

# THE ADVOCATE

March  
2013

## Upcoming events:



*In a final act of goodwill, Judge Johnson laughs at a joke told by our very own President, The Hon. Dan Duncan, at Johnson's retirement on March 1.*

## March

### **Criminal Law CLE & Happy Hour**

**When:** *March 27  
CLE at 4:00 pm  
Happy hour begins  
at 6:00 pm*

**Where:** *The law firm of  
McAnany,  
Van Cleave &  
Phillips*

**Cost:** *\$25 for the CLE  
A happy hour is  
being provided by  
McAnany,  
Van Cleave &  
Phillips*

## April

### **Employment Law CLE & Meeting**

**When:** *April 17  
CLE at 4:00 p.m.  
Dinner/meeting TBA*

**Where:** *TBA*

**Cost:** *\$25 for the CLE  
Dinner/meeting TBA*

## JOHNSON RETIRES AFTER 16 YEARS ON THE BENCH

On March 1st, 2013, Judge Ernest L. Johnson retired after serving 16 years as a District Court Judge in Wyandotte County.

Judge Johnson was elected in the November, 1996, general election after winning the Democratic nomination in the August primary. He took office in December, 1996. He won reelection four times since then, each time without opposition. He presided in non-jury ("the basement"), civil jury and criminal jury divisions during his tenure.

Judge Johnson, with his three younger brothers, was raised in Roeland Park by his parents, Bob and Glenna Johnson. He moved to Lawrence in 1967 and worked his way through college and law school as a waiter, dishwasher, guitar player and maintenance man. He graduated with a degree in Psychology from KU in 1971. He received his J.D. from the KU School of Law in the spring of 1975, passed the Bar, and moved to the Rosedale area of Kansas City, Kansas where he still resides.

In 1976, he began his Wyandotte County law practice as an associate in the office of Lawrence G. Zukel. Later that year, after Larry was elected judge, he joined the firm of Dear, Yarnevich & Carey. After the dissolution of that firm, he was a sole practitioner in Wyandotte County until his election in 1996, officing over the years with John Duma, John McNally, Stan McAfee, Pat Biscanin, Carl Cornwell, Pat White, Michael Redmon, Paul Dent, Roger McLean, Don McLean and Frank Martin. For nineteen of his twenty years of practice Judge Johnson served as a part-time special administrative law judge in Kansas Worker's Compensation Court.

*Continued on page 3*

## JOIN US WEDNESDAY FOR OUR MARCH CLE AND MEETING

Our March CLE and Meeting will be this Wednesday, March 27 at the law firm of *McAnany, Van Cleave & Phillips*. As always, the CLE begins at 4:00 p.m. and this month's topic is Criminal Law. The first hour, presented by Gary Stone, will be about criminal practice and procedure. The second hour, presented by Jeremy Weis, will be about white collar crime.

Thanks to the *McAnany* firm, there will be a happy hour following the CLE complete with taco bar, margaritas, beer and wine. For those who can't attend the CLE, the happy hour will begin around 6:00 p.m.



*A group of young attorneys from the Wyandotte County District Attorney's Office enjoying this year's President's Gala. Pictured are: Anna Krstulic, Katie Means, Logan McRae with her husband Mark and Alan Fogleman with his wife Jen.*

## Member Spotlight: Jeffrey D. "J.D." Baker



his undergraduate and law degrees.

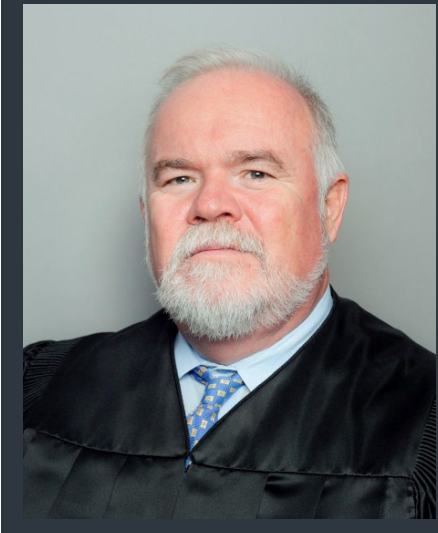
After graduating law school in 1987, J.D. went to work for the accounting firm Ernst & Young. While at Ernst & Young, J.D. earned his CPA. In 1990, he came to work in Kansas City, Kansas with his father, James Baker, a longtime Wyandotte County attorney. They formed the law firm of Baker & Baker, P.A., where J.D. focused primarily on tax law.

Jeffrey D. "J.D." Baker has been a member of the Wyandotte County Bar Association since 1987. He grew up in Overland Park and is a graduate of Shawnee Mission West High School. He then went on to attend The University of Kansas where he obtained both

Their office was located at 827 Armstrong Avenue in Kansas City, Kansas. James retired in 2002, and in 2004 J.D. moved his office to the Brotherhood Bank Building at 8th and Minnesota where he shares space with Wolski and Associates accountants.

Because of his accounting background, J.D. was recruited to be Treasurer of the Wyandotte County Bar Association in 2006 and has not been allowed to relinquish that position. Thanks in large part to his hard work, the Bar Association is on sound financial footing. J.D. is actively involved in the Bar Association and you can catch him at just about all Bar Association functions. He says he likes the camaraderie being a member of the Bar Association provides and enjoys being a part of its continued success.

J.D. has a wife, Jennifer, and two children. His son, Cole, is a sophomore in high school and his daughter, Erika, is a junior at K-State.



## A message from our President

I want to thank everyone who has helped get this year off to a good start. After missing my inaugural party while traveling back from visiting my son, his wife and daughter in Thailand, the Bar Association had a very successful Mardi Gras party for our February meeting. Wonderful Cajun food and dollar beers helped get the attendees in the appropriate mood to begin their lenten fasts. As the evening wore down and the last brew for 40 days was finished, the general consensus was to try this again next year. Mardi Gras is a moving target, so it will depend somewhat on the calendar.

The McAnany firm has graciously offered to host the C.L.E. and meeting for March at their offices. There will not be a regular meeting. Instead we will be treated to a Happy Hour and Taco Bar. It should be a lot of fun. I hope everyone can be there. The date has been changed to March 27 to accommodate Spring Break travel.

The April meeting is still somewhat in flux, but we will be back at the casino in May with a Liberty Bell Award and a speaker from the Royals for a program. June will be the Golf Tournament (save the date) and on July 19 we are planning a Texas Hold 'Em Tournament and TGIF at the St. John's Social Club. This should also include free bowling. Your Board of Directors is trying to make each meeting worthwhile and fun. Your participation will help us reach these goals.

**The Honorable Daniel A. Duncan,  
President**

### *Johnson Retires*

*(continued from the front page)*

In 1998, Judge Johnson was appointed to the Executive Committee of the Kansas District Judge's Association, serving until 2007. He was President of the KDJA for the 2005-2006 term. In 2000, Chief Justice Kay McFarland appointed him to the Kansas Sentencing Commission. In 2002, he was named Chairman of the Sentencing Commission by the Governor. He was reappointed to the Sentencing Commission by successive Chief Justices and named Chairman by successive governors until he retired from the Sentencing Commission in June, 2012.

Judge Johnson is a member of the Wyandotte County Bar Association as well as the American

Bar Association and the Kansas Bar Association.

Judge Johnson and his wife, Carol Marinovich, live in Kansas City, Kansas.



*J.D. Baker and his wife Jennifer at this year's President's Gala.*



## The Honorable John Pettit Legend of the Bar

*At each meeting we highlight our rich history by honoring one of our members, past or present, who has been an important piece of the colorful patchwork that is the Wyandotte County Bar Association.*

One of the earliest legends of the Wyandotte County Bar was the second judge of the Wyandotte County District Court. Around 1859, Wyandotte County was being transferred from Fort Scott to the Leavenworth district. The Hon. John Pettit presided over the Wyandotte district court, holding two terms, the last one being the term held under the territorial organization. Judge John Pettit was said to be ill-natured, petulant, high-tempered, profane, tyrannical, and abusive, but withal as clear-headed and able a jurist as ever donned the judicial ermine of Kansas. It was nothing unusual for him to go to Kansas City and play poker and drink whiskey all night. The Bar generally had to suffer for it the next day. Around 1860, one notable incident occurred at the Gamo House during one of his terms in court. S. L. Norris, a young man from Vermont, who lived by his wits, brought out a carpet sack of bank notes on the St. Alban's Bank, which had burst in the crash of 1857. A judge, Col. Weir, Mr. Norris and one or two other persons set up a job on Judge Pettit and got him into playing poker. The old man was permitted to win nearly every game, and every time he won, the boys put out a \$20 bill on the broken bank of St. Albin's, with Pettit making change in good money. At the close of the term, the old judge was in high glee, as his capacious wallet was filled with twenty dollar bills. When he came to pay Mrs. Halford for his hotel bill and presented her with one of his twenty dollar notes, he learned the bank was broken. After a second

and third tender meeting, with refusal on the same grounds, he saw he that he had been sold. He returned to Leavenworth minus \$300.00 in cash, with about \$1,000.00 in worthless money, a sadder, but wiser, man.

It was noted that one of the delightful zephyrs peculiar to Kansas was making



*A legend in his own mind, our very own Ray Probst brought the roof down with his Bon Jovi cover vocals at this year's President's Gala.*

everything hum the morning Judge Pettit first opened court in Wyandotte. After climbing up to the courtroom, which was on the 4<sup>th</sup> floor, he was nearly out of breath, being a very fat man. Just as he began calling the docket, an unusually stiff breeze sprang up, which made the structure tremble from foundation to turret. When the building began to vibrate, he said: "Mr. Sheriff, can't you get some room on the ground in which to hold court!"

That official replied that there was no room large enough unless he took one of the churches. Just then, a little stiffer breeze came, and the Judge fairly roared, "Mr. Sheriff, adjourn court until 2 o'clock and get a church—take a church." And he started for the street. He had scarcely gotten half way down when someone cried out, "The building is falling!" The crowd made a rush for the stairway, and soon the old Judge found himself crowded and pushed to the door, where he barely escaped injury from the brick and debris of the falling building.

These are just a few of the colorful exploits that made Judge Pettit truly one of the earliest Legends of the Wyandotte County Bar.

*Submitted by Donald Taylor*

## Jury verdicts:

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### Civil

#### Division 6

**1/9/13**

Case No. 11 CV 1307

Willie B. Williams vs. Kristen English

Plaintiff: Donald Taylor

Defense:

Cause of action: Automobile Accident.

Verdict: For the Defense.

**2/15/13**

Case No. 12 CV 135

Rebecca Arriaga vs. B&W Tax Service Inc.

Plaintiff: Michael Wharton & Scott Shachtman

Defense: William Denning

Cause of action: Personal injury

Verdict: For the Plaintiff in the amount of \$34,791.31.

### Criminal

#### Division 4

**1/3/13**

Case No. 12 CR 1155

State of Kansas vs. Nathaniel Bleam

Prosecution: Shawn Boyd

Defense: Joshua Seiden

Charges: Count I—Stalking

Count II—Possession of Drug  
Paraphernalia

Verdict: Guilty on all counts.

**2/12/13**

Case No. 12 CR 653

State of Kansas vs. Joaquin Cruz-Avila

Prosecution: Susan Alig

Defense: Nancy Olivares

Charges: Count I—Possession of Cocaine

Count II—DUI

Verdict: Guilty on Count I, not guilty on Count II.

#### Division 5

**1/15/13**

Case No. 12 CR 20

State of Kansas vs. Richard Tibbetts

Prosecution: Susan Alig

Defense: John Duma

Charges: Count I—Burglary

Count II—Theft

Verdict: Not guilty on all counts.

**1/24/13**

Case No. 11 CR 1367

State of Kansas vs. Jesus Prieto-Hernandez

Prosecution: Mollie Hill

Defense: Chris Brennan

Charges: Count I—Rape

Count II—Rape

Verdict: Not guilty on Count I, guilty on Count II.

**2/19/13**

Case No. 12 JV 108

In the Matter of A.R.

Prosecution: Logan McRae

Defense: Clifford Wiley

Charges: Count I—Theft (misdemeanor)

Verdict: Guilty

#### Division 7

**9/27/13** (accidentally omitted from the November issue)

Case No. 12 CR 52 (Municipal Court appeal)

City of Kansas City, Kansas vs. Tremayne King

Prosecution: Megan Schultz

Defense: Michael Redmon

Charges: Count I—Battery against a Law  
Enforcement Officer

Count II—Battery against a Law  
Enforcement Officer

Verdict: Not guilty on all counts.

## Jury Verdicts (continued):

**9/27/13** (accidentally omitted from the November issue)  
 Case No. 12 CR 53 (Municipal Court appeal)  
 City of Kansas City, Kansas vs. Rosetta King  
 Prosecution: Megan Schultz  
 Defense: Michael Redmon  
 Charges: Count I—Battery against a Law Enforcement Officer  
 Count II—Battery against a Law Enforcement Officer  
 Verdict: Not guilty on all counts.

**1/29/13**  
 Case No. 12 CR 308 (Municipal Court appeal)  
 City of Kansas City, Kansas vs. Alberto Hernandez  
 Prosecution: Ryan Walkiewicz  
 Defense: David Grummon  
 Charges: Count I—Aggravated Battery  
 Count II—Domestic Battery  
 Verdict: Not guilty on count I, guilty on count II.

### Division 8

**1/22/13**  
 Case No. 12 CR 1055  
 State of Kansas vs. Enrick Henderson  
 Prosecution: Ryan Walkiewicz  
 Defense: Atif Abdul-Khaliq  
 Charges: Count I—Aggravated Battery  
 Verdict: Not guilty.

**2/11/13**  
 Case No. 11 CR 1099  
 State of Kansas vs. Johnny Woodberry  
 Prosecution: Cathy Eaton  
 Defense: Kiann McBratney  
 Charges: Count I—Kidnapping  
 Count II—Aggravated Assault  
 Count III—Aggravated Battery  
 Count IV—Aggravated Assault  
 Count V—Stalking  
 Count IV—Aggravated Intimidation of a Witness  
 Verdict: Not guilty on all but Count III where the defendant was found guilty of the lesser included offense of misdemeanor battery.

**2/19/13**  
 Case No. 12 CR 1298  
 State of Kansas vs. Elmarries Harris  
 Prosecution: Alan Fogleman  
 Defense: Kiann McBratney  
 Charges: Count I—Aggravated Robbery  
 Count II—Aggravated Robbery  
 Count III—Possession of Cocaine  
 Count IV—No Tax Stamp  
 Count V—Possession of Marijuana  
 Verdict: Guilty on counts III, IV, and V. Hung on counts I and II.

### Division 9

**1/7/13**  
 Case No. 11 CR 1490  
 State of Kansas vs. Chico Kelley  
 Prosecution: Ryan Walkiewicz  
 Defense: Debra Erickson  
 Charges: Count I—Attempted Murder  
 Count II—Attempted Murder  
 Count III—Criminal Possession of a Firearm  
 Verdict: Guilty on all counts.

Thank you, *MVP*, for hosting and sponsoring the happy hour at our March meeting!



**McAnany, Van Cleave & Phillips, P.A.**

Attorneys at Law Since 1901

## Jury Verdicts (continued):

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**1/14/13**

Case No. 12 CR 353

State of Kansas vs. Eric W. Hardman

Prosecution: Ryan Walkiewicz

Defense: Dwight Alexander

Charges: Count I—Aggravated Assault  
Count II—Stalking

Verdict: Hung on Count I, guilty on Count II.

**1/22/13**

Case No. 11 CR 47

State of Kansas vs. Gregory E. Schwerdt

Prosecution: Elizabeth Evers

Defense: William Rork

Charges: Count I—DUI  
Count—Failure to Maintain a  
Single Lane

Verdict: Guilty on all counts.

**2/14/13**

Case No. 12 CR 858

State of Kansas vs. Cindy Tipton

Prosecution: Mark Menefee

Defense: Stephen Parker

Charges: Count I—Burglary  
Count II—Theft

Verdict: Guilty on all counts.

**12/10/12**

Case No. 12 CR 817

State of Kansas vs. Tony Magerl

Prosecution: Ryan Walkiewicz

Defense: Mark Birmingham

Charges: Count I—Aggravated Battery

Verdict: Guilty.

## Announcements:

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If you have any announcements you would like to see here, please email [mike@mikenicholslaw.com](mailto:mike@mikenicholslaw.com)

### Office Space for Rent:

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Office space available at 827 Armstrong Avenue in Kansas City, Kansas. Just a block and a half from the courthouse!

Call (913) 321-9600 for more information.

Office space available at 78th and State Avenue in Kansas City, Kansas. Great western Wyandotte County location!

Call (913) 334-4800 for more information.



*Looking like and extra from the Miami Vice set, Fred Zimmerman is pictured here at an Open House for the "new" Wyandotte Legal Services offices at 825 N. 7th Street in Kansas City, Kansas (from the July, 1987 issue of The Advocate).*

# THE ADVOCATE

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### For information contact:

BRENDA EATON, EXECUTIVE SECRETARY

WYANDOTTE COUNTY COURTHOUSE  
FIFTH FLOOR  
710 N. 7TH STREET  
KANSAS CITY, KS 66101

PHONE: (913) 573-2899  
FAX: (913) 573-2892

WEBSITE: [WWW.WYCOBAR.COM](http://WWW.WYCOBAR.COM)