

Tackling the pandemic pivot

Region's law firms help companies navigate the ever-changing COVID-19 work environment



BY GREG PAETH

AMAZON delivery drivers or just about anyone involved in the delivery of health care have been off-the-charts busy since the gravity of COVID-19 emerged in March 2020.

Add lawyers to the list of people who haven't had time to stream those must-see series on Netflix or peruse the Harvard Classics as the pandemic sidelined businesses and continued to alter life as we know it.

The unprecedented crisis created scores of questions that required advice from people who know their way around the Kentucky Revised Statutes, the court system and a plethora of pandemic-related directives from government agencies.

Clients in the Bluegrass region didn't have to pack a bag for Cincinnati, New York or any larger city to find sophisticated, leading-edge advice about complex pandemic-related issues or just about anything else. Major players in the region and beyond are nearby, as are

▲LEGAL EPICENTER Downtown Lexington's Robert F. Stephens Courthouse Plaza is flanked by the courthouses of U.S. District Court for the Eastern District of Kentucky, Fayette County District Court and Fayette County Circuit Court. Central Kentucky law firms have stayed busy answering pandemic-related business questions and helping clients comply with directives from government agencies.

scores of smaller first-rate firms and sole practitioners who know how to get the right results for clients.

While COVID-19 depressed the overall economy for months, attorneys said the business end of the legal profession remained quite healthy and many lawyers found themselves swamped with pandemic-related questions that no one had asked before.

At McBrayer in Lexington, clients have posed dozens of tough legal questions since the pandemic began.

"Probably unsurprisingly, we've been seeing a lot more legal activity concerning employment law—employers are in uncharted waters in so many ways, and the last year and a half has seen new laws or guidance being thrown into the mix at a breakneck pace," said McBrayer



◀DOWNTOWN DESTINATION Robert F. Stephens Courthouse Plaza and its system of fountains also serves as a popular event and gathering space in the center of downtown.



- Corporate
- Employment
- Litigation
- Intellectual Property
- Healthcare Regulation
- Real Estate
- Estate Planning

**YOU'RE BUILDING A LEGACY.
MAKE SURE IT'S THE LASTING KIND.**



201 East Main Street, Suite 900

Lexington, Kentucky 40507

(859) 231-8780 | www.mcbrayerfirm.com

500 West Jefferson Street, Suite 2400

Louisville, Kentucky 40202

(502) 327-5400 | www.mcbrayerfirm.com



Amid changing utilities landscape, McBrayer attorneys pave new path

PUBLIC utilities and telecommunications providers are heavily regulated industries unlike any other. Whether water, gas, electric power, broadband expansion, wastewater treatment, solar or telecommunications, and from the traditional to the cutting edge, every utility sector is impacted and complicated by a unique set of regulatory and competitive factors that can change with the drop of a hat. And as new technologies emerge, the utilities landscape opens up with new opportunities, but also becomes even more difficult to navigate.

As these industries evolve, their related legal issues evolve as well, presenting new challenges. Rising to meet these challenges in central Kentucky is the McBrayer utilities practice group. Consisting of Member Kathryn A. Eckert and Of Counsel Katherine K. Yunker in Lexington and Of Counsel Jason R. Bentley in Frankfort, this team of experienced attorneys is paving the way for utility-related legal matters in central Kentucky and beyond. From working with communities served by utilities to appearing before state regulators, these attorneys see utility-related projects through from start to finish and over the next horizon.

“As the utilities landscape changes in Kentucky, new legal puzzles continue to arise,” Yunker said. “We’re proud to be leading the charge to solve those puzzles and support the services and economic development opportunities that utilities companies bring to the Bluegrass state.”

The McBrayer utilities team helps clients comply with the extensive web of laws and regulations before problems arise. When issues do occur, they represent clients in complaint proceedings, hearings and litigation, and work to produce the best possible outcome. As competitive pressures and new technologies affect industries, they assist our clients to navigate new and uncharted waters and can assist not only with regulatory proceedings and litigation, but with policymaking and government affairs as well.

To contact the utilities team, visit mcbrayerfirm.com.

attorney Jaron P. Blandford. “It started with issues concerning lockdown and the impact on wage and hour issues, then it became more about leave and medical inquiries concerning COVID-19, and now we’re seeing questions concerning vaccines, including whether employers can ask about them (yes) or require them (also yes). It has been a challenging time for employers.”

And when it comes to employment issues, there is no “one-size-fits-all” response, he said.

“You really have to operate on a case-by-case basis, especially in these times when nothing is like what you knew before and everything could change on a dime,” Blandford said.

McBrayer attorney Stephen G. Amato agreed that business clients have posed many unique questions in recent months.

“We’ve been handling a lot of issues for businesses of all kinds. Everyone is feeling the economic effects of the pandemic in one way or another,” Amato said. “Hospitality, for instance, is an industry that has experienced a lot of upheaval throughout the last year and a half—a lot of liquor laws were temporarily changed in the early lockdowns, and some have been altered permanently. Our job is to help our clients keep up.”

Labor shortages and safety

COVID-19 challenges have affected businesses of all sizes in a variety of ways, said P. Branden Gross, managing partner of Dentons Bingham Greenebaum in Lexington.

“Our clients are concerned about how to safely bring employees back to work. Some are facing labor shortages as well as supply chain issues. In addition to working with our clients to solve those issues, we have created in-depth resources addressing return-to-work and supply chain resilience, among other topics,” he said.

The pandemic-related challenges were on top of the typical labor and employment concerns that businesses face, such as the Employee Retirement Income Security Act, Family Medical Leave Act, workers’ compensation and litigation, Gross said.

The firm also has assembled a defense team for clients facing Small Business Administration audits and Department of Justice investigations about loans and grants they received from the federal government during the height

of the pandemic, said Gross, a veteran attorney with Bingham Greenebaum Doll two years ago when it merged into Dentons, which is one of the world’s largest law firms.

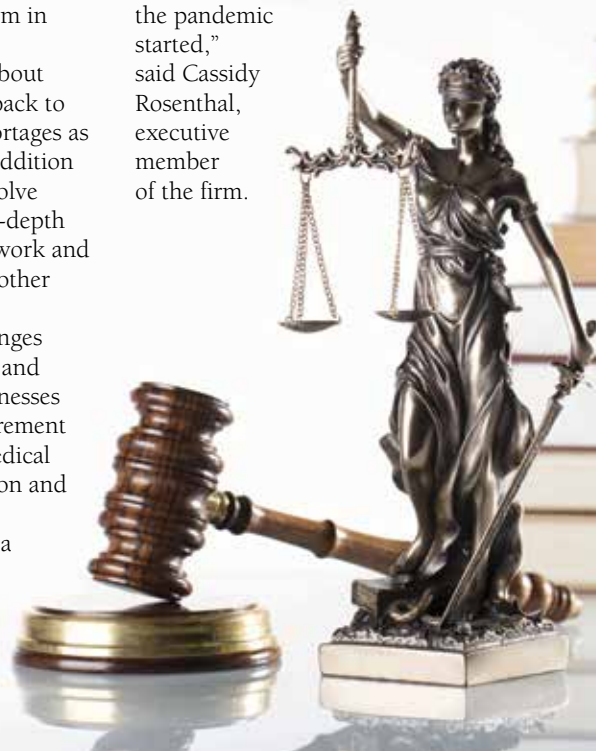
Jan de Beer, member-in-charge of the Lexington office of Frost Brown Todd, said his firm also has faced plenty of pandemic-related issues.

“About a year and a half ago they (our attorneys) were dealing with and analyzing what essential work was—what the likelihood was to keep people in the office or in the factories,” de Beer said. “Now the question has really changed to the idea of what kind of vaccination mandate—if any—can they have? Can they do what Delta did with a \$200 surcharge?”

Not long ago, Delta Air Lines said employees who opted not to be vaccinated against COVID-19 would be required to pay an additional \$200 a month for company-sponsored health insurance in an effort to offset costs for employees who might be hospitalized with the virus.

“The challenge faced by the modern American employer for labor in this environment is something that is a hot-button issue ... with what employers can do with COVID-19 requirements with regard to vaccinations, office plans, remote work,” de Beer said.

At Stites & Harbison in Lexington, “discussions about employment law issues have been a main priority to clients since the pandemic started,” said Cassidy Rosenthal, executive member of the firm.



What's Next? Talent.

Talent for what you need,
where you need it.



Tandy Patrick



Robin Thomerson



Lauren Nichols



Kimberly O'Donnell



Sarah Laren



Kelly Bartley



Anne Chesnut



Elizabeth Lampert

**Dentons, the law firm
of the future is here.**

[dentons.com](https://www.dentons.com)

► **'TIRELESS SERVICE'** McBrayer Managing Member James H. Frazier III was honored in May by the Downtown Lexington Partnership as "the 2020 Outstanding Individual," an annual award given to an individual who has contributed to the growth, vitality and overall appeal of downtown Lexington.

"However, most of those discussions have been centered on COVID-19 protocols, policies and guidance."

A variety of topics in the "staffing shortages" category also have demanded attention from her firm, she said.

Like all Lexington firms, Rosenthal said Stites & Harbison's practice involves far more than responses to pandemic-related issues.

"Our real estate and commercial lending, intellectual property, data privacy and security, health care, construction, mergers and acquisitions, environmental, and trust and estates practices are all busy right now," she said. "We expect these groups to remain very busy for the foreseeable future."

Tech pivot productive, and it creates questions

One lasting result of the pandemic may prove to be the use of more technology rather than scheduling in-person hearings and conferences that were, in some cases, verboten when the pandemic was at its worst. It has now become commonplace for hearings, expert testimony and



McBrayer photo

depositions to be handled remotely, said de Beer of Frost Brown Todd.

The Fayette County Bar Association, which has nearly 1,100 members, launched a podcast in 2019 in which attorneys provided answers to some of the most common questions that that flow into the association's office, according to Dana Arnold, executive director of the organization.

Some frequently asked questions on the Central Kentucky Lawyer Referral Service podcast involve "lemon laws" for vehicles, grandparents' rights and the cost of a divorce, the association said.

"Cybersecurity and data privacy are becoming even more important as companies shift workforces to remote work, and as bad actors seek to take advantage of potential vulnerabilities," said Gross, who oversees Dentons in Lexington.

"Remote work" is far more than an abstract concept for the firm.

"When the pandemic hit, our offices had to adjust how and where we work in order to keep our clients and attorneys safe. We pivoted to operating mostly remotely, until recently, although our attorneys have been able to work in the office since late spring of 2020. Over the last couple of months, our attorneys and staff have been returning to the office with the goal of a full office return. With that said, the pandemic has shown us that we can use flexible schedules to accommodate the needs of our clients and team members," Gross said.

Some Central Kentucky firms have made recent additions to their staffs.

Rosenthal said Stites & Harbison was "...very fortunate to have the attorneys of the intellectual property boutique, King & Schickli, join the Lexington office in July of this year. We have one of the largest IP practices in the state and the addition of these four stellar attorneys better positions the firm to have the premiere intellectual property practice across the commonwealth."

Gross at Dentons was equally enthusiastic about the addition of Robin Thomerson, who rejoined the firm as a partner.

"She focuses her practice on environmental law, which is a complex and ever-evolving area of law. Her previous experience with regulatory agencies gives her a unique perspective when helping clients and addressing their business and legal needs," Gross said.

At McBrayer, managing member James H. Frazier III said the loss of founder Terry McBrayer in October 2020 "...is still deeply felt by our firm."

McBrayer, who died of cancer at age 83, had been the firm's "rainmaker" for many years, the insider's insider in state government and the Democratic Party when Democrats were dominant in the state.

Despite that loss, Frazier said, "we've been fortunate that our firm and practice areas have continued to grow in these turbulent times. We've welcomed several new attorneys over the past year and a half, and they've contributed a great deal to both the professional capacity and collegial atmosphere of our firm. Even amidst uncertainty, we've been able to grow our practice." ●

DENTONS BINGHAM GREENEBAUM

300 West Vine Street, Suite 1200
Lexington, KY 40507
Dentons.com

Dentons Bingham Greenebaum, as part of Dentons, the largest law firm in the world, connects clients to top-tier legal talent here at home and around the world, delivering the legal insights and business solutions clients need to help them succeed anywhere. It provides transactional, litigation, estate planning, tax and employee benefits, and economic development advice to clients across a variety of industries and business sectors. Its lawyers are active participants in community organizations, local and statewide through the Kentucky Chamber of Commerce, which has recognized Dentons Lexington and Louisville offices as one of the "Best Places to Work in Kentucky."



Branden P. Gross, Lexington Office Managing Partner, Dentons Bingham Greenebaum