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ARKANSAS LAW RECORD

Fall/Winter 2006



**Local Law Firm
 Making A Difference**

**Norma Lea Beasley
 Entrance Hall**

UNIVERSITY of ARKANSAS
 SCHOOL of LAW

SAVE THE DATE

Memphis Area Law Alumni and Friends and attendees of the Arkansas Bar Association

Mid-year Meeting
 January 18, 2007
 5 to 7 p.m.
 Louis XVI Room
 Peabody Hotel
 Memphis, Tennessee

Winter CLE Program

3 hours CLE including 1 hour Ethics
 February 17, 2007
 8 a.m. to noon
 E. J. Ball Courtroom
 Robert A. Leflar Law Center
 University of Arkansas
 Fayetteville, Arkansas

Ethics CLE – Howard W. Brill Pulaski County Bar Association

February 9, 2007
 10:30 to 11:30 a.m.
 Little Rock Club
 Regions Bank Building
 Little Rock, Arkansas

University of Arkansas Law School Presentation Pulaski County Bar Association

February 9, 2007
 11:30 a.m. to 1 p.m.
 Little Rock Club
 Regions Bank Building
 Little Rock, Arkansas

Law Alumni Society, UALR William H. Bowen School of Law

Arkansas Bar Association
 Reception
 June 8, 2007
 4:30 to 6:30 p.m.
 Arkansas Bar Association Annual Meeting
 Arlington Hotel
 Hot Springs, Arkansas

NORMA LEA BEASLEY
 ENTRANCE HALL

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2007 Graduating Class



LOCAL LAW FIRM MAKING A DIFFERENCE

by Amy Ramsden

When local farmers had to file chapter 12 bankruptcies, the Henry Law Firm of Fayetteville stepped in to help.



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The Henry Law Firm

Fayetteville, Arkansas

Specialization: Commercial Litigation, Intellectual Property Law and Agricultural Law



HENRY LAW FIRM

www.henrylawfirm.net

Highway 37 north to Cassville, Mo., runs through the Ozark Plateau. With its cascading hills, deep valleys and roadside fruit and vegetable stands, the landscape is strikingly similar to Laos, located thousands of miles away.

Kaleb Hennigh, LL.M. '05, Sean Brister, J.D. '02, LL.M. '03 and Mark Henry, J.D.'97, LL.M.,'04, have been making this scenic drive regularly, as well as many others to rural towns throughout Arkansas, Oklahoma and Missouri. In January 2006, their firm, the Henry Law Firm of Fayetteville, took on nine Chapter 12 bankruptcy cases for Hmong farmers in the Ozark region.

"After hearing how banks allotted these families of ten less than nine dollars per day for food yet planned [to gain] hundreds of thousands of dollars in interest payments, I knew we had to help," said Henry.

The seven attorneys at the Henry Law Firm – Nathan Chaney, Stephen Parker, J.D.'05, Stephen D.

Schrantz, J.D.'06, Adam L. Hopkins, J.D.'06, Hennigh, Brister and Henry – handle not only the complex federal and state litigation and multi-state bankruptcy filings but also matters including bankruptcy paperwork, client meetings, document examination and day-to-day poultry farming questions from Hmong farmers like Shoua Xiong.

At the end of the long drive from Fayetteville to Cassville sits Xiong's poultry farm, just off of Highway 37, where today Xiong tends his turkeys. Xiong, a young Hmong-American man, is hoping that the Henry Law Firm will be able to persuade a judge to allow him to reorganize under Chapter 12 bankruptcy. Enacted in 1986 specifically to meet the needs of financially distressed family farmers, Chapter 12 bankruptcy gives farmers like Xiong a chance to restructure their debts to save their farms.

While Xiong awaits reorganization, he is feeling stressed, trying to provide for 11 family members living



small children tug at his shirt.

“They will lose nothing,” he said.

Long term, Brister said the firm has asked the federal government to internally evaluate the efficacy of its loan process. In the immediate future, however, he predicts these families are going to have a hard time getting by on the income they’re bringing in.

Xiong said he hopes he recovers his losses, but he doesn’t know how long his family can get by. The chicks are arriving on Thursday, and it will take another six months for the flock to be ready to sell.

Congress designed the FSA program to encourage banks to loan to beginning farmers. If any of these farms fail, the federal government pays up to 90 percent of any loss, said Susan Schneider, director of the Graduate Program in Agricultural Law at the University of Arkansas School of Law. That means the bank, appraisers, real estate agents – all of the parties involved in the real estate transaction except for the buyer – walk away with money in their pockets regardless of the outcome of the farm.

“These cases could have tragic consequences,” said Schneider. “If the allegations are correct, then the very loan program that was created by Congress to help

family farmers may have been used to exploit them.”

Because the Hmong are new to this region, Hennigh said they may have been more easily deceived than local buyers. In addition, extreme language barriers made the Hmong-Americans more vulnerable. Many relied on the banks’ assurances that the paperwork was in proper order before closing on the property.

Hmong farmers have been migrating to the Ozark region from California, Wisconsin and Minnesota at a pretty steady pace since the early part of this decade. Many are leaving low-paying factory jobs in the west and midwest to invest their life savings in poultry farms in the rural south where the cost of living is much lower. Some of the Hmong farmers say the Ozarks remind them of Laos, which they fled after the United States pulled out of the Vietnam War.

The Hmong Times, a Minnesota-based Hmong-American newspaper, is filled with Ozark area real estate advertisements placed by area real estate firms. One ad says, “Have you ever dreamed of owning a poultry farm, business or home in the sunshine state Arkansas or Missouri?”

Third-year University of Arkansas law student Kao

“I believe the bank and appraiser inflated the price of my farm to put money in their pockets” – Shoua Xiong

on his farm. He has less than seven hundred dollars in the bank, and they still have six weeks to wait until their turkeys are sold.

But he’s not only tired and stressed out, he’s angry too – angry at the banks and appraisers who allegedly failed to disclose the previous owner’s income and expense records to Xiong. His lawsuit tells of an overzealous loan officer who allegedly inflated the farm’s income projections and understated the expenses in order to make Xiong’s poultry farm profitable on paper. In reality, however, Xiong said he believes wholeheartedly that the bank and appraisers inflated the potential income of his farm by approximately \$80,000 annually, and that this disparity drove him to bankruptcy.

According to Henry, the firm is currently gathering evidence to bring five other fraud cases to court in bankruptcy hearings. These claims could slow down the farmers’ Chapter 12 bankruptcy reorganization process by as much as a year, but Henry believes the claims are essential to disclosing the true value of these poultry farms.

“I believe the bank and appraiser inflated the price of my farm to put money in their pockets,” Xiong said. “With an FSA [Farm Service Agency] guaranteed loan, what are they going to lose?” He pauses, while his three





“The collection of families we’re able to help really gives us gratification. We feel like we’re doing the right thing.” – Kaleb Hennigh

Lee said it’s common for Hmong families to stick together. Lee, who will graduate with her law degree next May, is part of the migration of Hmong-American people to the area.

Like Xiong’s father, Lee’s father worked as a radio operator trained by the CIA to rescue downed American planes between North and South Vietnam. An ethnic minority in communist Laos, the Hmong were forced to flee the country to avoid persecution when the United States pulled out of Vietnam. Lee and her family crossed the Mekong River into Thailand, where they lived in refugee camps until an American family sponsored their relocation to Portland, Ore.

Like Xiong, Lee attended an American university and married another Hmong-American. When her husband’s family moved to eastern Oklahoma to become poultry farmers, Lee came with them to study at the University of Arkansas School of Law.

“There are strong needs in the Hmong culture that haven’t been addressed,” she said. “It takes someone who understands the culture.”

In the past year, Lee has helped the Southeast Asian American Farmers Association start a nonprofit and form a Web site (<http://saafa-farmers.org>) to reach more farmers like Xiong, sharing better strategies for farming

and offering support for ways of acclimating to the area and understanding the differences between these two cultures.

Lee said many of these Hmong farmers who bought their farms at fair prices have learned to thrive in poultry farming. They have a lot of hope for their future here, she said.

Back at the Henry Law Firm, the attorneys are also hopeful today – and busy. In addition to the Hmong farming cases, the firm has expanded their business in intellectual property, hiring two new graduates of the

School of Law, one of whom, Schrantz, specializes in patent law.

The firm has talked to as many as 100 additional Hmong families and have a total of 12 bankruptcy cases now. They have won a few early battles, including a court ruling, which allowed Xiong to remain eligible for Chapter 12.

Henry is dedicated to the cause, regardless of how challenging these cases may get. He said he believes these hard-working people helped our American forces in Vietnam, and our society owes them no less than fair treatment.

“The collection of families we’re able to help really gives us gratification,” Hennigh added. “We feel like we’re doing the right thing.” ■

