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Under the Umbrella: A Lawyer's Response to the Storms (Rip-offs, Scams, and Frauds)

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KANSAS TRIAL LAWYERS ASSOCIATION
Lawyers Representing Consumers

March 2, 2007

Robert K. Weary
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719 SW Van Buren
Topeka KS

The KBA has applied for 7.5 hours of continuing legal education (CLE) credit including 1.0 hours professional responsibility credit for this seminar.

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KANSAS BAR
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Under the Umbrella

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Registration includes materials and continental breakfast.

All registrations.....\$ 89 \$ _____

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Onsite registrants will incur an additional \$10.00 administrative fee.

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A Word of Thanks

The faculty for this Kansas Bar Association/Kansas Trial Lawyer Association seminar are volunteers in service to the profession who have made this program possible. Their generous contributions of time, talent, and energy make this and other Bar Association programs successful. We appreciate their work and service to the members of the Kansas Bar.

We truly appreciate the dedication and expertise provided by the members of the Access to Justice Committee in planning this program.

OUR DISTINGUISHED FACULTY

Bernard E. Brown, *The Brown Law Firm, Fairway, KS*

Brown began doing public interest work when he was in college, starting with volunteer work at the headquarters of Common Cause in Washington, D.C. A graduate of the University of Kansas School of Law, he has been in private practice in Kansas City since 1980. Between 1984 and 1996 his office was devoted entirely to representing consumer plaintiffs who were victims of car fraud. He has also worked on consumer class actions relating to vehicle financing, and on "home equity" fraud cases. He has tried over 25 consumer law jury trials as lead plaintiff's counsel, and his consumer cases have resulted in many published appellate and federal district court decisions of significance in this area of the law.

He has worked regularly with National Consumer Law Center staff for many years on various materials. He is a founding member, a current board member, and one of the two original Co-chairs of the National Association of Consumer Advocates ("NACA"). He has worked closely on a number of issues with many other leading national consumer groups (such as Consumers Union, Consumer Federation of America, Public Citizen, and U.S. PIRG), drafting legislation and testifying for these groups in Congress and in state legislatures. He is regularly consulted by media organizations from across the country on consumer law issues. He has also taught consumer protection law as an adjunct professor at UMKC Law School.

Marilyn M. Harp, *Kansas Legal Services, Topeka, KS*

Harp is the Executive Director of Kansas Legal Services. She graduated from KU Law School in 1979. Since that time, she has worked as an attorney for Kansas Legal Services in the Wichita office.

Robert E. Hiatt, *Kansas Dept. of Commerce, Topeka, KS*

Hiatt graduated from Washburn Law School in 1988 and was in private practice from 1988 to 1995 in Topeka. In 1995-96, he was Kansas Assistant Attorney General - Consumer Protection. From 1996 to 2005, he returned to private practice focusing on plaintiff's work in consumer law including class actions. In 2005-2006, he was staff attorney for the Kansas Insurance Department. In 2006, he became staff attorney for the Kansas Department of Commerce.

Lowell C. Paul, *Kansas Legal Services, Topeka, KS*

Paul graduated from the University of Chicago in 1970. He has spent his legal career with Kansas Legal Services and currently serves as a senior attorney providing research support for KLS staff statewide.

Marty M. Snyder, *Kansas Attorney General's Office, Topeka, KS*

Snyder worked for eight years in private practice, served ten years as a Deputy Disciplinary Administrator for the Kansas Supreme Court and seven years as an Assistant Attorney General in the Civil Litigation Division. She has been an adjunct associate professor of law in Pretrial Advocacy for Washburn University School of Law for 18 years. Snyder is a recipient of the Washburn University Law School

8:15 AM Registration & Continental Breakfast

8:45 AM Introduction

David J. Rebein, *Kansas Bar Association President, Rebein Bangerter PA, Dodge City*

9:00 AM Recurring Consumer Issues

Sharon A. Werner, *Sedgwick Co. District Attorney's Office, Wichita*

A survey of recurring consumer complaints and identification of possible Kansas Consumer Protection Act (KCPA) violations.

(WULS) Outstanding Adjunct Professor Award, KBA Outstanding Service Award and the WULS Honorary Life Member Award.

Gaye B. Tibbets, *Hite Fanning & Honeyman LLP, Wichita, KS*

Tibbets received her BA from Baylor University, Cum Laude, in 1982. She received her JD in 1986 from the University of Texas School of Law. She has been a trial lawyer in Wichita since April 1987 and is a member of the Wichita, Kansas and American Bar Associations, and is a past President of the Employment Law section of the KBA. She is also a member of the Kansas Women Attorneys Association and the Wichita Women Attorneys Association, where she has held a number of leadership positions. Tibbets serves on the board of the Kansas Appleseed Center for Law and Justice. She is a frequent lecturer on federal employment law issues and has authored several articles on the subject.

James J. Welch, *Kansas Department of Insurance, Topeka, KS*

Welch received his JD from Washburn University 1977 after which he served 18 years as Assistant District Attorney for Shawnee County. He then became the Special Disciplinary Counsel for the Board of Healing Arts and then Kansas Assistant Attorney General, Consumer Protection Division. In 2003, Welch joined the Kansas Insurance Department where he now serves as Director of Consumer Assistance and Market Conduct Division.

Sharon A. Werner, *Sedgwick Co. District Attorney's Office, Wichita, KS*

Werner is a 1975 graduate of Washburn Law School. She is the Chief Attorney of the Consumer Fraud and Economic Crime Division of the District Attorney's Office of the 18th Judicial District in Wichita, a position she has held for the past three years.

Hon. William S. Woolley, *Judge, 18th Judicial District, Sedgwick Co., Wichita, KS*

Woolley was elected as a judge of the 18th Judicial District in 2000. He received his JD/MBA from the University of Kansas in 1986. He was selected for the Honors Program of the U.S. Department of Justice. He served as attorney and Assistant U.S. Trustee for the Office of the U.S. Trustee, U.S. Department of Justice (Kansas, Region 20). Woolley was an associate and partner at Martin, Pringle, Oliver, Wallace and Swartz in Wichita. He also served as Of-Counsel for the Wichita firms of Patterson, VanZandt, Powell, Woolley and Harris, and Redmond & Nazar.

Because Sedgwick County assigns judges specifically to various areas of the law, Woolley has heard all aspects of civil, criminal and domestic cases from the time he started on the bench. Woolley has been assigned KCPA cases including, but not limited to hospitals, RVs, residential windows, real estate brokers, commercial landlord tenant, residential landlord tenant and many others.

THE COURSE SCHEDULE

9:50 AM Plaintiffs' Bloopers: What Defendants Hope Plaintiffs Do or Don't Do

Gaye B. Tibbets, Hite Fanning & Honeyman LLP, Wichita

From a defense perspective, the risk of losing attorney's fees makes KCPA cases particularly troublesome. Also, many areas of the law are unsettled or are within the court's discretion, which can make insurance adjustors and defense lawyers nervous. This presentation addresses some of these issues.

10:40 AM Break

10:55 AM Viewing the KCPA from the Bench

Hon. William S. Wooley, 18th Judicial District, Sedgwick Co, Wichita

Judge Wooley will discuss effective attorney fee applications, the use of expert witnesses and procedural guidelines under the KCPA.

11:45 AM How You Can Get Involved in a Consumer Law Pro Bono Panel

Marilyn M. Harp, Kansas Legal Services, Topeka

This presentation will contain information on how to translate what is learned in this seminar to help low income and elderly Kansans who encounter consumer law problems and have limited access to an attorney.

12:10 PM Lunch Break (on your own)

1:10 PM Obtaining Attorney Fees in Consumer Litigation

Lowell C. Paul, Kansas Legal Services, Topeka

Participants will learn which consumer laws allow recovery of attorney's fees by prevailing parties. This topic will be covered for a large number of consumer protection laws, allowing participants to seek fees when appropriate.

1:35 PM Economically Viable Consumer Cases

Bernard E. Brown, The Brown Law Firm, Fairway

There are an astonishing number of significant legal wrongs done against consumers every day; however, only a few can be the basis of economically viable civil lawsuits in Kansas. This presentation will provide a brief survey of some consumer claims that pass that test. Some of these that will be addressed include certain credit reporting torts, home equity/mortgage fraud and abuses, debt collection torts, and some of the most egregious car sales frauds. Realistic economic analysis of such potential claims will be at the core of the presentation. Broad practice tips and strategic concepts that apply to many kinds of potential consumer cases will be addressed. Networking with other consumer advocate attorneys across the country, and getting access to the best consumer law resources from across the country, will also be addressed.

2:50 PM Break

3:05 PM The History of the KCPA and the Uniform Consumer Credit Code (UCCC)

Robert E. Hiatt, Kansas Dept. of Commerce, Topeka

James J. Welch, Kansas Dept of Insurance, Topeka

The speakers will discuss and review legislative history of the KCPA and the UCCC along with a report published by the legislature regarding acts. They will also present various consumer cases they have handled.

3:55 PM The New Kansas Rules of Professional Conduct

Marty M. Snyder, Kansas Attorney General's Office, Topeka

The first major revision of the KS Rules of Professional Conduct since their adoption in 1988 will likely be effective July 1. Some of the major changes that will affect the way we practice law will be discussed.

4:45 PM Adjourn