



KENTUCKY

General News



November 2014

Attorney General Conway Recognized for Outstanding Efforts to Fight Drunk Driving and Underage Drinking



The Foundation for Advancing Alcohol Responsibility (FAAR), a national nonprofit organization that leads the fight against drunk driving and underage drinking, has selected Attorney General Jack Conway as a 2014 Leadership Award recipient for his outstanding commitment to prevent drunk driving and underage drinking in Kentucky. Each year, FAAR recognizes state attorneys general who have demonstrated an exceptional commitment to the ongoing fight against drunk driving and underage drinking.

Attorney General Conway has made it a priority to prevent underage drinking for many years through various efforts; including public service announcements, the [Ask, Listen, Learn program](#), and public awareness efforts during Alcohol Awareness Month and back-to-school events. He has also focused on the broader issue of teen driver safety with the [IKnowEverything program](#) during Global Youth Traffic Safety Month and National Teen Driver Safety Week. Additionally, General Conway has worked diligently to prevent impaired driving. His efforts have raised public awareness on the importance of these issues and led to expanded programs throughout Kentucky.

“It is an honor for me to be selected as a 2014 Leadership Award recipient by the Foundation for Advancing Alcohol Responsibility,” Attorney General Conway said. “As Attorney General, I’ve had the privilege of working alongside FAAR and other law enforcement partners on important public awareness initiatives targeted toward the prevention of impaired driving and underage drinking, as well as keeping teen drivers safe. It is vital that we teach our teens how to stand up to peer pressure and make safe choices behind the wheel, and I want to thank FAAR for recognizing our efforts to create a healthier and safer Commonwealth for Kentucky families. I am proud to be a part of the mission-critical work the Foundation for Advancing Alcohol Responsibility does each day in our communities, in our classrooms, and online to promote responsible decision-making.”

“Attorney General Conway has been a tireless advocate for the people in Kentucky,” said Ralph Blackman, president and CEO of FAAR. “We can’t thank the Attorney General enough for his dedication and leadership to prevent drunk driving and underage drinking by sending a clear and consistent message that it is illegal and will not be tolerated. We look forward to continuing to work to save lives in the future with Attorney General Conway.”

For more than 23 years, FAAR has transformed countless lives through programs that bring individuals, families and communities together to guide a lifetime of conversations around alcohol responsibility.

To learn more, visit Responsibility.org



AG Conway Releases Online Scholarship Donation Application

A new online donation application through the Office of the Attorney General's website is allowing the public to contribute tax-deductible donations to the Sarah Shay and Michael Donta Memorial Scholarships for Hope and Healing.

The \$1,500 college scholarships were created last year to assist graduating high school students in Kentucky who have excelled in their personal and academic lives despite seeing firsthand the devastating consequences of prescription drug abuse. Online donations to the scholarship fund may be made by visiting the secure, mobile-friendly website at ag.ky.gov/rxabuse/Pages/scholarship.aspx.

"Our new online donation application on ag.ky.gov is an important tool that will help us expand and maintain a scholarship program that is providing strong, determined teens across the Commonwealth a chance to break the cycle of addiction and have the opportunity of a college education and a brighter future," Attorney General Conway said. "The toll that prescription painkiller abuse has taken on Kentucky families is alarming. This scholarship program is a wonderful opportunity for teenagers impacted by prescription drug abuse to realize there is always hope, and I'm proud that this money will be used once again to benefit two young people who have embraced positive lifestyles for themselves and their families."



Attorney General Conway and his office partnered with Kentucky Interactive, LLC to provide the online donation application at no cost to the scholarship fund or contributors.

The Sarah Shay and Michael Donta Memorial Scholarships for Hope and Healing are in memory of 19-year-old Sarah Shay and 24-year-old Michael Donta. Shay, of Morehead, Ky., died of a prescription drug overdose in 2006. Donta, of Ashland, Ky., lost his battle with prescription painkiller abuse in 2010. Sarah and Michael's parents, Dr. Karen Shay and Mike Donta, now travel across Kentucky with Attorney General Conway to help educate middle and high school students about the dangers of prescription drug abuse. Through the Keep Kentucky Kids Safe program, Attorney General Conway and his partners have shared their important message with more than 45,000 students, teachers, and parents statewide.

The Office of the Attorney General is able to offer these scholarships with the help of the National Association of Drug Diversion Investigators (NADDI) and private donations. For more information on eligibility requirements and to download a scholarship application, please visit ag.ky.gov/rxabuse/Pages/scholarship.aspx.

AG Conway Issues Letter to TVA Concerning Units at Shawnee Fossil Plant

Attorney General Conway is urging executives with the Tennessee Valley Authority (TVA) to take immediate action to schedule public meetings regarding the possible decision to shut down two coal-fired units located at its Shawnee Fossil Plant near Paducah. In a letter sent to TVA in November, General Conway requested that the company, as part of its decision-making process, schedule public meetings in and around Paducah and within reasonable driving distance of TVA's residential, end-use customers in southwestern Kentucky. General Conway also requested that TVA, as part of the federal National Environmental Policy Act (NEPA) administrative process, provide all feasibility studies and modeling data, and address the economic impacts that would occur in southwestern Kentucky if TVA retired the units.



In previous comment letters to the Tennessee Valley Authority regarding coal plant shutdowns, General Conway has questioned both the lack of transparency by TVA as to its resource-planning decisions and the potential threats to reliability that would result from the retirements of the plants. Under the NEPA administrative process, the Tennessee Valley Authority is considering whether to retrofit the units with scrubbers and Selective Catalytic Reduction controls, convert the units to burn biomass, or retire the units by Dec. 31, 2017. Prior to its Environmental Assessment of the available options, TVA is ruling out converting the units to burn biomass.

"It's my job to speak up for the citizens of Kentucky and that's exactly what I've done by contacting the Tennessee Valley Authority about this important issue," Attorney General Conway said. "Further, I again point out that the NEPA process specifically requires public engagement and transparency throughout the course of analyzing and assessing options. Part of that NEPA analysis requires assessing the social and economic impacts of the affected areas."

A copy of the letter is available here: <http://tinyurl.com/mfbbt2w>

AG Conway Urges Regulation of Mandatory Arbitration Clauses in Contracts for Financial Services



The federal government should adopt rules that protect consumers from mandatory arbitration clauses in important contracts, Attorney General Conway and his colleagues in 15 other states wrote in a letter to the U.S. Consumer Financial Protection Bureau (CFPB).

The mandatory arbitration clauses are inserted by financial institutions into critical contracts for essential financial products, such as credit card, payday loan and checking account agreements. The language either has the effect of prohibiting the consumer from pursuing a claim against the financial institution in court or makes it prohibitively expensive by restricting the consumers' rights to form a class-action lawsuit. Also, unlike court proceedings, arbitration matters are usually decided privately and the decisions are not publicized.

As the chief consumer protectors of their states, in their letter the Attorneys General asked CFPB Director Richard Cordray to protect consumers' fundamental rights to assert their claims in court.

"The need for regulations to protect the public interest has never been greater," the Attorneys General wrote. "Over the past decade, judicial decisions and business practices have diminished consumers' rights and bargaining power with respect to contracts for financial services."

The letter, which was organized by Attorney General Conway, Delaware Attorney General Beau Biden and Massachusetts Attorney General Martha Coakley, was sent to the CFPB on Nov. 19 as part of the agency's research into mandatory arbitration clauses. The 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act requires the agency to conduct extensive research before determining whether mandatory arbitration clauses are harmful to consumers before issuing any regulations.

Financial institutions tuck the arbitration into the fine print of contracts and consumers often aren't even aware of the terms to which they are agreeing. Financial institutions often make it mandatory that consumers agree to submit to the arbitration process before opening a checking account or issuing a credit card, so consumers have no real way to negotiate or otherwise insist on protecting their rights.

"Mandatory pre-dispute arbitration is procedurally unfair to consumers, and jeopardizes one of the fundamental rights of Americans; the right to be heard and seek judicial redress for our claims," the Attorneys General wrote to Cordray, himself a former Ohio Attorney General. "These contractual requirements are neither voluntary nor readily understandable for most consumers. Often consumers do not recognize the significance of these provisions, if they are aware of them at all."

In addition to Kentucky, Delaware and Massachusetts, the following states also signed onto the letter: California, Connecticut, Hawaii, Illinois, Iowa, Maine, Maryland, New Mexico, New York, Oregon, Rhode Island, Vermont and Washington.

A copy of the letter is available here: <http://tinyurl.com/qcgm3sf>

Mississippi Man Sentenced for Attempting to Extort U of L Athletic Association

A Jackson, Miss., man convicted of attempting to extort the University of Louisville Athletic Association has been sentenced to 24 months in prison.

On Aug. 13, Thomas Ray, 36, was convicted of extortion by means of threatening communication by a federal jury. He was sentenced on Nov. 3 in U.S. District Court.

According to evidence presented at trial, Ray used the alias "Melinda White" when, on April 23, 2013, he knowingly sent an email communication from his Jackson home to two University of Louisville employees, threatening to injure the reputation of the University of Louisville Athletic Association. Additionally, Ray demanded \$3.5 million.

The U.S. Attorney's Office prosecuted the case and the Federal Bureau of Investigation (FBI), the Office of the Attorney General and Louisville Metro Police Department investigated.



Six Kentucky Counties Selected for Post-Election Audit

Six Kentucky counties have been chosen in a random drawing on Nov. 20 to undergo independent inquiries for any potential irregularities that may have occurred during the general election on Tuesday, Nov. 4. The counties selected are Owsley, Gallatin, Simpson, Bourbon, Metcalfe and Mercer.

“These audits ensure a fair and equitable election process in Kentucky and supplement the work our investigators did leading up to and during the general election,” General Conway said.

The post-election audits, which are required by law, will be conducted by the Office of the Attorney General. The Kentucky Attorney General is required to conduct a post-election audit investigation in no fewer than 5 percent of Kentucky’s counties following each primary and general election. The counties are selected in a public drawing and must be done within 20 days of the election.

In each county, these routine inquiries will include checking election forms and interviewing county officials. The selection of these counties does not imply that irregularities are suspected. The certified audit drawing may be viewed by visiting this link: <http://goo.gl/kdlQdc>

The six counties selected during the last post-election audit in May 2014 were Meade, Allen, Clark, Warren, Breathitt and Russell counties. There were no irregularities discovered during the last audit.

In addition to the post-election audit, follow-up investigations are continuing regarding complaints to the Election Fraud Hotline, which received 226 calls from more than 50 counties between 6a.m. and 7p.m. during this year’s General Election. There were 16 allegations of vote-buying. Those allegations came from Breathitt, Clay, Floyd, Jefferson, Letcher, Magoffin, Montgomery and Owsley counties. In addition to the 226 calls on Election Day, the Office of the Attorney General received 67 complaints prior to Election Day and 55 complaints after the election, for an overall total of 349 complaints/calls from 77 counties.



Louisville Chiropractor, Office Assistant Charged with Health Care Fraud



A federal grand jury charged a Louisville chiropractor and his office assistant with health care fraud, conspiracy to commit health care fraud, mail fraud, identity theft and obstruction of a criminal investigation for their roles in billing private insurance companies and government health care agencies with services that were never performed.

According to a 25-count indictment announced Nov. 5, Devin Thauberger, 44, and Trish Muir, 27, conspired to submit fraudulent claims to Medicare, Passport, Anthem, Humana, Geico, Shelter, Nationwide, and other insurance carriers, which falsely and fraudulently sought reimbursement for services that were never provided to patients - including times in which Thauberger was out of the country and unable to provide services.

Between April 2009 and March 2014, the defendants are charged with submitting claims for services, which the indictment charges were never performed. According to the indictment, they submitted false claims and billings on at least 11 occasions for a total of nearly \$200,000.

Further, according to the indictment, the pair used patients’ identities and personal information to fraudulently charge insurance companies and government health care agencies for services that were not performed.

Also, beginning in August 2013 and continuing until at least July 2014, the defendants are charged with willfully obstructing the criminal investigation of federal health care violations by altering or causing patient records to be altered and attempting to influence the testimony of witnesses.

This case is being prosecuted by the U.S. Attorney’s Office and is being investigated by the Federal Bureau of Investigation (FBI), the U.S. Department of Health and Human Services’ Office of Inspector General and Attorney General Conway’s Medical Fraud and Abuse Control Unit.

Former Caregiver Sentenced on Medicaid Fraud Charge

A jury sentenced a former caregiver on a charge of defrauding the Kentucky Medicaid program. Heriberto Ortiz, 47, was sentenced in Lee Circuit Court on Nov. 21 to three years in prison, which will be probated for a period of five years. The judge ordered Ortiz to pay \$42,115 in restitution to the Kentucky Department of Medicaid Services.

Ortiz worked as a caregiver for Rock Arch Refuge, a company based in Lee County that provides Medicaid-funded services to disabled patients. On Aug. 15, 2014, Ortiz pleaded guilty to defrauding the state Medicaid program. In pleading guilty, Ortiz admitted that from February 2013 until December 2013, he submitted false timesheets for services he did not perform, resulting in a loss to the Medicaid program of \$42,115.

Ortiz's conviction is the result of a broader investigation of Medicaid-funded in-home caregiving companies located in Jessamine, Fayette and Lee counties. Attorney General Conway's Medicaid Fraud and Abuse Control Unit and the Cabinet for Health and Family Services' Office of the Inspector General. To date, the investigation has yielded two additional felony convictions involving Medicaid fraud.