minority supervisors; reducing the number of newspapers with no minorities on staff, and; measuring whether newspapers have achieved parity with their communities.

"These benchmarks are designed to show us where we are and how much further we have to go by 2025. They will tell us if we are falling behind and where," said

N. Christian Anderson III, ASNE president.

"These benchmarks will complement the information we now get in our annual survey of the industry." According to the 1999 version of that survey, the Newsroom Employment Census, minorities now comprise 11.55 percent of the reporters, copy editors, photographers, graphic artists and supervisors at U.S. daily newspapers. On the other hand, minorities comprise an estimated 28.4 percent of the U.S. population, according to the latest figures from the U.S. Census Bureau. By 2025, the minority population of the United States will grow to an estimated 38 percent; to reach parity, newspapers will need to increase their percentage of minorities in the newsroom by 229 percent.

## Job Shop



Take advantage of KPA's "Job Shop." List your newspaper's job opening for just \$10. Or, if you are a newspaper professional seeking new opportunities, send us that information. Call 800-264-5721 or e-mail: carnahan@kypress.com.

### Pressroom Positions

Would you like to join a growing company with lots of opportunity for your future? We have an immediate opening in our pressroom on our eight-unit Urbanite press. We offer a four-day work week, hospitalization, 401K, etc., and a competitive pay scale. Send resume to: Allen

Key, P.O. Box 359, Leesburg, Va., 20178

### News Editor

The Flemingsburg Gazette seeks an individual for the news editor's position. The possibility for promotion to editor also exists. Send resumes to: Guy Hatfield, P.O. Box 660, Irvine, Ky., 40336.