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Cover story

Meet the legal world's super-experts

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Attorney Anne Guillory, a partner in the litigations department at Dinsmore & Shohl, reviews contracts and pursues property liability infractions.

Brian Zoeller, an attorney in the regulated business practice group at Frost Brown Todd, puts deals together for his clients.

Brantley Shumaker, a patent attorney at Middleton Reutlinger, helps clients advance their business interests.

Pretty mainstream legal work for these three Louisville attorneys. Except that it isn't "mainstream" at all. Each attorney's practice is in an area of law so specific that it's practically a niche within a niche.

Guillory specializes in equine law. Her cases involve all the various aspects of horses: owning, buying, selling, riding, racing, showing, training, grooming, boarding — even transporting — horses.

Zoeller's emphasis is renewable energy law. His deals center on issues relating to renewable natural gas: landfills, pipelines, easement rights, zoning ordinances, the commodities market and applicable equipment.

Shumaker concentrates on the intellectual rights of hardware and software development, the ever-changing world of computer technology and unsettled patent precedents.

Who are these attorneys? How did they get involved in such specific aspects of the law? And exactly how do they spend their time?

Horses and the law

"Horses are genetically engineered to self-destruct," said Guillory, Dinsmore & Shohl's equine specialist. "You have a 1,200-pound living animal who makes its own decisions, and the unexpected is always going to happen."

Though Guillory's specialty practice runs the gamut of the saddle-bred industry — thoroughbred racehorses, show horses, jumpers, dressage horses, quarter horses, even backyard ponies — the horse



WILLIAM DESHAZER

Anne Guillory, an equine attorney with Dinsmore and Shohl, is shown with her horse, Celeste, at the Rock Creek Riding Club. "My parents made two mistakes when I was a child. They built our house next to a horse farm in Bowling Green. And they bought me a pony when I was 9, thinking I'd grow out of that phase. I did not."

itself is rarely the client. Not directly, anyway. Her focus is on the humans who own, breed, transport, buy, sell, employ and treat the animals.

“Equine law can be any normal area of the law that involves the horse industry,” she explained, “anything from routine paperwork and transactions — like bills of sale, lease agreements, boarding and training agreements, waivers of liability, ownership agreements, transportation issues involved in hauling horses — to situations where the accidental, the unexpected, happens.

“Anyone with a good set of legal skills and an understanding and passion for horses can translate that into an equine law practice.”

Guillory’s passion began at a young age.

“My parents made two mistakes when I was a child,” she said. “They built our house next to a horse farm in Bowling Green. And they bought me a pony when I was 9, thinking I’d grow out of that phase. I did not.”

After graduating from Western Kentucky University, she went to Washington and Lee University School of Law, drawn to personal injury defense litigation — what she calls “slip-and-falls.”

But once she discovered that equine law existed as a distinct sub-specialty, she was on her way.

While she participates in all manner of law relating to horses, she said the most challenging work is litigation-related, whether it’s the break-up of a business relationship, a sale where the horse didn’t turn out to be as warranted or a personal injury claim.

“These cases can be very personal for both sides,” she said. “Sometimes, the challenge is to help my clients separate out what their hearts want versus what their heads know to be true — what makes the most sense for their long-term success and peace of mind.

“Having an attorney who understands the passion that goes with horse ownership, but also knows the law, makes things move smoothly.”

Renewable natural gas and the law

Zoeller, Frost Brown Todd’s specialist in renewable energy law, insists he is not an environmental lawyer.

“If you’re going to ask me for advice about the Clean Air Act, I’m going to tell you that I should first call my malpractice insurance carrier,” he said.

Rather, he’s a deal-maker. What drives his deals is the potential in Kentucky to develop renewable natural gas from the waste byproducts that get burned off in landfills or dumped into the sewer systems.

“My niche is in the development of renewable energy projects,” he said, “dealing with special financing issues and regulatory obstacles. Also, using the environmental credits and incentives that help facilitate the financing and viability of the projects.”

Take Kentucky’s extensive bourbon distilling industry. Zoeller says that the slop that collects in the bottom of the stills is usually discharged into the sewers or given to hog and cattle farmers.

“Somewhere in that slop is high-organic compound that could be broken down by an anaerobic digester and converted to renewable natural gas,” he said. “There’s enormous potential in Kentucky.”

Obstacles, too. He was part of the effort to develop a conversion property next to the Heaven Hill distillery in West Louisville.

“Heaven Hill was on board to provide the waste materials,” he said. “But we couldn’t overcome the backlash of putting an industrial project at 16th and Maple streets, near residential neighborhoods.”

He said the project would have reduced truck traffic in the neighborhood and returned a long-abandoned property to productive use, in addition to providing jobs, “but we couldn’t get it approved and the project was withdrawn. A zoning ordinance placed restrictions on where you could put an anaerobic digester. Now there’s only about one place in Louisville where you can legally put one.”

Zoeller, who studied math at Bellarmine University before getting an MBA and law degree at the University of Louisville, said his interest in the field stemmed from helping two college friends in the cartage business develop a compressed natural gas fueling station on Fern Valley Road for their fleet of 200 trucks.

“I represented them in the acquisition of the property, and then helped secure incentives for their project under the state’s Incentives for Energy Independence Act,” he said. “I learned how the energy industry works, about renewable fuel standards and the difference between natural gas and renewable gas.”

He said the potential for deals in Kentucky is untapped.

“Our state is full of landfills that are just flaring gas into the air,” he said. “By taking all that gas that’s being burned off and diverting it to a system that will clean out all the impurities and produce a clean gas, we could be putting it to productive use.”

Computer software and the law

At the core of Shumaker’s practice at Middleton Reutlinger is the question: Is software patentable or not?

It’s not as straightforward as a patent on a new device or process. And yet, the ongoing development of new software is at the heart of today’s digital revolution.

“Software, at its core, is simply instructions that you put into the memory of a general purpose computer,” Shumaker explained, “and that general purpose computer itself is just a physical device. New software is not making the computer a new machine.”

Under the operable statute in patent law, said Shumaker, “Einstein would not have been able to patent his theory of relativity.”

Patent law is a pretty specialized pursuit. To appear before the Patent Office, an attorney has to pass the patent bar, and that generally means having a science or engineering background. Shumaker received his undergraduate degree in computer science from the University of Kentucky. But it was 2002, in the midst of the dotcom bubble, and jobs were not easy to get.

“Through my father, I met Jim Higgins, one of the forefathers of the patent practice at Middleton Reutlinger, and it seemed like a good fit for me,” he said.

At Chicago-Kent Law School, he took intellectual property classes, “which was fairly unusual at the time.”

He said he learned early on, in his first patent law class, the misconception that “patents only cover things that are totally new and groundbreaking — the so-called ‘sparks of genius.’

“There are plenty of those,” he said, “but more typical is an incremental improvement of something that already exists.”

His practice is divided among preparing clients’ patent applications and prosecuting them at the Patent Office; representing clients who claim their patents have been infringed; and defending clients against infringement charges by other patent-holders.

Roiling the patent waters these days are “patent trolls” — companies that purchase other people’s patents and then, through aggressive legal means, try to enforce those patent rights against purported infringers, often claiming damages far beyond the patent’s actual value.

“Patent litigation is expensive,” Shumaker said, “and so companies tend to settle those claims rather than getting dragged through the courts.”

At a firm prior to Middleton Reutlinger, he represented a company that was sued for sending out Tweets and Facebook updates containing hyperlinks to its website’s home page.

“There had been a patent filed in the 1990s, when pagers were expanded to start including small messages with some selectable element,” he said. “The pager owner would then go home, plug the pager into a dock, and download the additional information.”

But patent trolls who had obtained that patent attempted to expand it so that, today, any time a company sends out a message with a hyperlink, it’s charged with infringing that patent. The list of companies they sued — including Shumaker’s client — was extensive: practically anyone with a website selling merchandise.

The mere fact that computer-related patent infringement cases stem from 20-year-old pager technology shows how complex and fast-moving is Shumaker’s area of practice.

“We’re not meant to be simply scriveners who take clients’ ideas and turn them into patents,” he said. “To be really valuable to our clients, we need to stay abreast of industry practices and technology and advise them intelligently — especially small clients who don’t have in-house legal expertise.”

