



## JAMES H. FRAZIER, III

Managing Member

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### HONORS & AWARDS

- The Best Lawyers in America®, 2012 - 2019 (Litigation - Real Estate, Real Estate Law) The Best Lawyers in America®, 2019-2020 (Litigation - Real Estate)
- Kentucky Super Lawyers®, 2013 - 2019 (Real Estate)
- Chambers USA, "Leaders in their Field", 2016 (Real Estate: Zoning/Land Use Kentucky)
- 2012 Top Rated Corporate Real Estate Lawyer
- Best Lawyers' 2012 Lexington Real Estate Law Lawyer of the Year
- AV® Preeminent Peer Review Rated by Martindale-Hubbell®

It is my privilege to serve as Managing Member of McBrayer, a position I have held since 1993. When I joined the firm, there were only five attorneys. Today, McBrayer has nearly 50 attorneys practicing throughout Kentucky as well as in Washington, D.C. Size, demographics, additional offices and diversity have all transformed this once small firm into a regional powerhouse. With law offices in Lexington, Louisville, Greenup and Ashland, plus a Government Relations office (MML&K Government Solutions) in Frankfort, and a presence in Washington, D.C. we are able to better serve our clients on a wide spectrum of matters.

The culture of McBrayer is unique in many ways. Even though we are currently considered a regional firm due to our size and demographics, as lawyers we still act very much like that small firm I joined over 30 years ago. Our lawyers are collegial, teamwork-oriented and singularly focused on our clients' needs. It is this culture, along with the informality we possess, that allows us to deliver quality legal services to our clients in a very unique and satisfying way.

In addition to our legal work, we are also passionate about community service. All of our lawyers serve on multiple civic community boards. The McBrayer firm believes in giving back. We have always been much more than just billable hours. We



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- Top Attorney in Kentucky, 2009

### PRACTICE AREAS

Banking, Lending and Finance  
Bankruptcy  
Business and Corporate Law  
Business Formation and Planning  
Business Succession Planning  
Coal  
Commercial Lending  
Corporate and Business Tax Law  
Debt & Equity Finance  
Divestitures and Spinoffs  
Energy Law  
Entrepreneurial Law  
Mergers and Acquisitions  
Planning and Zoning  
Real Estate Development  
Real Estate Law  
Regulatory Compliance  
Sales and Dissolutions  
Securities and Corporate Finance  
Shopping Center and Retail Development

### ADMISSIONS

Kentucky, 1979  
Florida, 2007  
Texas, 1997  
U.S. District Court Eastern District of Kentucky, 1980  
U.S. District Court Western District of Kentucky, 1996  
U.S. Court of Appeals 6th Circuit, 1992

possess a sense of social conscience that other firms have lost sight of in today's fast paced world. That social consciousness is what I think ultimately sets us apart from our colleagues, and, in my opinion, is the backbone of our firm.

Assuredly the McBrayer law firm will continue to grow in numbers, practice areas and diversity, and continue to successfully serve our ever-changing constituency.

My practice focuses on real estate, bankruptcy, mergers and acquisitions, and general corporate practice with special emphasis on mineral and energy law. Also, I have extensive experience in coal transactions (including leases, permitting, coal sales contracts, asset purchases, equity interest transactions, transportation agreements, overriding royalty agreements, consulting contracts, and contract mining agreements).

### MORE THAN MCBRAYER

In addition to my law practice, I serve as the Master Commissioner of the Fayette Circuit Court. Prior to being appointed Master Commissioner in 2008, I held the office of Chief Deputy Master Commissioner of the Fayette Circuit Court from 1992-2008.

### Kentucky Leader

As a firm we are passionate about community service. All of our lawyers sit on multiple civic community boards. The McBrayer firm believes in giving back and has always been much more than just billable hours. We possess a sense of social conscience that other law firms lose sight of in today's fast paced world. That social consciousness is what I think ultimately sets us apart from our other colleagues and, in my opinion, is the backbone of our firm.

My current passions are Transylvania University, Lexington Parking Authority, and the Downtown Lexington Management District. I have served on the Transylvania University Board of



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U.S. Supreme Court, 2007

### EDUCATION

University of Kentucky College of Law, Lexington, Kentucky, J.D., 1979

- Honors: Phi Delta Phi
- Honors: Phi Alpha Theta, President, 1976
- Honors: Member, Moot Court Board

Transylvania University, Lexington, Kentucky, B.A., 1976

- Major: History

Trustees since 2000 and chair numerous committees. I was elected to Chairman of the Lexington-Fayette Urban County Government Parking Authority in 2011. We take a great deal of pride in the work our team at the Lexington-Fayette Urban County Government Parking Authority has accomplished, and I have been proud to serve alongside them. During my service, we have worked diligently to take over all of the operations for the city's parking structures and refurbish them to today's standards and uses. The team of the Lexington-Fayette Urban County Government Parking Authority has won several awards for the refurbishment of the Helix Garage located on Main Street. It has aided the city greatly, enhancing the ability of people to frequent downtown and easily locate parking, which the local businesses seem to greatly appreciate.

Lastly, I serve as Chair of the Downtown Lexington Management District, an organization that uses collected property taxes to foster economic development to create a flourishing downtown for both visitors and locals to enjoy. Daily operations of the District include downtown ambassadors, friendly faces who will ensure that public areas are clean and well maintained, provide directions to shoppers, and maintain enhanced landscaping, in addition to improving safety and security in the District.

### News

Law Firms Forecast Another Strong Year  
*The Lane Report*, February 6, 2019

Property Improvement Grant Program helps Revitalize Downtown Storefront  
February 6, 2019

McBrayer Attorneys receive U.S. News Best Lawyers and Super Lawyers Distinctions for 2019  
December 19, 2018



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McBrayer attorneys named to U.S. News Best Lawyers including 3 Lawyer of the Year honors  
Attorneys from McBrayer law offices in Lexington and Louisville achieved a 2018 listing in U.S.  
News Best Lawyers in America  
August 15, 2017

Art and Style Light Up Downtown Lexington  
*Under Main*, February 9, 2017

Purple shirts, power washing and other steps to turn downtown Lexington into 'hub of activity'  
October 24, 2016

Purple Revolution: Jim Frazier and the Downtown Lexington Management District strive to enhance  
Lexington's burgeoning downtown  
September 14, 2016

James H. Frazier and Jack A. Wheat recognized by Chambers USA  
Chambers USA 2016 recognizes McBrayer attorneys as 'Leaders in their Field'  
*Chambers USA*, March 29, 2016

### Seminars & Speaking Engagements

13th Biennial Real Estate Law & Practice Institute  
Foreclosures & Insolvency Issues  
Lexington, Kentucky, February 2, 2016

### Articles

Legal Practice Makes Profits in 2015  
Firms that are keeping up with growing demand in a fast-changing economy expect a prosperous  
year  
*The Lane Report*, 2015

### Bankruptcy

Through my other practice areas, such as real estate and business law, I seamlessly assist my clients when a bankruptcy interrupts, or threatens to interrupt, the progress of litigation, commercial transactions, or the collection and enforcement of contract rights. I frequently and successfully assist acquisition purchasers or liquidation sellers with the special problems and bankruptcy considerations inherent in distressed asset sales and purchases, and in the assumption and assignment of contracts or leases, both inside and outside of bankruptcy or other insolvency proceedings.



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In 2009, I was appointed as Assignee/Trustee for the Benefit of Creditors (ABC) of a large multi-company coal corporation. The ABC was subsequently converted to a Chapter 11 Bankruptcy proceeding, and I was appointed by the Court to serve as Chief Liquidation Officer on behalf of the Debtor in that action. We were successful in the disposal of the majority of the Debtor's assets, as well as significantly reducing the Debtor's reclamation liabilities in excess of \$50,000,000 associated with its coal mining activities in two states.

### Real Estate

One key to successful personal or business financial management is the timely acquisition and disposition of property. Within my real estate practice I manage varied types of property transactions from the individual house purchase to commercial, industrial and residential development projects.

My law practice affords me the opportunity to provide direction in structuring development agreements, joint ventures, zoning matters, leases and construction contracts, and advice on landlord and tenant matters. Also, I am extensively involved in structuring financing for real estate acquisition and development.

### Residential

Buying or selling a home can be the largest transaction that many people ever enter into. I understand the emotion and stress that can be involved. That's why communication and consultation with my clients is so important. I can assist in this process by reviewing the terms of your offer and drafting conditions, representations and warranties where appropriate to protect your interests. I will also discuss how you would like to take title to the property and the title insurance options available to you. I take pride in helping my clients through the transaction and into their new home as smoothly as possible.

### Commercial

My real estate practice specializes in the purchase and sale of residential and commercial real estate, construction liens, and mortgages and financing, as well as condominium and commercial development projects. I act as approved counsel to several of Kentucky's major banks and lending institutions in a variety of secured lending transactions and assist clients in sourcing and negotiating appropriate financing terms.

Alongside the firm's planning and zoning department, I have represented several national student housing developers in the acquisition and development of real estate for projects located in Lexington, Louisville and Richmond, Kentucky, as well as in West Virginia and South Carolina. I



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was involved in these projects from the beginning with acquisition of real estate, re-zoning of property, and development plan approval through the successful lease negotiations with railroad companies, allowing the developers to provide pedestrian bridge access across railroad property to college campuses from the student housing facilities.

### **NOTABLE SUCCESSES INCLUDE:**

- Eastern Kentucky University Student Housing Development - \$75,000,000
- Newtown Crossing Development - Phases I and II totaling \$55,000,000
- University of Louisville Student Housing Development - \$40,000,000
- Appointed as Assignee/Trustee in Assignment for Benefit of Creditors of large multi-company coal corporation; Court appointed Chief Liquidation Officer for Appalachian Holding Company, Inc., a Chapter 11 Bankruptcy liquidation of coal companies in two states.
- Negotiated the acquisition and leasing of substantial properties with CSX and Northern Southern Corporation.
- Represented Appalachian Fuels in connection with the sale of 14 coal mining companies.
- Represented LDH Energy and affiliates in connection with the purchase of coal processing and loading facilities in Kentucky. Negotiated the acquisition of related railroad properties.
- Represented a large regional coal mining company in connection with the sale of \$50,000,000 in coal properties and related assets in multiple states.
- Court appointed receiver for liquidation of coal properties in multiple counties in Kentucky.

### **Corporate Law**

Client representation includes businesses of all sizes, from small, locally owned shops to Fortune 500 companies. I am particularly well-acquainted with the legal issues unique to the energy and coal industry, the hospitality and travel industry, and clients in commercial lending and commercial development.

I provide counsel and representation for all stages of business:

- Business formation — entity selection, business planning, ownership agreements and other foundations for success
- Entrepreneurial law — intellectual property, financing, regulatory compliance and other comprehensive considerations for startups
- Business succession planning — transitioning a small or family-owned business to the next generation



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- Commercial real estate purchase or lease
- Mergers and acquisitions — strategy, structuring and execution of friendly or contested transactions
- Divestitures and spinoffs — legal and business considerations in carve-outs, split-ups, buyouts or recapitalizations
- Sales and dissolutions — purchase or sale of business assets, partner/shareholder buyouts, disbanding a business

Throughout my legal career I have been very successful in navigating complex business transactions, from multimillion-dollar mergers to strategic acquisitions or downsizing. I can address the financial, legal and regulatory ramifications to consummate deals smoothly and avoid future legal disputes.

### Professional Activities

- Fayette Circuit Court, Master Commissioner, 2008 - Present
- Florida Bar Association, Member, 2007 - Present
- Louisville Bar Association, Member, 2006 - Present
- Texas Bar Association, Member, 1997 - Present
- Fayette Circuit Court, Deputy Master Commissioner, 1992 - 2008
- Kentucky Bar Association, Member, 1979 - Present
- Fayette County Bar Association, Member, 1979 - Present
- Board of Governors, 1981-1986
- President, 1992-1993
- Board of Directors, 1992-1994
- American Bar Association, Member, 1979 - Present

### Receivership

Even the most complex litigation cannot solve the often complicated issues stemming from property and business cases. In these instances, what is often a far better solution for creditors is the appointment of a receiver, placing the property or business at issue into a receivership. This places the matter at the heart of a controversy into trusted hands, someone who can provide a structure, administration, oversight and a remedy that may not be readily available through other means.



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A receiver acts as an officer of the court and provides an accounting to the court, ensuring that the ongoing business, winding down, or disposition of assets or property are carried out in an orderly and efficient manner. The receiver acts in the interest of all creditors and consumers, and the receiver's efforts result in better outcomes for those involved.

I have decades of experience as a receiver in Kentucky matters, both in my law practice and as the Fayette County Master Commissioner. I can help creditors and courts sort out the affairs of business entities, commercial property owners and others to bring about positive results and leave them in better financial shape than they would have been otherwise. After all, you don't want to kill the goose that lays the golden eggs, especially when you're owed an egg or two.

### RELEVANT EXPERIENCE

- Appointed as Assignee/Trustee in Assignment for Benefit of Creditors of large multi-company coal corporation; Court appointed Chief Liquidation Officer for Appalachian Holding Company, Inc., a Chapter 11 Bankruptcy liquidation of coal companies in two states
- Appointed as Receiver in the matter of Manalapan Land Company and Black Star Land Company, two family-owned land and coal companies feuding over the assets of the company following the death of the senior and controlling member of the companies
- Appointed as Receiver in the foreclosure action of Central Bank vs. Imani Baptist Church to manage, preserve and liquidate the assets of the church during the pendency of the foreclosure action for the benefit of the creditors
- Appointed as Receiver in the matter of Ashland Oil/Valvoline to take possession of and manage the locally owned real estate of the companies during the stages of final separation of Valvoline from Ashland Global Holdings, Inc.
- Appointed as Receiver for Southern Acres Christian Church to take charge of the church's financial affairs following the ouster of its senior pastor by the newly-elected board of elders for the church.