

BAR**briefs**

Louisville Bar Association

February 2011

**New Identity
Unveiled**



LOUISVILLE BAR

A S S O C I A T I O N

Pride in the profession. Service to the community

The LBA proudly unveiled its new identity at the recent Bench & Bar Dinner.

(See pages 12–14 for photos and this year's award recipients.)

2010: A Good Year for Rule of Law for Kentuckians and Nation

Jonathan S. Ricketts

There are a lot of reasons why we should forget about 2010. Record unemployment, complete uncertainty in the real estate market, the Gulf oil spill and poverty hitting a 15-year high immediately come to mind. And if I were just looking at the economy, I'd say our nation's prognosis was poor.

But 2010 also gave us two shining examples of the unwavering reign of the rule of law that should make us feel much better about the year and the state of our nation and Commonwealth.

The first: the firing of General Stanley McChrystal as Commander in Afghanistan. The second: the establishment of the Kentucky Access to Justice Commission. These two examples remind us that 2010 was a strong year for our adherence to the principles that have made us great.

General McChrystal was a man who had achieved rock-star status in the Department of Defense. As the son of a two-star general, graduate of West Point and member of the Army's Special Forces, General McChrystal was a charismatic leader known for surprising his troops by attending nighttime raids with them.

He had a voracious work ethic and was well-respected by his troops. He was the former head of the military's Joint Special Operations

Command and for a time, he was the poster child for the term "counterinsurgency." He was known for keeping pressure on Al Qaeda and is responsible for the death of the leader of Al Qaeda in Iraq, Abu Musab al-Zarqawi. Although involved in the controversy associated with interrogation techniques and the reporting of Cpl. Pat Tillman's death, he was known to get things done.

In 2009, as the Obama administration was feeling political pressure to reduce troop numbers and end the war in Afghanistan, General McChrystal caused his report to Defense Secretary Gates, which called for increased troop numbers, to be made public.

Normally the deliberative memos within the chain of command would not have been made public and this unusual move increased pressure on the White House to send additional resources to the region. Incidentally, in December 2009, Obama committed an additional 30,000 troops to Afghanistan.

In June 2010, *Rolling Stone* released an article about General McChrystal and his successes in Afghanistan. At the time, he had been running all military operations in Afghanistan for approximately a year and Al Qaeda was on the run.

The article quoted General McChrystal as disagreeing with the President's policies, and say-

ing disrespectful things about Vice President Biden, the National Security Advisor and the U.S. Ambassador to Afghanistan. The article portrayed General McChrystal as a maverick general set on success in Afghanistan who wouldn't let Washington get in his way.

After the article was released, President Obama summoned General McChrystal to the White House where McChrystal tendered his resignation. In the White House Rose Garden, President Obama said,

"...[O]ur democracy depends upon institutions that are stronger than individuals. That includes strict adherence to the military chain of command, and respect for civilian control over that chain of command. And that's why, as Commander-in-Chief, I believe this decision is necessary to hold ourselves accountable to standards that are at the core of our democracy."

For students of history, General McChrystal was the first general in 50 years to have been relieved from duty in a time of war (the last time being Truman's firing of MacArthur).

Although unnoticed by most as a rich example of the rule of law at work the President's choice to relieve General McChrystal and his words from the Rose Garden paid homage to

(GOOD YEAR, page 21)

Good Year

(page 10)

the foundation which has made our nation great. He recognized that our institutions are stronger than any person and our military is always subordinate to civilian control.

Although General McChrystal's firing may have been bad for the war on terror, it was probably a healthy move for our democracy.

The other example from 2010 that the rule of law is alive and well was the establishment of the Kentucky Access to Justice Commission. On October 14, 2010, Chief Justice John D. Minton Jr. invoked provisions of the Kentucky Constitution to focus our judiciary on identifying legal needs for low-income Kentuckians, creating a plan to deliver needed legal services and developing strategies to increase funding for those services.

His order also seeks to reduce barriers to the justice system by addressing court rules that affect access to justice by poor Kentuckians. The order can be found online in its entirety through the court's website at <http://courts.ky.gov/ajc.htm>.



This past December, Justice Lisabeth Hughes Abramson, along with Jeffrey A. Apperson, talked to the Louisville Bar Association's newest class of inductees into its Leadership Academy about the rule of law at home and abroad. Justice Abramson spoke about the importance of access to justice for all Kentuckians and the judiciary's role in ensuring that access be efficient, effective and fair.

The rule of law is a fundamental principle of which we don't often speak but is supremely essential for the stability of our

society and Commonwealth. Unfortunately it is practically unheard of to measure its well-being in the U.S. with an index, like we do the stock market. However, a "Rule of Law Index" is available and maintained by The World Justice Project (www.worldjusticeproject.org).

As such, we usually take moments like these for granted, and treat them as self-evident or just "politics." But in reality, the rule of law is the culmination of choices we make every day that ensures accountability in our government and access to justice for all people in a fair and efficient way. Our adherence to it should be watched carefully and measured as a real indicator of the well-being of our democracy.

Although the masses commonly refer to the economy to evaluate our nation's health, should one reflect on our steadfast adherence to the rule of law, our democracy at home and abroad appears to be alive and well in these austere times. We may not realize it, but our adherence to the rule of law is just as much a part of our nation and Commonwealth's health as industry and the economy, and no less important than

the choices of the President or our elected and appointed leaders.

Although I happily bid farewell to 2010, I appreciate the work our President and Chief Justice have done to keep our nation committed to the rule of law. May we remain steadfast in 2011.

Jonathan S. Ricketts, *Ricketts Law Offices*, is a member of the LBA's Public Service and Leadership Academy Steering Committees. ■

